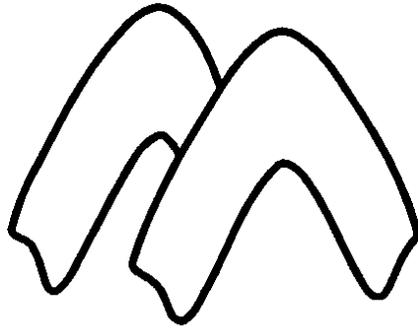


**AGENDA FOR CITY COUNCIL, REDEVELOPMENT AGENCY, AND
MONTCLAIR HOUSING CORPORATION**

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

December 5, 2011

7:00 p.m.



MONTCLAIR

Mayor Paul M. Eaton

Mayor Pro Tem Carolyn Raft

Council Member Leonard Paulitz

Council Member J. John Dutrey

Council Member Bill Ruh

City Manager Edward C. Starr

City Attorney Diane E. Robbins

Deputy City Clerk Yvonne L. Smith

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

December 5, 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 endorse any particular religious belief or form of invocation.

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS – None

VI. PUBLIC COMMENT

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

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

VII. PUBLIC HEARINGS – None

VIII. CONSENT CALENDAR

- | | |
|---|----|
| A. Approval of Minutes | |
| 1. Minutes of the Regular Joint Council/Agency Board/MHC Board Meeting of November 21, 2011 [CC/RDA/MHC] | |
| B. Administrative Reports | |
| 1. Consider Setting a Public Hearing to Receive Public Comment on Allocation and Expenditure of Supplemental Law Enforcement Services Grant Funds [CC] | 4 |
| 2. Consider Approval of a Time Extension Request for a Precise Plan of Design for a 129-Unit Residential Development Within the North Montclair Downtown Specific Plan [CC] | 5 |
| 3. Consider Authorization to Advertise for Bid Proposals for the Carlton Street Improvement Project [CC] | 7 |
| 4. Consider Authorization to Advertise for Bid Proposals for the Intersection Improvement Phase 2 Project [CC] | 8 |
| 5. Consider Receiving and Filing of Alcoholic Beverage Permit Application – Target Corporation [CC] | 9 |
| 6. Consider Approval of Warrant Register and Payroll Documentations [CC] | 10 |
| C. Agreements | |
| 1. Consider Approval of Agreement No. 11-133 With AECOM Technical Services, Inc., for \$156,705 Amending Agreement Nos. 02-01, 02-135, and 09-119 for Additional Work Associated With the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project [CC] | 11 |
| D. Resolutions | |
| 1. Consider City Council's Adoption of Resolution No. 11-2932 Committing City Fund Balances Pursuant to Governmental Accounting Standards Board Statement 54 [CC] | 36 |
| 2. Consider Redevelopment Agency Board of Directors' Adoption of Resolution No. 11-20 Committing Redevelopment Agency Fund Balances Pursuant to Governmental Accounting Standards Board Statement 54 [RDA] | 40 |
| 3. Consider Montclair Housing Corporation Board of Directors' Adoption of Resolution No. 11-03 Committing Montclair Housing Corporation Fund Balances Pursuant to Governmental Accounting Standards Board Statement 54 [MHC] | 44 |
| 4. Consider Adoption of Resolution No. 11-2933, a Resolution of Intention With Respect to Formation of Proposed Community Facilities District No. 2011-2 (Maintenance and Public Safety Services) of the City of Montclair [CC] | 48 |

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Closed Session Pursuant to Government Code Section 54957.6 Regarding Conference With Designated Labor Negotiator Edward C. Starr

Agency: City of Montclair

Employee Organizations: Management
Montclair Fire Fighters Association
Montclair Police Officers Association
San Bernardino Public Employees Assn.

B. City Manager/Executive Director

C. Mayor/Chairman

D. Council/Agency Board

E. Committee Meeting Minutes *(for informational purposes only)*

1. Minutes of the Personnel Committee Meeting of November 21, 2011

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

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

XIII. CLOSED SESSION ANNOUNCEMENTS

XIV. ADJOURNMENT OF CITY COUNCIL

The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Monday, December 19, 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 December 1, 2011.

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON ALLOCATION AND EXPENDITURE OF SUPPLEMENTAL LAW ENFORCEMENT SERVICES GRANT FUNDS

DATE: December 5, 2011

SECTION: ADMIN. REPORTS

ITEM NO.: 1

FILE I.D.: PDT362

DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the Police Department to allocate Supplemental Law Enforcement Services grant funds to the Fiscal Year 2011-12 Police Department Budget.

BACKGROUND: Government Code Sections 30061 through 30064 stipulate that in each county treasury, a Supplemental Law Enforcement Services Fund (SLESF) be established to receive all funds allocated to a county for purposes of implementing the guidelines for SLESF grant funds. The county auditor shall allocate the moneys in the county's SLESF including interest or other earned returns within 30 days of deposit into the SLESF. However, the county auditor shall not transfer those moneys to a recipient agency until the Supplemental Law Enforcement Oversight Committee certifies receipt of an approved expenditure plan from the governing board of that agency. A Supplemental Law Enforcement Oversight Committee was established by the San Bernardino County Board of Supervisors on August 21, 1996.

SLESF moneys are for the exclusive use of "front line law enforcement services" and "front line municipal police services," both of which include antigang, community crime prevention, and juvenile justice programs. These moneys shall supplement existing services and shall not be used to supplant any existing funding for law enforcement services by that agency.

The City of Montclair is eligible to receive \$100,000 from this state grant. An expenditure plan has not yet been developed, though it will be available for public comment and City Council approval at the December 19, 2011 regular joint meeting.

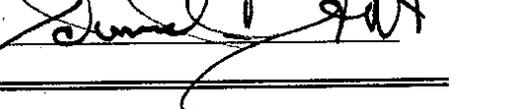
FISCAL IMPACT: The cost to publish a notice of public hearing related to allocation and expenditure of SLESF moneys should not exceed \$400.

RECOMMENDATION: Staff recommends the City Council set a public hearing on Monday, December 19, 2011, at 7:00 p.m. in the City Council Chambers to receive public comment on the allocation and expenditure of Supplemental Law Enforcement Services grant funds.

Prepared by:




Reviewed and
Approved by:

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF A TIME EXTENSION REQUEST FOR A PRECISE PLAN OF DESIGN FOR A 129-UNIT RESIDENTIAL DEVELOPMENT WITHIN THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN

DATE: December 5, 2011
SECTION: ADMIN. REPORTS
ITEM NO.: 2
FILE I.D.: LDU600
DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of a time extension request for a Precise Plan of Design for a 129-unit residential development within the North Montclair Downtown Specific Plan (NMDSP).

BACKGROUND:

The City Council approved a Precise Plan of Design (PPD), along with Tentative Tract Map No. 18803, at its meeting on December 6, 2010. Hutton Development Company is requesting a time extension for the PPD approved for the 129-unit Arrow Station residential development on a 6.94-acre site on the north side of Arrow Highway (approximately 213 feet east of Monte Vista Avenue) within the boundaries of the NMDSP. No time extension request is necessary for the tract map as it has a three-year approval period pursuant to the State Subdivision Map Act. Other than the time extension for the PPD, no other changes to the project have been requested. The applicant submitted the time extension request on November 14, 2011.

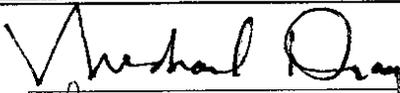
While the applicant is in the process of complying with required agreements and improvement plans as required by the conditions of approval, it will be unable to complete the process prior to the expiration date of the initial one-year approval timeframe (by December 6, 2011).

Analysis

Staff supports the time extension request as it will provide the needed time to complete the process of fully complying with all of the conditions of approval to clear the way for construction of the project. Staff continues to find the project to be an important component for implementing the goals of the NMDSP and the General Plan. Given the complexity of some of the conditions of approval, the extra time would be beneficial to the applicant. Staff is recommending the City Council grant a one (1) year extension for the Arrow Station PPD to a new expiration date of December 6, 2012.

City approval for this project will expire and become null and void if permits are not issued by the end of the extended time period. Thereafter, the applicant would be

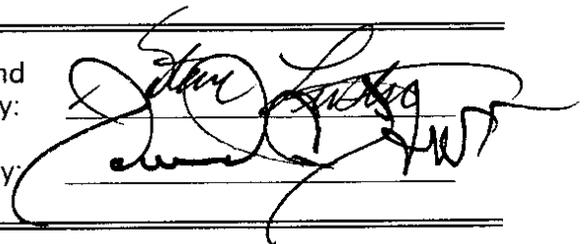
Prepared by:




Proofed by:

Reviewed and
Approved by:

Presented by:



required to reapply for the review and approval of a new Precise Plan of Design and pay all associated fees if it wishes to continue with a project on the subject site.

Environmental Assessment

As part of its review, the City Council found the Arrow Station project to be exempt from the California Environmental Quality Act (CEQA) pursuant Sections 15162 and 15182 of the state CEQA Guidelines as the proposal was consistent with the environmental impacts analyzed in the Environmental Impact Report (EIR) prepared for the NMDSP and its anticipated improvements. The EIR was approved on May 15, 2006.

FISCAL IMPACT: There would be no direct fiscal impact on the City's General Fund as a result of granting the requested time extension.

RECOMMENDATION: Staff recommends the City Council approve a time extension request for a Precise Plan of Design for a 129-unit residential development within the North Montclair Downtown Specific Plan.

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO ADVERTISE
FOR BID PROPOSALS FOR THE CARLTON
STREET IMPROVEMENT PROJECT

DATE: December 5, 2011

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: STA650

DEPT.: PUBLIC WORKS

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

BACKGROUND: The Carlton Street Improvement Project is intended to provide street improvements to an area of the City that was part of Annexation No. 26. This annexation was completed on October 26, 2006, and included the area east of Monte Vista Avenue and south of Mission Boulevard. Carlton Street is located within Annexation No. 26 and is roughly 700 feet in length. The street currently has no sewer, curbs, gutters, sidewalks, or street lighting. The existing pavement is in extremely poor condition.

Proposed improvements include a new sewer mainline with laterals extended to the property lines, curbs, gutters, sidewalks, pedestrian ramps, street lighting, and new asphalt concrete pavement.

FISCAL IMPACT: Community Development Block Grant funds, supplemented with Measure I funds, would be used to fund this project. The total project cost is estimated to be \$325,000. There is no local match requirement. The cost of advertising this project should not exceed \$3,500.

RECOMMENDATION: Staff recommends the City Council authorize staff to advertise for bid proposals for the Carlton Street Improvement Project.

Prepared by:

M. Scottie

Reviewed and
Approved by:

M. S. STARRS

Proofed by:

Alle Mj

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO ADVERTISE FOR BID PROPOSALS FOR THE INTERSECTION IMPROVEMENT PHASE 2 PROJECT

DATE: December 5, 2011

SECTION: ADMIN. REPORTS

ITEM NO.: 4

FILE I.D.: STA540

DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Advertising for bid proposals requires City Council approval.

BACKGROUND: The City's Capital Improvement Program includes pavement improvement projects at several street intersections throughout the City. Severe pavement rutting has occurred over several years primarily as a result of bus traffic. The first phase of this construction project was completed in 2008. All Phase 1 intersections are currently in outstanding condition and exhibit no signs of rutting.

Phase 2 work is now ready to advertise. The project limits include the following intersections:

- Central Avenue and Palo Verde Street
- Monte Vista Avenue and Moreno Street
- Ramona Avenue and Holt Boulevard

Work would include the full removal of existing asphalt concrete, pavement grinding, installation of crushed aggregate base, replacement of asphalt concrete, replacement of pedestrian ramps, and replacement of traffic signal loops and pavement markings.

Additional street improvements would be performed at 9581 Carrillo Street to remove tree roots and lifted asphalt within the street as well as two pedestrian ramps at the corner of Fremont Avenue and Harvard Street.

FISCAL IMPACT: The cost of construction for the Intersection Improvement Phase 2 Project is estimated at \$503,000. The City would use funding provided by the San Bernardino Associated Governments through its local stimulus funding program (\$244,000) and Measure I funds. The cost to advertise this project should not exceed \$3,500.

RECOMMENDATION: Staff recommends the City Council authorize staff to advertise for bid proposals for construction of the Intersection Improvement Phase 2 Project.

Prepared by:

M. S. K. H. L.
Ally V. J.

Reviewed and
Approved by:

M. STAATS
[Signature]

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING
OF ALCOHOLIC BEVERAGE PERMIT
APPLICATION - TARGET CORPORATION

DATE: December 5, 2011

SECTION: ADMIN. REPORTS

ITEM NO.: 5

FILE I.D.: FLP025

DEPT.: ADMIN. SVCS.

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

BACKGROUND: On November 14, 2011, the Planning Commission approved Case No. 2004-45 'A' approving a request by Target Corporation to amend its current Conditional Use Permit (Case No. 2004-45) to allow an upgrade in the store's current California Department of Alcoholic Beverage Control (ABC) off-sale license. The approval allows Target to obtain an ABC Type 21 Off-Sale General license (up from a Type 20 Off-Sale Beer and Wine license). The Type 21 license will allow Target to sell distilled spirits in addition to beer and wine for offsite consumption.

The display of alcoholic beverages would be incorporated into the recently remodeled and expanded grocery section of the store located at 9052 Central Avenue. No changes to store hours or store configuration was requested or approved with this request.

According to ABC representatives, there have been no reported violations or issues with the current license or for the proposed upgrade. In addition, the Montclair Police Department did not indicate any problems at the store and did not object to the proposed request.

FISCAL IMPACT: No fiscal impact

RECOMMENDATION: Staff recommends the City Council receive and file this item.

Prepared by:

Proofed by:

Reviewed and
Approved by:

Presented by:

AGENDA REPORT

| | |
|---|--------------------------------|
| SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATIONS | DATE: December 5, 2011 |
| | SECTION: ADMIN. REPORTS |
| | ITEM NO.: 6 |
| | FILE I.D.: FIN540 |
| | DEPT.: ADMIN. SVCS. |

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

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated December 5, 2011, and Payroll Documentations dated October 23, 2011, and November 6, 2011; finds them to be in order; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated December 5, 2011, totals \$576,986.11. The Payroll Documentation dated October 23, 2011, totals \$594,410.09, with \$427,802.77 being the total cash disbursement; and the Payroll Documentation dated November 6, 2011, totals \$567,832.77, with \$410,414.62 being the total cash disbursement.

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

| | |
|------------------------------------|--|
| Prepared by: <i>Yvonne L Smith</i> | Reviewed and Approved by: <i>[Signature]</i> |
| Proofed by: <i>Kathy Dalton</i> | Presented by: <i>[Signature]</i> |

AGENDA REPORT

| | |
|--|---|
| SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 11-133 WITH AECOM TECHNICAL SERVICES, INC., FOR \$156,705 AMENDING AGREEMENT NOS. 02-01, 02-135, AND 09-119 FOR ADDITIONAL WORK ASSOCIATED WITH THE MONTE VISTA AVENUE/ UNION PACIFIC RAILROAD GRADE SEPARATION PROJECT | DATE: December 5, 2011 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: STA110 DEPT.: PUBLIC WORKS |
|--|---|

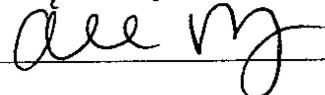
REASON FOR CONSIDERATION: In 2002, the City entered into an agreement with LAN Engineering Corporation for design and right-of-way acquisition services associated with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project. The project was originally fully state funded, including construction. However, the state withdrew the funding at one point. Although partial funding was eventually restored, those funds have now been exhausted. Some federal funds have been acquired for this project, but the use of federal funds requires reopening the environmental phase of the project in order to obtain federal environmental clearance. Amended Agreement No. 11-133 addresses the additional services required.

The City Council is requested to consider approval of the proposed amendment. A copy of proposed Agreement No. 11-133 is attached for the City Council's review and consideration.

BACKGROUND: In 2000, the City developed and sent out requests for proposals (RFPs) for design services associated with the construction of a grade separation between the Union Pacific railroad tracks and Monte Vista Avenue. After reviewing all proposals submitted, staff recommended the City Council enter into an agreement with Lim and Nascimento Engineering Corporation to provide Phase 1 services for this project, which consisted of environmental clearance under the California Environmental Quality Act (CEQA). Upon satisfactory completion of the CEQA process, the RFP indicated the City could enter into a subsequent agreement with the selected firm to provide design and right-of-way acquisition services.

In 2002, the City entered into Agreement No. 02-01 with Lim and Nascimento Engineering Corporation, by that time known as LAN Engineering Corporation, to provide for Phase 2 work (design) and Phase 3 work (right-of-way acquisition). This agreement was later amended by Agreement Nos. 02-135 and 09-119. All design and right-of-way acquisition work required under Agreement No. 02-01 and its subsequent amendments has been completed.

In 2003, the state suspended funding for this project. At the time, it was unknown whether the suspension was temporary or permanent. The City began looking for other

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

funding sources for this project including federal funds. The state eventually provided partial funding for this project, though not at the full funding level that had originally been established. In 2009, the City was successful in getting \$1.6 million in federal High Priority Project (HPP) funds approved through Congress with the intent of using this money for construction; however, there was no restriction that it could be used just for construction. A decision was made locally to continue pursuing right-of-way acquisition. Although the state funds had been exhausted, there was still some right-of-way acquisition remaining. The City of Montclair Redevelopment Agency made available slightly more than \$1 million to secure the remaining right-of-way in 2010.

When the City began work on this project in 2000, it was with the intent of using state money only. Therefore, only CEQA environmental clearance was obtained. Now that it is apparent federal funds must be used to actually construct the project, it is necessary to reopen the environmental process in order to comply with federal requirements [National Environmental Policy Act (NEPA)]. The HPP money already authorized by Congress could be used for the NEPA compliance process but it presents a problem for the California Department of Transportation (Caltrans). Caltrans oversees the NEPA process within the state. The problem is that the NEPA process is normally completed prior to any design being done. The City's project started with no federal funding, obtained CEQA clearance only, and then was fully designed. Caltrans feels it is inappropriate to use federal funds to complete the NEPA process with the project in question already fully designed. The San Bernardino Associated Governments (SANBAG) has suggested using local funds to pay for the NEPA process. SANBAG has done this before without any issues with Caltrans. This has been confirmed by Caltrans.

When the City originally issued its RFP for consultant services in 2000, it was unclear whether the project would be subject to CEQA only or CEQA and NEPA. Therefore, qualifications and familiarity with both processes were requested and a consultant decision made including both. It was not until after the contract was awarded to Lim and Nascimento Engineering Corporation that a determination was made that the project would be subject to CEQA only. Because the original RFP included the NEPA process as a possibility and the consultant selected has the demonstrated abilities to provide these services, staff recommends amending the current contract with Lim and Nascimento Engineering Corporation, now known as AECOM Technical Services, Inc., to add the work.

FISCAL IMPACT: A proposal was requested from AECOM Technical Services, Inc. (AECOM), to assist the City in complying with and completing the NEPA process. AECOM provided a scope with two options and two fees. One option is with an air quality study included and the other option with the study excluded. The air quality study is required if the project is considered capacity enhancing, that is, adding one or more lanes to Monte Vista Avenue within the project limits. The project limits extend from Mission Boulevard north to Holt Boulevard. Monte Vista Avenue currently has four lanes within these limits and no additional lanes are proposed. Therefore, an air quality study should not be required. The fee without the air quality study is \$156,705.

Measure I funds are proposed for this contract amendment. The current Measure I Expenditure Plan, adopted by the City Council as Resolution No. 11-2923 on September 6, 2011, included a line item of \$400,000 for the Monte Vista Avenue Grade Separation Project with identified work including NEPA environmental clearance, right-of-way demolition, and grade separation nomination. No amendment is required to the Expenditure Plan.

This recommendation was also presented to the Public Works Committee at its meeting on October 27, 2011. The Committee concurred with staff's recommendation to use Measure I funds to pay for the NEPA environmental clearance.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 11-133 with AECOM Technical Services, Inc., for \$156,705 amending Agreement Nos. 02-01, 02-135, and 90-119 for additional work associated with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.

AMENDMENT TO AGREEMENT NOS. 02-01, 02-135 AND 09-119

WITH

AECOM TECHNICAL SERVICES, INC.

(FORMERLY LAN ENGINEERING CORPORATION)

FOR

ADDITIONAL WORK

This agreement is made and entered into this 5th day of December 2011, by and between the CITY OF MONTCLAIR, a municipal corporation hereinafter designated as "City," and AECOM TECHNICAL SERVICES, INC. (formerly Lim and Nascimento Engineering Corporation and LAN Engineering Corporation), a California Corporation hereinafter designated as "Consultant," and collectively designated as the "Parties."

RECITALS

WHEREAS, Parties have previously entered into Agreement No. 02-01 on January 9, 2002, and amended said agreement by Agreement No. 02-135 on October 7, 2002, and Agreement No. 09-119 on December 7, 2009, for design services associated with a grade separation project between Monte Vista Avenue and the Union Pacific Railroad tracks, hereinafter called "Project;" and

WHEREAS, funding for Project was provided through the state's Traffic Congestion Relief Act of 2000 and the Traffic Congestion Relief Program (TCRP); and

WHEREAS, the ongoing state fiscal crisis beginning in fiscal year 2002/2003 caused TCRP funding to be temporarily withdrawn from Project; and

WHEREAS, partial TCRP funding was restored in fiscal year 2005/2006; and

WHEREAS, state funding will not be sufficient to complete the construction phase of the Project; and

WHEREAS, the City has acquired some federal funds to be used for construction phase of the Project; and

WHEREAS, the use of federal funds requires compliance with federal environmental laws, more specifically known as the National Environmental Policy Act (NEPA); and

WHEREAS, the current contract with AECOM Technical Services, Inc., does not include NEPA compliance services; and

WHEREAS, AECOM Technical Services, Inc., has submitted a proposal for providing the now necessary NEPA compliance documents.

NOW, THEREFORE, IT IS AGREED by and between City and Consultant to add additional environmental services as identified in proposal dated October 21, 2011, and as incorporated herein as Exhibit A-2 and to pay to CONSULTANT a maximum sum of \$156,705 for the performance of the services required under Exhibit A-2. This sum shall cover the cost of all staff time and all other direct and indirect costs or fees, including the work of employees, consultants, and subcontractors to CONSULTANT. Payment to CONSULTANT, by CITY, shall be made on a "time and material basis" in accordance with the Schedule set forth in Exhibit C-2.

IT IS FURTHER AGREED that all other terms of Agreement No. 02-01, Agreement No. 02-135, and Agreement No. 09-119 shall remain the same and be incorporated herein as though fully set forth.

AECOM TECHNICAL SERVICE, INC.

CITY OF MONTCLAIR

Consultant

City

By: _____

By: _____

Title: _____

Title: **Mayor**

Date: _____

Date: _____

By: _____

Attest: _____

Title: _____

Title: **City Clerk**

Date: _____

Date: _____

Approved as to form:

By: _____

Title: **City Attorney**

Date: _____

EXHIBIT A-2



AECOM
901 Via Piemonte, 5th Floor
Ontario, CA 91764
www.aecom.com

909 579 3050 tel
909 579 3997 fax

Friday October 21, 2011

Mr Michael Hudson
City Engineer
City of Montclair
5111 Benito Street
Montclair, CA 91763

Subject: **Monte Vista Grade Separation– Environmental Services**

Dear Mr Hudson:

AECOM (A-E) is pleased to present this proposal for Contract Change Order to add the Environmental Services for the subject project. This letter is written to respectfully request approval of this cost proposal. As we have always done, AECOM Team will work diligently and extremely hard to successfully deliver this project for the City of Montclair (CITY). For your consideration, the major items of work are listed below:

A. Project Management/Project Meetings

A-E shall be responsible to coordinate with CITY, Caltrans, sub-consultants, regulatory agencies, affected private parties, and utilities to facilitate preparation of environmental documents for NEPA process and obtain approval from Caltrans. Management support shall also be provided to facilitate allocation of resources to accommodate the required schedules.

A-E shall document Project decisions, and distribute correspondence, meeting minutes, and other communication copies to all Project Team members as appropriate within one week of said meetings.

B. Engineering Support

A-E shall provide necessary engineering support during the preparation of technical studies for NEPA and subsequent approval of NEPA CE (assumed)

C. Environmental Services (NEPA)

A-E will use ICF International (to be added to the contract) to prepare environmental documents for NEPA. Please refer to attached detailed scope of work and fee proposal from AECOM's environmental subconsultant ICF International.

The total cost to perform the above referenced Tasks A through C is summarized below. The proposed fee changes due to the scope changes.

| TASK | AECOM | ICF (without Air Quality) | ICF (with Air Quality) |
|--|----------|------------------------------|---------------------------|
| A. Project Management/Project Meetings | \$18,720 | | |
| B. Engineering Support | \$23,700 | | |
| C. Environmental Services (NEPA) | | \$106,275 | \$128,621 |
| ODC | \$1,000 | \$7,010 | \$7,010 |
| Subtotal | \$43,420 | \$113,285 | \$135,631 |
| Total Proposed Fee (LUMPSUM) | | \$156,705 | \$179,051 |

A detailed man-hours and cost breakdown for each task is shown in the attached tables.

Please call me if you have questions regarding the Environmental Services scope and fee of the Monte Vista Grade Separation Project. We appreciate the opportunity to be of continued service and are available to meet and discuss at your convenience if necessary. Thank you and we appreciate your consideration.

Please contact the undersigned at (949) 294-7358 if you have any questions or require any additional information.

Sincerely,
AECOM

By signing below, I authorized AECOM to proceed as described above:



Mohan Char, PE, Ph.D.,
Project Manager
Vice President

Michael Hudson, PE
City Engineer

Date

Cc: File

NEPA Environmental Documentation

As with all projects the environmental phase of the project controls the schedule. In order for us to have a firmer grasp on this critical part of the schedule, we have included on our team an Environmental Manager. Ms. Alicia Lemke will be serving in this capacity for the duration of the environmental clearance process.

It will be Ms. Lemke's responsibility to chair meetings, periodically (maybe even monthly beginning when the technical reports are close to submission to the District) with the District 8 Environmental Staff to address issues, comments, and to answer questions. Ms. Lemke will also be tasked to review each and every Technical Report written by our environmental subconsultant prior to submission to the District, and to perform this review with an eye towards commenting on what the Caltrans reviewer would comment on for the initial submittal of these reports. In this manner, Ms. Lemke will be **able to perform a Caltrans-style review of the reports prior to submission to Caltrans**. This process should ensure the team only receives a limited set of comments once the reports are submitted to Caltrans, that can be easily addressed, and therefore the approval of the report should be expected by the CITY upon the second submission. Ms. Lemke is uniquely qualified for this role, having served in the District for a number of years providing these type of services while being employed by Caltrans. Our team, and this project, will greatly benefit from the experience Ms. Lemke will be able to apply towards a more efficient and streamlined environmental process. In this way, the CITY can benefit by expecting the environmental approval sooner, rather than later.

The environmental subconsultant, ICF Jones & Stokes, will perform the following specific scope of work required to complete the environmental documentation for the proposed project. Additional tasks or effort not specifically identified in this scope of work is not assumed or implied.

Tasks associated with completion of the proposed work effort are as follows:

Environmental Document Project Management/Coordination/Meetings

ICF Jones & Stokes scope of work for quality control, progress reporting, schedules, and coordination/ meetings is outlined below.

- **Quality Control:** ICF Jones & Stokes project manager will be responsible for directing and implementing the project's environmental quality control program. Senior technical reviewers in each discipline will review each work product, including field methods, data collection, analysis, report writing, and any subcontracted work studies. In addition, a technical editor will review all reports to ensure consistent use of terminology and style as well as general readability for the target readers. Finally, the project manager will review all documents before they are submitted to the City and Caltrans.
- **Environmental Schedule:** ICF Jones & Stokes will prepare a comprehensive environmental process schedule in consultation with City and Caltrans staff. As conditions change during the project, ICF Jones & Stokes will update and fine-tune

the schedule, with concurrence of AECOM and the City. It is assumed that the schedule will be refined up to four times.

- Kick-off Meeting: ICF Jones & Stokes Project Manger shall attend a kick-off meeting. Time reflected in the attached cost estimate includes meeting preparation time. It is assumed that AECOM will prepare the meeting minutes for this meeting.
- Monthly PDT Meetings: ICF Jones & Stokes Project Manager shall attend Project Development Team (PDT) meetings with the City, AECOM, and Caltrans staff (attendance at four [4] PDT meetings by the ICF Jones & Stokes Project Manager is assumed).

Preliminary Environmental Study

After receiving a notice to proceed and preliminary layout from AECOM for the build alternative, a Caltrans Preliminary Environmental Study (PES) form (November 20, 2007) will be prepared for submittal to City and Caltrans for review. The purpose of the PES is to identify and receive concurrence from Caltrans regarding the technical studies that will need to be prepared for the proposed project and to receive concurrence regarding the environmental document to be prepared. The PES will be prepared using existing, available information and no new analyses or detailed evaluations are assumed or included. As directed in the PES, cultural information will be provided entirely by Caltrans. The PES will be revised twice following Caltrans review. Figures will include a vicinity map, a location map, and the layout provided by AECOM. No additional figures or graphics are assumed to be necessary.

Deliverables:

- Draft, revised Draft, and Final PES.

Technical Studies

The project is assumed to be statutorily exempt under CEQA so all technical studies will be consistent with meeting the requirements of NEPA and associated Federal statutes.

Preparation of all technical analyses and reports will follow local, state, and federal environmental guidelines, primarily consisting of the Caltrans Standard Environmental Reference (SER) website, Caltrans Project Development Procedures Manual, local and state CEQA Guidelines, and FHWA Technical Advisory 6640.81 Guidance on Preparing and Processing Environmental and Section 4(f) Documents. The formats to be used for the technical studies will follow the guidance available on the Caltrans SER website as of the date that those studies are initiated.

Please see scope of work for each technical study for details regarding studies to be prepared.

Unless otherwise noted, the deliverables for the following technical studies will be a separate bound report including a standardized project description, a methodology relevant to each topic area, description of the affected environment, impact assessment,

and mitigation measures. The screencheck technical study will be submitted to the City (two copies) and to Caltrans (four copies) for concurrent review. Following City and Caltrans review a Draft of each technical study will be submitted to the City (two copies) and to Caltrans (four copies) for concurrent review. Following Caltrans and City second review it is assumed that a revisions workshop will be held to address any outstanding comments, if any comments remain. Following the revisions workshop a final version of each report will be prepared. The final technical studies (two copies to the City and four copies to Caltrans) will be submitted following the workshop for final concurrence (no additional comments are assumed to be received associated with the final concurrence review).

For this scope of work, the technical studies for which a specific scope of work has been included have been assumed based on a review of existing project information. If additional studies are identified during the environmental phase of the project a scope of work and cost will be submitted for approval prior to their initiation.

Deliverables: Screencheck technical studies (6 copies each)
Draft technical studies (6 copies each)
Final technical studies for concurrence (6 copies each)
Final approved technical studies (6 copies each)

The following assumptions have been made with regard to the technical studies that are to be prepared:

- Engineering plans, including limits of construction, staging areas, and borrow/disposal sites, if needed, will be provided by the engineering team at a level of detail sufficient for preparing the technical studies (roadway lanes, topographic information [including changes in topography resulting from the proposed project], state plane tick marks, station numbers, and existing structures within 500 feet of the proposed project).
- Mapping showing existing conditions (roadway lanes, topographic information, state plane tick marks, station numbers, and existing structures within 500 feet of the proposed project) will be provided by the engineering team.
- Cross sections along the alignment showing existing and proposed conditions at an interval sufficient for preparing the noise analyses will be provided by the engineering team.
- Aerial photograph at a scale suitable for preparation of project mapping, figures, and analyses will be provided by the engineering team (1 inch=200 feet scale minimum, with a minimum of 500 feet to the east and west of Pine Avenue shown and any other areas of improvement). Pixel size shall be no more than 2.5 square feet and image shall be orthorectified.

- Focused protocol surveys for any species are not included in this scope and cost, other those specified under the Natural Environment Study scope. If additional focused surveys are identified during the biological field reconnaissance then this will be communicated to AECOM and the City and a scope and cost for this work will be provided.
- Hazardous material (Initial Site Assessment), geotechnical, traffic assessments, Storm Water Data Report (SWDR) and/or Water Quality Report, and any floodplain analyses/technical reports (Location Hydraulic Study and Summary Floodplain Encroachment Report or Floodplain Evaluation Report), if required, will be provided by AECOM and these analyses will be provided to ICF Jones & Stokes for incorporation into the environmental document and for use in the technical analyses.
- Traffic information shall contain 24-hour and hourly traffic counts separated by direction and vehicle classification (autos, medium trucks, heavy trucks) over at least three weekdays, along with peak hour and average daily traffic (ADT) forecast traffic volumes for existing conditions, opening year, and design year with and without the project for roads in the project area, and posted speeds. In addition, subregional/regional traffic information will be provided that includes vehicle miles travelled (VMT) data for existing year, opening year (build and no-build) and horizon year (build and no-build) broken down into five mph speed bins. This data is needed in order to evaluate GHG emissions consistent with the latest guidance from Caltrans Headquarters. This stems from the fact that GHG emission factors vary depending on travel speed.
- NEPA/404 integration process will not be required.
- It is assumed that all rights of entry and access for field work and surveys, if required, shall be obtained and provided by the City or AECOM.
- Section 4(f) Evaluation will not be required.
- A Community Impact Assessment will not be required
- Relocations would not occur and a relocation document will not be required.
- Cadd files shall be provided in a known coordinate system or projection and attributes shall be provided on discrete layers so that this information can be utilized in GIS.

Historic Property Survey Report

The proposed project improvements will be subject to compliance with Section 106 of the National Historic Preservation Act. This requires consideration of potential project effects to historic properties including archaeological and historical resources listed in or eligible for listing in the National Register of Historic Places according to criteria listed in 36 CFR800. Caltrans administers Section 106 compliance on behalf of FHWA and requires that documentation conform to specifications contained in Caltrans Standard Environmental Reference. As of January 1, 2004, cultural resource studies must be prepared and processed in accordance with the Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program In California.

ICF Jones & Stokes shall conduct a records search at the Information Center of the California Historical Resources Information System and through the Sacred Lands File at the Native American Heritage Commission. This records search will consult California's database of previous studies and previously recorded sites within the proposed project area and within a 0.5-mile radius, per Caltrans guidelines. Historic maps and photographs shall also be reviewed, if available. ICF Jones & Stokes shall establish an Area of Potential Effect (APE) map in consultation with the City and Caltrans for obtaining Caltrans approval. The map shall provide the survey boundaries for cultural resources to be evaluated during project studies. The APE map shall be based on the total anticipated disturbance footprint associated with project activities (e.g., road widening/interchange construction, staging areas, detours, drainage facilities, and parcels containing impacted structures, if any). ICF Jones & Stokes will also contact the Native American Heritage Commission and consult with Native American groups and other interested parties to request information regarding the types of potential cultural resources in the study area. Consultation will be conducted in accordance with appropriate and current state and federal regulations.

Following completion of the record search/review, ICF Jones & Stokes shall conduct a field survey of the APE for archaeological resources. It is assumed that the City or AECOM will be responsible for obtaining access for conducting the surveys. This scope of work assumes that no archaeological sites will be identified in the APE and that no testing and/or evaluation will be required. It is anticipated that an Archaeological Survey Report (Finding of No Archaeological Resources Present) will be prepared.

Following completion of the record search/review, an ICF Jones & Stokes qualified architectural historian will conduct a field survey of the proposed project area to record buildings, structures, and historic features through photography and written descriptions. If buildings are substantially altered or are less than 50 years old, a qualified architectural historian can exempt them from further evaluation in accordance with the Section 106 PA. It is anticipated that up to four (4) buildings and structures will not be exempt under the PA and will require evaluation on California historic resource inventory forms (series DPR 523). Any buildings beyond this number would be considered out of scope. ICF

Jones & Stokes will send out letters requesting information on historic properties to local governments, historical societies, and historic preservation organizations. The evaluation of properties within the APE will be reported in the Historical Resource Evaluation Report (HRER), which will include a historic context statement. In addition, ICF Jones & Stokes will review the Caltrans historic bridge inventory, and identify previously evaluated state and local bridges within the APE.

As part of the Centerline project an evaluation of several portions of what is anticipated would comprise the APE were evaluated. The depot that is located at the east end of the project alignment was constructed in 1986 and would not require evaluation (the original depot was demolished when the new depot was constructed). The Juvenile Detention Home (located at 1207 Fruit Street) was also evaluated as part of the Centerline project and it was concluded that the property does not appear to meet the criteria for listing on the National Register of Historic Places (NRHP) or the California Register of Historical Resources (CRHR), and has not been designated as historic by the City of Santa Ana. No other resources were identified that required evaluation within what would be the anticipated APE for the proposed project. It was noted that the area along Santiago Street to the south of Santa Ana Boulevard has a high potential for buried archaeological resources, however, no resources or sites were identified during the field work that was performed for the Centerline project along the portion of Santiago Street where it intersects Santa Ana Boulevard.

Following completion and approval of the APE and detailed reports discussed above, a summary document (the HPSR) shall be generated in accordance with Caltrans/FHWA standards for Section 106 compliance with the NHPA. It is anticipated that the proposed project shall result in an HPSR with a finding that only properties previously determined not eligible for inclusion in the NRHP or that are determined to be not eligible for inclusion in the NRHP are present within the Project APE. No further cultural work, including Phase II analyses/investigations and/or a Finding of Effect, are assumed or included in this scope of work.

Natural Environment Study (Minimal Impacts)

ICF Jones & Stokes will conduct a literature search, perform field surveys, and prepare a Natural Environmental Study Minimal Impacts (NES/MI) report analyzing potential impacts to biological resources. An NES/MI has been identified due to the limited amount of habitat located within the identified project area. The report will be prepared in accordance with Caltrans SER guidance and will conform to the Caltrans NES/MI annotated outline that is available at the time that the NES/MI is initiated. The following tasks will be performed during the preparation of the reports:

Review of Project Information and Applicable Literature

A literature review will be conducted to identify special-status species known or reported from the project area. The literature review will include:

- Special status species lists from the California Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (USFWS);

- Database searches of current versions of the California Natural Diversity Database (CNDDDB) and the Online Inventory of the California Native Plant Society (CNPS);
- The most recent applicable Federal Register listing package and critical habitat determination for each federally listed Endangered or Threatened species potentially occurring within the project site;
- The most recent CDFG Annual Report on the status of California's listed Threatened and Endangered plants and animals; and
- Other available biological studies conducted in the vicinity of the project site.

Field Evaluation for Biological Resource Constraints

After reviewing relevant information, the project area will be evaluated, with a thorough walkover covering all portions relevant to potential biological resource constraints. Detailed field notes will be compiled including conditions, visible disturbance factors, species, habitats, and more general biological resource issues observed or detected. The site will be evaluated regarding the presence, absence, or likelihood of occurrence for all special status species, habitats, or more general biological resource issues potentially posing a constraint to the project through applicable laws and regulations. Adjacent areas will also be briefly examined to provide context. It is assumed that access shall be provided by the City or AECOM for the field surveys. If focused habitat evaluations for any species other than those included in this scope of work or focused surveys are required for any species then this will be communicated to the City and AECOM immediately and a separate scope and cost for this work will be provided. The study area is assumed to be the proposed project footprint plus 100 feet (where access is permissible).

This task includes evaluations/determinations for the following potential resource issues:

- **Habitat Evaluation for Burrowing Owl** – A qualified biologist will perform an evaluation of the potential for Burrowing Owl (*Athene cunicularia*) to occur. All areas to be evaluated will be examined carefully for habitat characteristics and disturbance factors. The study area for this work is assumed to be the proposed project footprint and a 100-foot buffer, as accessible to ICF Jones & Stokes. An additional 400-foot buffer beyond the 100-foot buffer will be visually assessed only. This scope and cost assume that the City or AECOM will be responsible for providing access. Potentially suitable habitat will be mapped. No permits are required to perform a habitat evaluation, but the biologist must be experienced with the species' biology, identification of direct and indirect sign, and physical characteristics of potentially suitable habitat. Habitat evaluations for this species can be performed any time of year. The results will be directly incorporated into the NES/MI. This scope of work assumes that a focused survey for burrowing owl will not be required.
- **Jurisdictional Waters Delineation** – A qualified biologist will examine all relevant portions of the site and perform a routine-level delineation of the extent of potentially

jurisdictional waters under both state and federal regulations. The following field evaluations will be performed, however, it is assumed that no jurisdictional resources will be identified. Evaluation for federal wetlands will follow the applicable methods in the 1987 manual from the Corps of Engineers, the 2006 Arid West supplement from the Corps of Engineers, and the Rapanos Guidance (2007), along with subsequent supporting materials and applicable regulations, policy, and case law. The study area for this work will include the proposed project footprint along with a 50-foot buffer. This scope and cost assume that the City or AECOM will be responsible for providing access. The work will be at a routine (rather than comprehensive) level of detail, that is, point sampling and standard criteria (hydrology, soils, and vegetation) will be used to identify, map and calculate total area for federal and state jurisdiction, but no laboratory testing of soils or water, no hydrological or hydrogeomorphic analysis or modeling, no formal statistical analysis, and no extensive records searching, will be provided. Evaluation of existing functions and values for jurisdictional areas will be addressed at a qualitative level. Mapping will be performed at a scale of 1 inch equals 200 feet (1:2400) or better, with a minimum mapping unit of no more than 0.05 acres, and will reflect the delineated boundaries of any jurisdictional waters and wetlands present. Photographs representative of relevant site conditions will be taken. As noted, it is assumed that no jurisdictional waters or wetlands will be identified and no Jurisdictional Delineation Report will be required.

Air Quality Report

Based upon the last three road/rail grade separation projects that ICF Jones & Stokes has performed in southern California an air quality report may not be required for the project. It has been determined on these other three projects that as long as the project does not add additional capacity or include the installation of new stop signs or traffic signals that an Air Quality Report is not required. However, an Air Quality Report has been included in this scope and cost in case it is ultimately determined to be required by the District. This will be discussed early in the process with Caltrans and further document in the PES that is prepared.

ICF Jones & Stokes will prepare an air quality technical report that analyzes air pollutant emissions associated with changes in vehicle speed and traffic distribution patterns resulting from the proposed project. All impact analyses will be performed consistent with the technical requirements and methodologies outlined in the Caltrans' Standard Environmental Reference (air quality chapter).

The air quality technical report will provide the following discussions and analyses:

Regulatory Setting and Existing Conditions. Summarize the existing federal, state, and local air quality regulatory environment as it affects the proposed project, and describe the location of sensitive receptors in the project vicinity. Using data provided by the California Air Resources Board (CARB) and the SCAQMD, characterize existing air quality conditions in the project area and explain how those conditions are affected by local climate and topography.

Evaluation of Construction Emissions. Based on current District 12 procedure, provide a qualitative discussion related to construction emissions.

Evaluation of Operations-Period Mass Emissions. Evaluate whether the project meets transportation conformity requirements by determining whether it is included, as currently defined, in the most recent Regional Transportation Plan (RTP) and Regional Transportation Improvement Program (RTIP) prepared by the Southern California Association of Governments (SCAG). It is assumed that the projects will be included in the RTIP and that a regional analysis will not be required.

Localized Carbon Monoxide Hot Spot Analysis. Analyze the degree to which project-related traffic volumes have a potential to effect local carbon monoxide (CO) concentrations using the California Department of Transportation CO Hotspot Protocol. It is anticipated that the CO screening procedure will be appropriate. However, it is assumed, based on experience within the District that CALINE-4 dispersion modeling will also be performed. It is assumed that up to two intersections will be modeled.

Localized PM2.5/PM10 Hot Spot Analysis. Analyze the degree to which project-related traffic volumes have a potential to affect local PM2.5 and PM10 concentrations, based on the United States Environmental Protection Agency (EPA) guidance document entitled Transportation Conformity Guidance for Qualitative Hot-spot Analyses in PM2.5 and PM10 Nonattainment and Maintenance Areas. This scope and cost assumes that a screening level analysis is appropriate, and that no modeling will be required by Caltrans or FHWA to address PM2.5 and PM10.

Mobile Source Air Toxics. Evaluate proposed project-related mobile source air toxics (MSATs) emissions in accordance with FHWA interim guidance on how MSATs should be addressed in NEPA documents. It is not assumed that extensive qualitative analyses would be required to address MSATs. If an extensive quantitative analysis is required for the project, then a scope and cost estimate would be provided for this additional effort, however, such an analysis is not anticipated.

Climate Change/Greenhouse Gas Emissions. A quantification of operational-period greenhouse gas (GHG) emissions associated with implementation of the proposed project will be conducted. Consistent with current Caltrans policy, construction-period GHG emissions will not be quantified. Operations-period GHG emissions will be quantified using regional daily peak-period and non-peak-period vehicle miles traveled (VMT) apportioned into 5 mph speed bins for speeds between 5 mph and 75 mph; and the CT-EMFAC emissions model. ICF Jones & Stokes will present a comparison of GHG emissions associated with the Build Alternative(s) to the No-build Alternative to characterize effects of the proposed project on GHG emissions. The analysis of climate change also will also incorporate the most recent guidance found on the Caltrans Standard Environmental Reference and Caltrans annotated outline.

Air Quality Conformity Analysis Report and Checklist. Under NEPA delegation, the federal air quality conformity determination has not been delegated to Caltrans and must be made by FHWA. We will prepare a separate Air Quality Conformity Analysis using

the annotated outline for this report on the SER at the time that the report is initiated and will also prepare the Conformity Checklist based on the checklist that is available on the SER at the time that the Air Quality Conformity Analysis Report is prepared.

SCAG Transportation Conformity Working Group. The required TCWG form will be completed and submitted for forwarding to SCAG for inclusion on the agenda for determining if the project is a project of air quality concern (POAQC). It is assumed the project will be found to not be a POAQC and that no specific analysis will be required related to the TCWG determination other than what is already included in this scope of work.

Mitigation Measures. ICF Jones & Stokes will develop mitigation measures, where applicable, to address significant air quality impacts, if present.

Air Quality Conformity Report and Checklist

It is assumed that the project will qualify for a 6004 NEPA Categorical Exclusion and that no Air Quality Conformity Report or Checklist will be required.

Water Quality Assessment.

We will prepare a Water Quality Assessment Report (WQAR) for the project that discusses watershed characteristics, groundwater hydrology, regulatory requirements, pollutants of concern, and receiving waters conditions, objectives, and beneficial uses. The report will also discuss Design Pollution Prevention BMPs, Construction Site BMPs, and Treatment BMPs that are applicable to the alternatives per Caltrans Storm Water Quality Handbooks project Planning and Design Guide. Information from the Storm Water Data Report, to be prepared by or provided by the project engineer, will be incorporated into the WQAR. The project's potential impact on water quality will be evaluated, and mitigation measures necessary to prevent adverse water quality impacts will be identified.

Initial Site Assessment.

AECOM will conduct an Initial Site Assessment (ISA) in conformance with industry-accepted practices and the Caltrans ISA Checklist. The purpose of the ISA is to identify recognized environmental conditions (REC) for the road-widening project to include:

- Presence or likely presence of hazardous substances of petroleum products on the subject property.
- Conditions that indicate an existing release, a past release, or a material threat of a release of hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the subject property.
- Issues that may have an environmental impact on the subject property.

We will research and review available information regarding past owners and occupants of the subject property to assess the potential for contamination resulting from prior on-property activities; research available information regarding nearby adjacent properties for evidence of environmental conditions that could adversely impact the subject property; interview available persons familiar with current and former on-property activities for relevant information regarding potential areas of environmental concern; and review federal and state regulatory agency database information for the subject property and nearby properties to identify potential concerns that could adversely affect the environmental condition of the subject property.

In addition, we will perform a property visit to identify areas of environmental concern, and observe immediately adjacent properties from the subject property and public thoroughfares to identify obvious practices that could impact the subject property.

Finally, we will prepare an ISA report to document the findings regarding the current environmental condition of the subject property.

EXHIBIT B-2
(NOT USED)

EXHIBIT C-2

**CITY OF MONTCLAIR
COST PROPOSAL FOR ENVIRONMENTAL SERVICES
MONTE VISTA GRADE SEPARATION**

| | |
|--|--|
| Client: CITY OF MONTCLAIR 5111 Benito Street Montclair, CA 91763 ATTN: Mr. Michael Hudson | Consultant: AECOM 901 Via Piemonte, 5th Floor Ontario, CA 91764 ATTN: Mohan Char, PE, Ph.D. |
| Project: MONTE VISTA GRADE SEPARATION | Project No. 60179772 Prepared by: Mohan Char, PE, Ph.D. Date: October 21, 2011 |

Proposed Services:

VARIOUS ADDITIONAL SCOPE OF WORK

Manhour Estimate:

| | Man Hours | Rate | Salary Cost |
|---------------------------|--------------|----------|-----------------|
| 1 Project Manager | 80 | \$220.00 | \$17,600 |
| 2 Project Engineer | 24 | \$140.00 | \$3,360 |
| 3 Assoc. Engineer | 40 | \$119.00 | \$4,760 |
| 4 Asst. Engineer | 40 | \$100.00 | \$4,000 |
| 5 QA/QC | 10 | \$190.00 | \$1,900 |
| 6 CAD Designer | 60 | \$132.00 | \$7,920 |
| 7 Clerical/Administrative | 40 | \$72.00 | \$2,880 |
| Subtotal - Labor | 294 | | \$42,420 |

Other Direct Costs (Provided Cost is for Estimate Purpose Only. Billed @ Actual Cost with Receipts)

| | |
|----------------------|-------|
| 1 Copying | \$500 |
| 2 Plotting | \$400 |
| 3 Special Deliveries | \$100 |

Total Estimated Other Direct Costs (ODCs) \$1,000

AECOM Cost (Labor+ODC) \$43,420

Sub Consultant Cost

ICF (without Air Quality) (Please see attached Cost Proposal from IFC) \$113,285

Total Proposed Fee (Lump Sum) \$156,705

CITY OF MONTCLAIR
COST PROPOSAL FOR ENVIRONMENTAL SERVICES
MONTE VISTA GRADE SEPARATION
October 21, 2011

| Client: CITY OF MONTCLAIR | | Date: October 21, 2011 | | | | | | | |
|--|-------------------------------|------------------------|--------------|--------------|--------------|--------------|-------------|-------------|-----------------|
| Project: MONTE VISTA GRADE SEPARATION | | Project: 60179772 | | | | | | | |
| TASKS | Labor Hours by Classification | | | | | | | Total Hours | Cost |
| | 1 PM | 2 PE | 3 ASSOC | 4 ASST | 5 QC | 6 CAD | 7 ADMN | | |
| Design | \$220 | \$140 | \$119 | \$100 | \$190 | \$132 | \$72 | | |
| A. Project Management/Project Meetings | 72 | | | | | | 40 | 112 | \$18,720 |
| B. Engineering Support | 8 | 24 | 40 | 40 | 10 | 60 | | 182 | \$23,700 |
| Subtotal | 80 | 24 | 40 | 40 | 10 | 60 | 40 | 294 | \$42,420 |
| | | | | | | | | | |
| TOTAL | 80 | 24 | 40 | 40 | 10 | 60 | 40 | 294 | \$42,420 |

AGENDA REPORT

SUBJECT: CONSIDER CITY COUNCIL'S ADOPTION OF RESOLUTION NO. 11-2932 COMMITTING CITY FUND BALANCES PURSUANT TO GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT 54

DATE: December 5, 2011

SECTION: RESOLUTIONS

ITEM NO.: 1

FILE I.D.: FIN356(b)

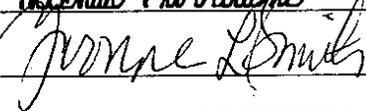
DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The Governmental Accounting Standards Board (GASB) released Statement 54 (GASB 54) - "Fund Balance Reporting and Governmental Fund Type Definitions" on March 11, 2009, which is effective for the fiscal year ending June 30, 2011. This new statement is intended to improve the usefulness of the amount reported in a fund balance by providing more structured classification.

BACKGROUND: Currently, a fund balance is classified as "reserved" or "unreserved." An unreserved fund balance may be further allocated into "designated" and "undesignated." GASB 54 will change how a fund balance is reported. The hierarchy of five possible GASB 54 classifications is as follows:

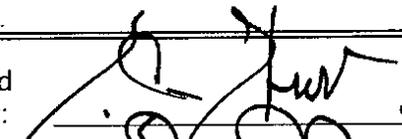
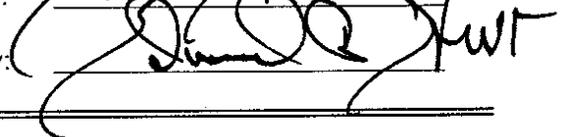
- Nonspendable Fund Balance includes amounts not in spendable form, such as inventory, land held for resale, or amounts required to be maintained intact legally or contractually.
- Restricted Fund Balance includes amounts constrained for a specific purpose through restrictions of external parties (*i.e.*, debt service, capital projects, state, and federal grant funds).
- Committed Fund Balance includes amounts that are constrained for specific purposes imposed by formal action of the government's highest level of decision-making authority.
- Assigned Fund Balance consists of amounts that are constrained by the government's intent to be used for a specific purpose but are neither restricted nor committed; includes all remaining amounts not reported as nonspendable, restricted, or committed in all funds other than the General Fund (*i.e.*, special revenue, capital projects, debt service, and permanent funds).
- Unassigned Fund Balance is the residual classification for the General Fund.

Prepared by:

Reviewed and
Approved by:

Presented by:

Additionally, GASB 54 requires governments to disclose more information in the notes to financial statements about amounts reported in the fund balance as follows:

- Description of authority and actions that lead to committed or assigned fund balance.
- Government's policy regarding order in which restricted, committed, assigned, and unassigned amounts are spent (contained in attached Resolution).
- Description of formally adopted minimum fund balance policies, if applicable.
- The purpose of each major special revenue fund.
- Encumbrances, if significant.

FISCAL IMPACT: There would be no fiscal impact to the City's General Fund should the City Council adopt fund balance reporting pursuant to GASB 54.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 11-2932 committing City fund balances pursuant to Governmental Accounting Standards Board Statement 54.

RESOLUTION NO. 11-2932

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR ADOPTING A FUND
BALANCE POLICY PURSUANT TO GOVERN-
MENTAL ACCOUNTING STANDARDS BOARD
STATEMENT 54**

WHEREAS, The Governmental Accounting Standards Board ("GASB") has adopted Statement 54 ("GASB 54"), a new standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010; and

WHEREAS, the City of Montclair elects to implement GASB 54 requirements, and to apply such requirements to its financial statements beginning with the current July 1, 2010, through June 30, 2011 fiscal year; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby adopts the following policy:

FUND BALANCE POLICY

Fund balance measures the net financial resources available to finance expenditures for future periods.

The City of Montclair's General Fund balance will be maintained to provide the City with sufficient working capital and a margin of safety to address local and regional emergencies without borrowing. The Unassigned General Fund balance may only be appropriated by resolution of the City Council.

Fund Balance of the City of Montclair may be committed for a specific source by formal action of the City Council. Amendments or modifications of the committed fund balance must also be approved by formal action of the City Council.

When it is appropriate for fund balance to be assigned, the City Council delegates authority to the City Manager and his designees.

In circumstances where an expenditure is to be made for a purpose for which amounts are available in multiple fund balance classifications, the order in which resources will be expended is as follows: restricted fund balance, followed by committed fund balance, assigned fund balance, and lastly unassigned fund balance.

APPROVED AND ADOPTED this XX day of XX, 2011.

ATTEST:

Mayor

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2932 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2011, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

| | |
|---|--|
| SUBJECT: CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 11-20 COMMITTING REDEVELOPMENT AGENCY FUND BALANCES PURSUANT TO GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT 54 | DATE: December 5, 2011 SECTION: RESOLUTIONS ITEM NO.: 2 FILE I.D.: FIN356(b) DEPT.: REDEVELOPMENT |
|---|--|

REASON FOR CONSIDERATION: The Governmental Accounting Standards Board (GASB) released Statement 54 (GASB 54) – "Fund Balance Reporting and Governmental Fund Type Definitions" on March 11, 2009, which is effective for the fiscal year ending June 30, 2011. This new statement is intended to improve the usefulness of the amount reported in a fund balance by providing more structured classification.

BACKGROUND: Currently, a fund balance is classified as "reserved" or "unreserved." An unreserved fund balance may be further allocated into "designated" and "undesignated." GASB 54 will change how a fund balance is reported. The hierarchy of five possible GASB 54 classifications is as follows:

- Nonspendable Fund Balance includes amounts not in spendable form, such as inventory, land held for resale, or amounts required to be maintained intact legally or contractually.
- Restricted Fund Balance includes amounts constrained for a specific purpose through restrictions of external parties (*i.e.*, debt service, capital projects, state, and federal grant funds).
- Committed Fund Balance includes amounts that are constrained for specific purposes imposed by formal action of the government's highest level of decision-making authority.
- Assigned Fund Balance consists of amounts that are constrained by the government's intent to be used for a specific purpose but are neither restricted nor committed; includes all remaining amounts not reported as nonspendable, restricted, or committed in all funds other than the General Fund (*i.e.*, special revenue, capital projects, debt service, and permanent funds).
- Unassigned Fund Balance is the residual classification for the General Fund.

| | |
|---------------------------------------|--|
| Prepared by: <u>Michael Prokopysh</u> | Reviewed and Approved by: <u>[Signature]</u> |
| Proofed by: <u>George L. Smith</u> | Presented by: <u>[Signature]</u> |

Additionally, GASB 54 requires governments to disclose more information in the notes to financial statements about amounts reported in the fund balance as follows:

- Description of authority and actions that lead to committed or assigned fund balance.
- Government's policy regarding order in which restricted, committed, assigned, and unassigned amounts are spent (contained in attached Resolution).
- Description of formally adopted minimum fund balance policies, if applicable.
- The purpose of each major special revenue fund.
- Encumbrances, if significant.

FISCAL IMPACT: There would be no fiscal impact to the RDA should the Agency Board of Directors adopt fund balance reporting pursuant to GASB 54.

RECOMMENDATION: Staff recommends the Redevelopment Agency Board of Directors adopt Resolution No. 11-20 committing Redevelopment Agency fund balances pursuant to Governmental Accounting Standards Board Statement 54.

RESOLUTION NO. 11-20

A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY ADOPTING A FUND BALANCE POLICY PURSUANT TO GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT 54

WHEREAS, The Governmental Accounting Standards Board ("GASB") has adopted Statement 54 ("GASB 54"), a new standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010; and

WHEREAS, the Montclair Redevelopment Agency ("RDA") elects to implement GASB 54 requirements, and to apply such requirements to its financial statements beginning with the current July 1, 2010, through June 30, 2011 fiscal year.

NOW, THEREFORE, BE IT RESOLVED that the City of Montclair Redevelopment Agency hereby adopts the following policy:

FUND BALANCE POLICY

Fund balance measures the net financial resources available to finance expenditures for future periods.

The RDA's General Fund balance will be maintained to provide the RDA with sufficient working capital and a margin of safety to address local and regional emergencies without borrowing. The Unassigned General Fund balance may only be appropriated by resolution of the Montclair Redevelopment Board of Directors.

Fund Balance of the RDA may be committed for a specific source by formal action of the Montclair Redevelopment Board of Directors. Amendments or modifications of the committed fund balance must also be approved by formal action of the Montclair Redevelopment Board of Directors.

When it is appropriate for fund balance to be assigned, the Montclair Redevelopment Board of Directors delegates authority to the Executive Director of the Montclair Redevelopment Agency and his designees.

In circumstances where an expenditure is to be made for a purpose for which amounts are available in multiple fund balance classifications, the order in which resources will be expended is as follows: restricted fund balance followed by committed fund balance, assigned fund balance, and lastly unassigned fund balance.

APPROVED AND ADOPTED this XX day of XX, 2011.

ATTEST:

Chairman

Secretary

I, Yvonne L. Smith, Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 11-20 was duly adopted by the Redevelopment Agency Board of Directors of 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

AGENDA REPORT

| | |
|--|---|
| SUBJECT: CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTOR'S ADOPTION OF RESOLUTION NO 11-03 COMMITTING MONTCLAIR HOUSING CORPORATION FUND BALANCES PURSUANT TO GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT 54 | DATE: December 5, 2011 SECTION: RESOLUTIONS ITEM NO.: 3 FILE I.D.: FIN356(b) DEPT.: MHC |
|--|---|

REASON FOR CONSIDERATION: The Governmental Accounting Standards Board (GASB) released Statement 54 (GASB 54) - "Fund Balance Reporting and Governmental Fund Type Definitions" on March 11, 2009, which is effective for the fiscal year ending June 30, 2011. This new statement is intended to improve the usefulness of the amount reported in a fund balance by providing more structured classification.

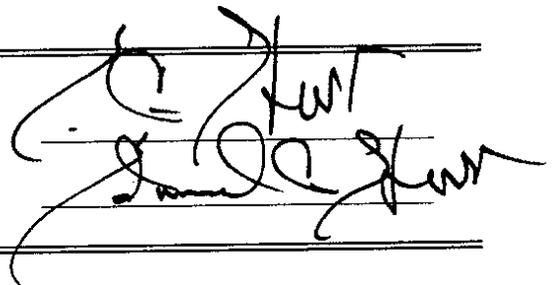
BACKGROUND: Currently, a fund balance is classified as "reserved" or "unreserved." An unreserved fund balance may be further allocated into "designated" and "undesignated." GASB 54 will change how a fund balance is reported. The hierarchy of five possible GASB 54 classifications is as follows:

- Nonspendable Fund Balance includes amounts not in spendable form, such as inventory, land held for resale, or amounts required to be maintained intact legally or contractually.
- Restricted Fund Balance includes amounts constrained for a specific purpose through restrictions of external parties (*i.e.*, debt service, capital projects, state, and federal grant funds).
- Committed Fund Balance includes amounts that are constrained for specific purposes imposed by formal action of the government's highest level of decision-making authority.
- Assigned Fund Balance consists of amounts that are constrained by the government's intent to be used for a specific purpose but are neither restricted nor committed; includes all remaining amounts not reported as nonspendable, restricted, or committed in all funds other than the General Fund (*i.e.*, special revenue, capital projects, debt service, and permanent funds).
- Unassigned Fund Balance is the residual classification for the General Fund.

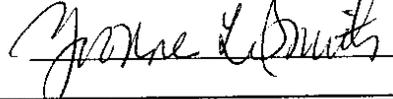
Prepared by:



Reviewed and Approved by:



Proofed by:



Presented by:

Additionally, GASB 54 requires government agencies to disclose more information in the notes to financial statements about amounts reported in the fund balance as follows:

- Description of authority and actions that lead to committed or assigned fund balance.
- Government's policy regarding order in which restricted, committed, assigned, and unassigned amounts are spent (contained in attached Resolution).
- Description of formally adopted minimum fund balance policies, if applicable.
- The purpose of each major special revenue fund.
- Encumbrances, if significant.

FISCAL IMPACT: There would be no fiscal impact to the MHC should the MHC Board of Directors adopt fund balance reporting pursuant to GASB 54.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors adopt Resolution No. 11-03 committing Montclair Housing Corporation fund balances pursuant to Governmental Accounting Standards Board Statement 54.

RESOLUTION NO. 11-03

**A RESOLUTION OF THE CITY OF MONTCLAIR
HOUSING CORPORATION ADOPTING A FUND
BALANCE POLICY PURSUANT TO GOVERN-
MENTAL ACCOUNTING STANDARDS BOARD
STATEMENT 54.**

WHEREAS, The Governmental Accounting Standards Board ("GASB") has adopted Statement 54 ("GASB 54"), a new standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010; and

WHEREAS, the Montclair Housing Corporation ("MHC") elects to implement GASB 54 requirements, and to apply such requirements to its financial statements beginning with the current July 1, 2010, through June 30, 2011 fiscal year; and

NOW, THEREFORE, BE IT RESOLVED that the City of Montclair Housing Corporation hereby adopts the following policy:

FUND BALANCE POLICY

Fund balance measures the net financial resources available to finance expenditures for future periods.

The MHC's General Fund balance will be maintained to provide the MHC with sufficient working capital and a margin of safety to address local and regional emergencies without borrowing. The Unassigned General Fund balance may only be appropriated by resolution of the Montclair Housing Corporation Board of Directors.

Fund Balance of the MHC may be committed for a specific source by formal action of the Montclair Housing Corporation Board of Directors. Amendments or modifications of the committed fund balance must also be approved by formal action of the Montclair Housing Corporation Board of Directors.

When it is appropriate for fund balance to be assigned, the Montclair Housing Corporation Board of Directors delegates authority to the Executive Director of the Montclair Housing Corporation and his designees.

In circumstances where an expenditure is to be made for a purpose for which amounts are available in multiple fund balance classifications, the order in which resources will be expended is as follows: restricted fund balance, followed by committed fund balance, assigned fund balance, and lastly unassigned fund balance.

APPROVED AND ADOPTED this XX day of XX, 2011.

ATTEST:

Chairman

Secretary

I, Yvonne L. Smith, Secretary of the City of Montclair Housing Corporation, DO HEREBY CERTIFY that Resolution No. 11-03 was duly adopted by the Montclair Housing Corporation Board of Directors of 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

AGENDA REPORT

| | |
|---|---|
| SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 11-2933, A RESOLUTION OF INTENTION WITH RESPECT TO FORMATION OF PROPOSED COMMUNITY FACILITIES DISTRICT NO. 2011-2 (MAINTENANCE AND PUBLIC SAFETY SERVICES) OF THE CITY OF MONTCLAIR | DATE: December 5, 2011 |
| | SECTION: RESOLUTIONS |
| | ITEM NO.: 4 |
| | FILE I.D.: CFD050 |
| | DEPT.: ADMIN. SVCS./ PUBLIC WORKS |

REASON FOR CONSIDERATION: The North Montclair Downtown Specific Plan contains a variety of public improvements, such as streets, parks, and public open space. The City is responsible for ensuring that these public improvements are constructed and maintained after construction. It is beyond the capabilities of the City's General Fund to finance these improvements and their maintenance. Therefore, on January 3, 2010, the City Council adopted general goals and policies related to Community Facilities District (CFD) financing as a method to finance public improvements, their maintenance, and associated services in the North Montclair Downtown Specific Plan area.

Proposed Resolution No. 11-2933 is a notice of intent to form Community Facilities District No. 2011-2 regarding the proposed Arrow Station project. The property owner and developer of this project is Hutton Development Company. Hutton Development Company will be constructing public improvements as a part of its project. There is inadequate General Fund revenue to finance costs related to the storm drain, streets, and public service needs of this development. Therefore, establishment of a CFD for the Arrow Station development is recommended by staff as a method to secure revenue for maintenance of public improvements and public safety costs.

BACKGROUND: Rather than relying on General Fund revenues, the Mello-Roos Community Facilities Act of 1982 was created to provide local governments with an alternate method of financing needed improvements and services. The Act supplies a local government agency or joint powers authority with the ability to finance the construction of public improvements through bond indebtedness and also offers the ability to maintain improvements or charge for certain services, such as police and fire protection.

A CFD is created by action of a local government agency. The district is established within defined property boundaries. A CFD cannot be formed without two-thirds majority vote of the residents living within the proposed boundaries. If there are fewer than 12 residents, the vote is conducted among the current landowners. The CFD may include just a single property owner. Once a CFD is approved, a special tax lien is placed against each property in the CFD. Property owners pay the special tax each year on their ad valorem property tax bill.

Prepared by: M. STAATS

Proofed by: Yvonne L. Smith

Reviewed and
Approved by:

Presented by:

M. STAATS
James O. Hutton

By law, a special tax imposed by the CFD cannot be based on the value of the property. Special taxes are based on mathematical formulas that take into account property characteristics, such as use of property, square footage of structures, or lot size. The formula is defined at the time the CFD is formed and would include a maximum special tax amount and a percentage maximum annual increase.

As the City Council will recall, CFD No. 2011-1 was created regarding the Paseos project on February 22, 2011. Adoption of Resolution No. 11-2933 would begin procedures toward formation of Community Facilities District No. 2011-2 for the Arrow Station project. The boundaries of the proposed CFD are shown on Exhibit A and incorporate the boundaries of the Arrow Station development. The City would not be seeking to issue bond indebtedness. The proposed CFD would be used to pay the cost of the following services:

- Maintenance and lighting of streets, roads, and storm drain systems within the CFD and incorporates a component for maintenance of open space and parks within the boundaries of the North Montclair Downtown Specific Plan.
- Fire protection and suppression services and Police protection services.

Proposed Resolution No. 11-2933 primarily expresses the intention of the City Council to form CFD No. 2011-2 and schedules a public hearing on the establishment of the district for January 17, 2012, at 7:00 p.m. in the City Council Chambers. Attached to the Resolution is a document entitled "Rate and Method of Apportionment for City of Montclair Community Facilities District No. 2011-2." This document sets forth the maximum rates of special taxes that may be levied on parcels of property within the CFD and the method for apportioning or levying those special taxes.

The proposed Resolution contains provisions regarding the system of voting procedures that must be used to establish the CFD. However, in the case of CFD No. 2011-2, there is only one property owner. The property owner may agree to waive the election procedures. In addition, the proposed Resolution also contains a provision that allows for the annexation of additional territory to the proposed CFD upon the unanimous consent of the owners of the property to be annexed.

FISCAL IMPACT: The City Council's adoption of Resolution No. 11-2933 should create no fiscal impact for the City. The Council's adoption of Resolution No. 11-2933 would create minor fiscal impact associated with the cost of publishing a legal advertisement setting the public hearing regarding implementation of CFD No. 2011-2. The cost of the advertisement is not anticipated to exceed \$1,500.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 11-2933 with respect to formation of proposed Community Facilities District No. 2011-2 (Maintenance and Public Services) of the City of Montclair and set a public hearing to consider this matter for January 17, 2012, at 7:00 p.m. in the City Council Chambers.

**PROPOSED BOUNDARIES OF
CITY OF MONTCLAIR
COMMUNITY FACILITIES DISTRICT NO. 2011-2
(ARROW STATION)
COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA**

(1) Filed in the office of the Clerk of the City of Montclair this ____ day of _____, 2011.

Yvonne Smith, Deputy City Clerk, City of Montclair, California

(2) I hereby certify that the within map showing the proposed boundaries of City of Montclair Community Facilities District No. 2011-2 (Arrow Station), County of San Bernardino, State of California, was approved by the City Council of the City of Montclair at a regular meeting thereof, held on the ____ day of _____, 2011, by its Resolution No. _____.

Yvonne Smith, Deputy City Clerk, City of Montclair, California

(3) San Bernardino County Recorder's Certificate

This map has been filed under Document Number _____, this ____ day of _____, 2011, at ____ .m., in Book _____ of Maps of Assessment and Community Facilities Districts at page _____, at the request of the City of Montclair in the amount of \$ _____.

Dennis Draeger
Assessor-Recorder-Clerk, County of San Bernardino

By: _____
Deputy Recorder

LEGEND

Proposed Boundaries of
City of Montclair
Community Facilities
District No. 2011 2
(Arrow Station),
San Bernardino County,
California

A.T. & S.F. R.R.

Assessor Parcel Number within the
Boundaries of City of Montclair
Community Facilities District
No. 2011-2
(Arrow Station):
1007-701-02

ARROW HIGHWAY

MONTE VISTA AVENUE

FREMONT AVENUE

Reference is hereby made to
the Assessor maps of the
County of San Bernardino for
a description of the lines
and dimensions of this
parcel.



Prepared by David Taussig & Associates, Inc.

RESOLUTION NO. 11-2933

**A RESOLUTION OF INTENTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR WITH RESPECT TO
FORMATION OF PROPOSED COMMUNITY FACILITIES
DISTRICT NO. 2011-2 (MAINTENANCE AND PUBLIC
SAFETY SERVICES) OF THE CITY OF MONTCLAIR**

WHEREAS, the City Council of the City of Montclair (the "City Council") has received a written petition from the owner of certain real property within the City of Montclair (the "City") requesting that the City Council initiate proceedings for the formation of a community facilities district pursuant to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982," for the purpose of providing certain services which are necessary to meet increased demands placed upon the City as a result of the development of said real property, and agreeing to the annual levy of special taxes on said property sufficient to pay the costs of such services and costs incidental thereto; and

WHEREAS, Subdivisions (d) and (e) of Section 53313 of the California Government Code provide that a community facilities district may be established to finance certain types of services including the maintenance and lighting of parks, parkways, streets, roads and open space, and the operation and maintenance of water retention and storm drainage systems serving the property within the proposed community facilities district and public safety services including fire protection and suppression services and police protection services; and

WHEREAS, pursuant to Section 53320 of the California Government Code, the City Council is required upon receiving such a written petition to adopt a resolution of intention to establish a community facilities district.

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

Section 1. Proposed District. A community facilities district is proposed to be established under the terms of Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982." The name proposed for the community facilities district is "City of Montclair Community Facilities District No. 2011-2 (Arrow Station), County of San Bernardino, State of California."

Section 2. Description and Map of Boundaries. The boundaries of the territory proposed for inclusion in the proposed Community Facilities District are described and shown on the map entitled "Boundaries of City of Montclair Community Facilities District No. 2011-2 (Arrow Station), County of San Bernardino, State of California," which is on file with the City Clerk. Said map is approved and, pursuant to Section 3110 of the California Streets and Highways Code, the City Clerk shall, after complying with the other requirements of Section 3111 of said Code, record the original of said map in his office and not later than 15 days prior to the date of the public hearing set forth in Section 7 hereof shall file a copy of said boundary map with the County Recorder of the County of San Bernardino.

Section 3. Types of Services; Incidental Expenses. It is proposed that the proposed Community Facilities District shall provide and finance:

Maintenance Services: (i) The costs of the maintenance and lighting of parks, parkways, streets, roads, and open space serving the property within the proposed Community Facilities District; and (ii) the operation and maintenance of bio-retention basins and storm drainage systems serving the property within the proposed Community Facilities District.

Public Safety Services: (i) Fire protection and suppression services; and (ii) police protection services.

The proposed Community Facilities District shall also finance costs associated with the determination of the amount of and the levy and collection of special taxes which are levied to provide such services and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District.

Section 4. Special Taxes. Except where funds are otherwise available, special taxes sufficient to pay the costs of the services provided for in Section 3 above and the annual administrative expenses of the City and the proposed Community Facilities District in determining, apportioning, levying and collecting such special taxes, shall be annually levied within the proposed Community Facilities District. Pursuant to Section 53340 of the California Government Code, the special taxes shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes. However, under no circumstances shall the special tax levied against any parcel subject to the levy of the special tax pursuant to the rates and method of apportionment be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the Community Facilities District by more than ten (10) percent. The rate and method of apportionment of said special taxes shall be as set forth in Exhibit "A" attached hereto and by this reference made a part hereof.

Section 5. Exempt Properties. Pursuant to Section 53340 of the California Government Code, properties of entities of the state, federal, and local governments shall be exempt from the levy of special taxes of the proposed Community Facilities District.

Section 6. Necessity. The City Council finds that the services described in Section 3 hereof are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of the proposed Community Facilities District.

Section 7. Hearing on Formation. A public hearing on the formation of the proposed Community Facilities District shall be held at 7:00 p.m. on January 17, 2012, in the Council Chambers of the City Council, 5111 Benito Street, Montclair, California.

Section 8. Notice. The City Clerk shall publish a notice of the time and place of said hearing as required by Section 53322 of the California Government Code, and shall also give notice of the time and place of said hearing by first-class mail to each registered voter and to each landowner within the proposed Community Facilities

District as prescribed by Section 53322.4 of said Code. Said notice shall be published at least seven (7) days and mailed at least fifteen (15) days before the date of the hearing, and shall contain the information required by said Section 53322.

Section 9. Report. The officers of the City who are responsible for providing the services to be financed by the proposed Community Facilities District, if it is established, are hereby directed, pursuant to the requirements of Section 53321.5 of the California Government Code to study the proposed Community Facilities District and, at or before the time of said hearing, file or cause to be filed a report with the City Council containing a brief description of the services by type and an estimate of the cost of providing those services and the incidental expenses to be incurred in connection therewith. All such reports shall be made a part of the record of the hearing to be held pursuant to Section 7 hereof.

Section 10. Annexation of Territory. Other property within the boundaries of the City may be annexed into the Community Facilities District upon the condition that parcels within that territory may be annexed only with the unanimous approval of the owner or owners of each parcel at the time that parcel or those parcels are annexed.

Section 11. Description of Voting Procedures. The voting procedures to be followed in conducting the special election on (i) the proposition with respect to the levy of special taxes on the land within the Community Facilities District to pay the costs of providing the services to be provided by the Community Facilities District; and (ii) the proposition with respect to the establishment of an appropriations limit for the Community Facilities District in the amount of \$3,000,000 if the Community Facilities District is established and such special election (the "special election") is held shall be as follows:

(a) If at least twelve (12) persons have been registered to vote within the territory of the proposed Community Facilities District for each of the ninety (90) days preceding the close of the public hearing, the vote in the special election shall be by the registered voters of the proposed Community Facilities District with each voter having one vote. In that event, the special election shall be conducted by the City Clerk and shall be held on a date selected by the City Council in conformance with the provisions of Section 53326 of the California Government Code and pursuant to the provisions of the California Elections Code governing elections of cities, insofar as they may be applicable; and pursuant to said Section 53326, the ballots for the special election shall be distributed to the qualified electors of the Community Facilities District by mail with return postage prepaid or by personal service; and the special election shall be conducted as a mail ballot election pursuant to Division 4 (commencing with Section 4000) of the California Elections Code.

(b) If twelve (12) persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the ninety (90) days preceding the close of the public hearing, and pursuant to Section 53326 of the California Government Code, the vote is therefore to be by the landowners of the proposed Community Facilities District, with each landowner of record at the close of the public hearing having one vote for each acre or portion of an acre of land that he or she owns within the proposed Community Facilities District, the special election shall be conducted by the City Clerk as follows:

(1) The special election shall be held on the earliest date, following the adoption by the City Council of the Resolution of formation establishing the Community Facilities District pursuant to Section 53325.1 of said Code, and a Resolution pursuant to Section 53326 of said Code submitting the propositions with respect to (i) the levy of special taxes to pay the costs of providing the services to be provided by the Community Facilities District; and (ii) establishing of an appropriations limit therefor to the qualified electors of the proposed Community Facilities District, upon which such elections can be held pursuant to said Section 53326 that may be selected by the City Council, or such earlier date as the owners of land within the proposed Community Facilities District and the City Clerk agree and concur is acceptable.

(2) Pursuant to said Section 53326, the special election may be held earlier than ninety (90) days following the close of the public hearing if the qualified electors of the Community Facilities District waive the time limits for conducting the election set forth in said Section 53326 by unanimous written consent and the City Clerk concurs in such earlier election date as shall be consented to by the qualified electors.

(3) Pursuant to said Section 53326, ballots for the special election shall be distributed to the qualified electors by the City Clerk by mail with return postage prepaid or by personal service.

(4) Pursuant to applicable sections of the California Elections Code governing the conduct of mail ballot elections of cities, and specifically Division 4 (commencing with Section 4000) of the California Elections Code with respect to elections conducted by mail, the City Clerk shall mail or deliver to each qualified elector an official ballot in a form specified by the City Council in the resolution calling the special election, and shall also mail or deliver to all such qualified electors a ballot pamphlet and instructions to voter, including a sample ballot identical in form to the official ballot but identified as a sample ballot, a statement pursuant to Section 9401 of said Code, an impartial analysis by the City Attorney pursuant to Section 9280 of said Code with respect to the ballot propositions contained in the official ballot, arguments and rebuttals, if any, pursuant to Sections 9281 to 9287, inclusive, and 9295 of said Code, a return identification envelope with prepaid postage thereon addressed to the City Clerk for the return of voted official ballots, and a copy of the resolution of formation establishing the Community Facilities District, adopted by the City Council pursuant to Section 53325.1 of the California Government Code; provided, however, that such analysis and arguments may be waived with the unanimous consent of all the landowners.

(5) The official ballot to be mailed or delivered by the City Clerk to each landowner-voter shall have printed or typed thereon the name of the landowner-voter and the number of votes to be voted by the landowner-voter and shall have appended to it a certification to be signed by the person voting the official ballot which shall certify that the person signing the certification is the person who voted the official ballot, and if the landowner-voter is other than a natural person, that he or she is an officer of or other person affiliated with the landowner-voter entitled to vote such official ballot, that he or she has been authorized to vote such official ballot on behalf of the landowner-voter, that in voting such official ballot it was his or her intent, as well as the intent of the landowner-voter, to vote all votes to which the landowner-voter is entitled based on its land ownership on the propositions set forth in the official

ballot as marked thereon in the voting square opposite each such proposition, and further certifying as to the acreage of the landowner-voter's land ownership within the Community Facilities District.

(6) The return identification envelope delivered by the City Clerk to each landowner-voter shall have printed or typed thereon the following: (i) the name of the landowner; (ii) the address of the landowner; (iii) a declaration under penalty of perjury stating that the voter is the landowner or the authorized representative of the landowner entitled to vote the enclosed ballot and is the person whose name appears on the identification envelope, (iv) the printed name and signature of the voter, (v) the date of signing and place of execution of said declaration; and (vi) a notice that the envelope contains an official ballot and is to be opened only by the City Clerk.

(7) The instructions to voter form to be mailed or delivered by the City Clerk to the landowner-voters shall inform them that the official ballots shall be returned to the City Clerk properly voted as provided thereon and with the certification appended thereto properly completed and signed in the sealed return identification envelope with the certification thereon completed and signed and all other information to be inserted thereon properly inserted by 5:00 p.m. on the date of the election.

(8) Upon receipt of the return identification envelopes which are returned prior to the voting deadline on the date of the election, the City Clerk shall canvass the votes cast in the special election, and shall file a statement with the City Council as to the results of such canvass and the election on each proposition set forth in the official ballot.

The procedures set forth in this Section for conducting the special election, if they are held, may be modified as the City Council may determine to be necessary or desirable by a Resolution subsequently adopted by the City Council.

APPROVED AND ADOPTED this XX day of XX, 2011.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2933 is duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2011, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

EXHIBIT "A"

**RATE AND METHOD OF APPORTIONMENT FOR
CITY OF MONTCLAIR
COMMUNITY FACILITIES DISTRICT NO. 2011-2
(ARROW STATION)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in the City of Montclair Community Facilities District No. 2011-2 (Arrow Station) ("CFD No. 2011-2") and collected each Fiscal Year commencing in Fiscal Year 2012-2013, in an amount determined by the CFD Administrator, according to the method of apportionment set forth herein. All of the real property in CFD No. 2011-2, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided. All Special Taxes collected hereunder shall only be used for the Special Tax A Requirement or Special Tax B Requirement, as hereinafter defined, and for no other purpose.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the actual or reasonably estimated costs directly related to the formation and administration of CFD No. 2011-2 including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the City, CFD No. 2011-2 or any designee thereof of complying with City or CFD No. 2011-2 disclosure requirements; the costs associated with responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2011-2 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2011-2 for any other administrative purposes of CFD No. 2011-2, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" means any real property to which an Assessor's parcel number is assigned as shown on an Assessor's Parcel Map.

"Assessor's Parcel Map" means an official map of the County Assessor of the County designating parcels by Assessor's parcel number.

"Authorized Maintenance Services" means the (i) maintenance and lighting of parks, parkways, streets, roads, and open space serving the property within CFD No. 2011-2 and (ii) the operation and maintenance of bio-retention basins and storm drainage systems serving the property within CFD No. 2011-2.

"Authorized Public Safety Services" means (i) fire protection and suppression services and (ii) police protection services.

"CFD Administrator" means the official of the City, or designee thereof, responsible for determining the Special Tax A Requirement and Special Tax B Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2011-2" means the City of Montclair Community Facilities District No. 2011-2 (Arrow Station).

"City" means the City of Montclair.

"Consumer Price Index" means the Consumer Price Index published by the U.S. Bureau of Labor Statistics for "All Urban Consumers" in the Los Angeles - Riverside - Orange County Area, measured as of the month of December in the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the Los Angeles - Riverside - Orange County Area.

"Council" means the City Council of the City, acting as the legislative body of CFD No. 2011-2.

"County" means the County of San Bernardino.

"Developed Property" means, for each Fiscal Year, all Taxable Property for which a building permit for new construction was issued as of January 1 of the previous Fiscal Year. For example, if a building permit for new construction for an Assessor's Parcel is issued anytime during calendar year 2011, then such Assessor's Parcel would be considered Developed Property beginning in Fiscal Year 2012-2013.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Land Use Class" means any of the classes listed in Table 1 below.

"Maximum Annual Special Tax" means the Maximum Annual Special Tax A and/or Maximum Annual Special Tax B, as applicable.

"Maximum Annual Special Tax A" means the Maximum Annual Special Tax A, determined in accordance with Section C.1 below, that can be levied in any Fiscal Year on any Assessor's Parcel of Developed Property within CFD No. 2011-2.

"Maximum Annual Special Tax B" means the Maximum Annual Special Tax B, determined in accordance with Section C.1 below, that can be levied in any Fiscal Year on any Assessor's Parcel of Developed Property within CFD No. 2011-2.

"Non-Residential Property" means all Assessor's Parcels of Developed Property for which a building permit(s) was issued for a non-residential use.

"Property Owner Association Property" means, for each Fiscal Year, any property within the boundaries of CFD No. 2011-2 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

"Proportionately" means, for Developed Property, that the ratio of the actual Special Tax A levy to the Maximum Annual Special Tax A is equal for all Assessor's Parcels of Developed Property and that the ratio of the actual Special Tax B levy to the Maximum Annual Special Tax B is equal for all Assessor's Parcels of Developed Property, except to the extent that the Special Tax levy on Developed Property is limited as described in Section D below.

"Public Property" means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2011-2 that was owned by or irrevocably offered for dedication to the federal government, the State, the City or any other public agency as of January 1 of the previous Fiscal Year; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified in accordance with its use; and (ii) any property within the boundaries of CFD No. 2011-2 that was encumbered, as of January 1 of the previous Fiscal Year, by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"Residential Floor Area" means all of the square footage of living area within the perimeter of a residential dwelling unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be made by reference to the building permit(s) issued for such Assessor's Parcel, or if the square footage is not available from this source, as otherwise determined by the CFD Administrator based on a recorded condominium plan or other available documents.

"Residential Property" means all Assessor's Parcels of Developed Property for which a building permit has been issued for purposes of constructing one or more residential dwelling units.

"Special Tax" means the Special Tax A and/or Special Tax B, as applicable.

"Special Tax A" means the annual special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property to fund the Special Tax A Requirement.

"Special Tax B" means the annual special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property to fund the Special Tax B Requirement.

"Special Tax A Requirement" means that amount required in any Fiscal Year for CFD No. 2011-2 to: (i) pay for Authorized Maintenance Services; (ii) pay a share of Administrative Expenses as determined by the CFD Administrator; (iii) pay for reasonably anticipated Special Tax A delinquencies based upon the historical delinquency rate for CFD No. 2011-2; less (iv) a credit for funds available to reduce the annual Special Tax A levy, as determined by the CFD Administrator.

"Special Tax B Requirement" means that amount required in any Fiscal Year for CFD No. 2011-2 to: (i) pay for Authorized Public Safety Services; (ii) pay a share of Administrative Expenses as determined by the CFD Administrator; (iii) pay for reasonably anticipated Special Tax B delinquencies based upon the historical delinquency rate for CFD No. 2011-2; less (iv) a credit for funds available to reduce the annual Special Tax B levy, as determined by the CFD Administrator.

"State" means the State of California.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2011-2 which are not exempt from the Special Tax pursuant to law or Section E below.

"Undeveloped Property" means, for each Fiscal Year, all Taxable Property not classified as Developed Property.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Taxable Property within CFD No. 2011-2 shall be classified as Developed Property or Undeveloped Property, and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Developed Property shall be classified as Residential Property and Non-Residential Property. Residential Property shall be assigned to Land Use Classes 1 through 5. Non-Residential Property shall be assigned to Land Use Class 6.

The Maximum Annual Special Tax for Residential Property shall be based on the Residential Floor Area of the dwelling unit(s) located on the Assessor's Parcel, as specified in Table 1 below. The Maximum Annual Special Tax for Non-Residential Property shall be based on the Acreage of the Assessor's Parcel.

C. MAXIMUM ANNUAL SPECIAL TAX

1. Developed Property

The Fiscal Year 2011-2012 Maximum Annual Special Tax A and Maximum Annual Special Tax B for each Assessor's Parcel classified as Developed Property shall be the amount shown below in Table 1.

TABLE 1
Maximum Annual Special Tax
for Developed Property

| Land Use Class | Description | Residential Floor Area | FY 2011-2012 Maximum Annual Special Tax A | FY 2011-2012 Maximum Annual Special Tax B |
|----------------|--------------------------|------------------------|---|---|
| 1 | Residential Property | ≥ 1,600 s.f. | \$384.69 per unit | \$107.56 per unit |
| 2 | Residential Property | 1,400 – 1,599 s.f. | \$352.63 per unit | \$98.59 per unit |
| 3 | Residential Property | 1,200 – 1,399 s.f. | \$320.57 per unit | \$89.63 per unit |
| 4 | Residential Property | 1,000 – 1,199 s.f. | \$272.49 per unit | \$76.19 per unit |
| 5 | Residential Property | < 1,000 s.f. | \$240.43 per unit | \$67.22 per unit |
| 6 | Non-Residential Property | NA | \$13,964.20 per Acre | \$3,904.29 per Acre |

(a) Increase in the Maximum Annual Special Tax

On each July 1, commencing on July 1, 2012, the Maximum Annual Special Tax A and Maximum Annual Special Tax B shall be increased based on the percentage increase in the Consumer Price Index with a maximum annual increase of six percent (6%) and a minimum annual increase of two percent (2%) per Fiscal Year.

(b) Multiple Land Use Classes

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Annual Special Tax that can be levied on an Assessor's Parcel shall be the sum of the Maximum Annual Special Tax that can be levied for each Land Use Class located on that Assessor's Parcel. For an Assessor's Parcel that contains more than one land use, the Acreage of such Assessor's Parcel shall be allocated to each type of property based on the amount of Acreage designated for each land use as determined by reference to the site plan approved for such Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

2. Undeveloped Property

Neither the Special Tax A nor the Special Tax B shall be levied on Undeveloped Property.

D. APPORTIONMENT OF THE SPECIAL TAX

1. SPECIAL TAX A

Commencing with Fiscal Year 2012-2013 and for each following Fiscal Year, the Council shall levy the Special Tax A so that the amount of the Special Tax A equals

the lesser of the Special Tax A Requirement or the Maximum Annual Special Tax A. The Special Tax A shall be levied Proportionately on each Assessor's Parcel of Developed Property at up to 100% of the applicable Maximum Annual Special Tax A.

To the extent that the Special Tax A Requirement is greater than the aggregate Maximum Annual Special Tax A, the Special Tax A collected shall first be allocated to pay Administrative Expenses not funded through the Special Tax B Requirement and then to pay for Authorized Maintenance Services.

2. SPECIAL TAX B

Commencing with Fiscal Year 2012-2013 and for each following Fiscal Year, the Council shall levy the Special Tax B so that the amount of the Special Tax B equals the lesser of the Special Tax B Requirement or the Maximum Annual Special Tax B.

The Special Tax B shall be levied Proportionately on each Assessor's Parcel of Developed Property at up to 100% of the applicable Maximum Annual Special Tax B.

To the extent that the Special Tax B Requirement is greater than the aggregate Maximum Annual Special Tax B, the Special Tax B collected shall first be allocated to pay Administrative Expenses not funded through the Special Tax A Requirement and then to pay for Authorized Public Safety Services.

Notwithstanding the above, under no circumstances will the Special Tax levied in any Fiscal Year against any Assessor's Parcel of Residential Property be increased as a consequence of delinquency or default by the owner or owners of any other Assessor's Parcel(s) within CFD No. 2011-2 by more than 10% above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults. To the extent that the levy of the Special Tax on Residential Property is limited by the provision in the previous sentence, the levy of the Special Tax on each Assessor's Parcel of Non-Residential Property shall continue in equal percentages at up to 100% of the Maximum Annual Special Tax.

E. EXEMPTIONS

Neither the Special Tax A nor the Special Tax B shall be levied on Property Owner Association Property or Public Property. However, should an Assessor's Parcel no longer be classified as Property Owner Association Property or Public Property, its tax-exempt status will be revoked.

F. APPEALS AND INTERPRETATIONS

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes must be paid on or before the payment date established when the levy was made. The appeal must specify the

reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

G. MANNER OF COLLECTION

The Special Tax will be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2011-2 may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Act.

H. TERM OF SPECIAL TAX

The Special Tax A shall be levied as long as necessary to meet the Special Tax A Requirement. The Special Tax B shall be levied as long as necessary to meet the Special Tax B Requirement.

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**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
NOVEMBER 21, 2011, AT 7:45 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 7:45 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
November 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 November 7, 2011.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

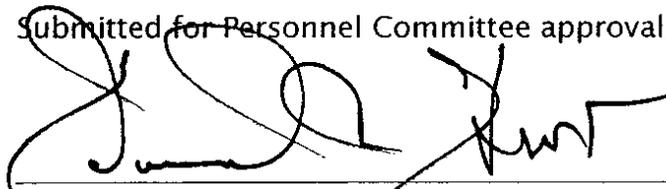
At 7:46 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:00 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:00 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager