

CITY OF MONTCLAIR

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

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

February 6, 2012

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 Successor Redevelopment Agency, Montclair Housing Corporation, and Montclair Housing Authority Boards of Directors

II. **INVOCATION**

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

III. **PLEDGE OF ALLEGIANCE**

IV. **ROLL CALL**

V. **PRESENTATIONS**

- A. Presentation by Sandee Hayden, Director, Community Connections, on Expansion to San Bernardino County of New Community Connections Volunteer Driver Program for Seniors and Individuals With Disabilities

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 Successor Redevelopment Agency, Montclair Housing Corporation, and Montclair Housing Authority Boards of Directors. (Government Code Section 54954.3)

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

VII. PUBLIC HEARINGS

- A. Second Reading - Consider Adoption of Ordinance No. 12-927 Levying Special Taxes to Be Collected During Fiscal Year 2012-13 to Pay the Annual Costs of the Maintenance and Lighting of Parks, Parkways, Streets, Roads, and Open Space; the Operation and Maintenance of Bio-Retention Basins and Storm Drainage Systems; and Public Safety Services Including Fire Protection and Suppression Services and Police Protection With Respect to Community Facilities District No. 2011-2 (Arrow Station) [CC]

Consider Approval of Agreement No. 12-08, an Agreement With David Taussig & Associates to Provide Financial Consulting Services Related to Community Facilities District No. 2011-2 [CC]

4

VIII. CONSENT CALENDAR

A. Approval of Minutes

- 1. Minutes of the Special Joint Council/Agency Board/MHA Board Meeting of January 12, 2012 [CC/RDA/MHA]
- 2. Minutes of the Regular Joint Council/Agency Board/MHC Board Meeting of January 17, 2012 [CC/RDA/MHC]

B. Administrative Reports

- 1. Consider Approval of Warrant Register and Payroll Documentation [CC]

12

C. Agreements

- 1. Consider Approval of Agreement No. 12-09 With Graffiti Tracker, Inc., for Continued Use of Its Database to Track and Analyze Graffiti [CC]

13

D. Resolutions

- 1. Consider Adoption of Resolution No. 12-2938 Declaring a State of Fiscal Necessity Exists Requiring Reductions in General Fund Operating Expenditures to Ensure Sustainability and Viability of the General Fund in Fiscal Year 2011-12 and Subsequent Fiscal Years [CC]
- 2. Consider Adoption of Resolution No. 12-2939 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges [CC]

22

39

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/Successor Agency Board
- E. Committee Meeting Minutes *(for informational purposes only)*
 - 1. Minutes of the Public Works Committee Meeting of November 17, 2011 47
 - 2. Minutes of the Personnel Committee Meeting of January 17, 2012 56

XII. COUNCIL/SUCCESSOR AGENCY/MHC WORKSHOP

A. Midyear Budget Review

(Council/Successor Agency Board/MHC Board may consider continuing this item to an adjourned meeting on Wednesday, February 15, 2012, at 5:45 p.m. in the City Council Chambers.)

XIII. ADJOURNMENT OF SUCCESSOR REDEVELOPMENT AGENCY, MONTCLAIR HOUSING CORPORATION AND MONTCLAIR HOUSING AUTHORITY BOARDS OF DIRECTORS

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

XIV. CLOSED SESSION ANNOUNCEMENTS

XV. ADJOURNMENT OF CITY COUNCIL

The next regularly scheduled City Council, Successor Redevelopment Agency, Montclair Housing Corporation, and Montclair Housing Authority meetings will be held on Tuesday, February 21, 2012, 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, Successor Redevelopment Agency Board, Montclair Housing Corporation Board, or Montclair Housing Authority 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 February 2, 2012.

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF ORDINANCE NO. 12-927 LEVYING SPECIAL TAXES TO BE COLLECTED DURING FISCAL YEAR 2012-13 TO THE PAY ANNUAL COSTS OF THE MAINTENANCE AND LIGHTING OF PARKS, PARKWAYS, STREETS, ROADS, AND OPEN SPACE; THE OPERATION AND MAINTENANCE OF BIO-RETENTION BASINS AND STORM DRAINAGE SYSTEMS; AND PUBLIC SAFETY SERVICES INCLUDING FIRE PROTECTION AND SUPPRESSION SERVICES AND POLICE PROTECTION WITH RESPECT TO COMMUNITY FACILITIES DISTRICT NO. 2011-2 (ARROW STATION)

DATE: February 6, 2012
SECTION: PUBLIC HEARINGS
ITEM NO.: A
FILE I.D.: CFD050
DEPT.: PUBLIC WORKS/
ADMIN. SVCS.

CONSIDER APPROVAL OF AGREEMENT NO. 12-08, AN AGREEMENT WITH DAVID TAUSSIG & ASSOCIATES TO PROVIDE FINANCIAL CONSULTING SERVICES RELATED TO COMMUNITY FACILITIES DISTRICT NO. 2011-2

SECOND READING

REASON FOR CONSIDERATION: The City Council conducted the first reading of proposed Ordinance No. 12-927 on January 17, 2012. The City Council is now requested to consider the second reading of Ordinance No. 12-927 to establish Community Facilities District No. 2011-2 for the Arrow Station Project in the North Montclair Downtown Specific Plan area.

The City Council is also requested to consider approval of Agreement No. 12-08 with David Taussig & Associates. The proposed Agreement with David Taussig & Associates would provide the City with financial consulting services related to annual calculation of the special taxes to be levied pursuant to Community Facilities District No. 2011-2. A copy of proposed Agreement No. 12-08 is included in the agenda packet for the City Council's review and consideration.

BACKGROUND: Developments within the North Montclair Downtown Specific Plan area will contain a variety of public improvements that will require maintenance. In addition, public safety protection costs would be increased by new development. The City's General Fund is not in a position to support the additional maintenance costs and public safety costs associated with new development. Therefore, staff has proposed the City Council consider establishment of a Mello-Roos Community Facility District (CFD) to support certain costs related to development within North Montclair Downtown Specific Plan area.

Prepared by:

MSTRATS
Guane H. Smith

Reviewed and
Approved by:

MSTRATS
[Signature]

Proofed by:

Presented by:

A Mello-Roos Community Facilities District is authorized to provide for the construction and maintenance of public improvements and services. However, the CFD proposed for the Arrow Station Project would only finance maintenance costs of certain public improvements and certain costs for public safety. A community facilities district cannot be formed without a two-thirds majority vote of the residents living within the proposed boundaries of the district. If there are fewer than 12 residents, the vote is conducted among current property owners. The district may include a single property owner, which is the case with the Arrow Station Project whereby Arrow Station, LLC., is the only property owner.

A document called the "City of Montclair Community Facilities District No. 2011-2 (Arrow Station)" (Report) is included in the agenda packet for review by the City Council. This Report estimates the cost of the proposed CFD and describes the proposed rate and method of apportionment of the special tax. Proposed CFD 2011-2 would finance the maintenance costs and lighting of parks, parkways, streets, and roads and the operation and maintenance of bio-retention basins and storm drain systems serving the proposed CFD. In addition, the proposed CFD would finance fire and police protection services. The estimated cost of these services is approximately \$35,495 annually. It is anticipated the CFD would also fund the estimated \$15,000 annual cost to administer the CFD.

When a community facilities district is formed, a special tax may be levied on each parcel of taxable land within the district to pay for the authorized improvements or services. The special tax must be apportioned in a reasonable manner; however, the tax may not be apportioned on an ad valorem basis. When more than one type of land use is present within a community facilities district, several criteria may be considered when apportioning the special tax. Generally, these criteria are based on building square footage, acreage, and land use. Categories based on the above-mentioned criteria are established to differentiate between parcels of property. These categories are a direct result of the projected product mix and are reflective of the proposed land use types within the district. Specific special tax levels are assigned to each land use class with all the parcels within a land use class assigned the same special tax rate.

The Mello-Roos Community Facilities Act does not require special taxes be apportioned to individual parcels based on benefit received. However, in order to ensure fairness and equity, a benefit principle has been incorporated in establishing the special tax rates for CFD No. 2011-2. The major assumption inherent in the special tax rates set forth in proposed CFD 2011-2 is that the level of benefit received from the proposed public services is a function of land use and residential unit size. Six land use classes have been established in proposed CFD No. 2011-2. The residential property is assigned a classification based on the number of units and square footage of the floor area of units. Nonresidential property is assigned to land use class seven. Exhibit B of the Report provides the list of classifications for maximum special taxes for developed property in the CFD. Undeveloped property is not subject to the special tax. Based on the public service costs proposed for inclusion in CFD 2011-2, the assignment of taxes is generally proportionate to the relative benefit received by them and can be considered fair and reasonable.

It should be noted that the special tax imposed by the CFD shall be increased by an amount equal to the Consumer Price Index (CPI), with a maximum annual increase of six percent and a minimum annual increase of two percent. Although the special tax

shall be increased annually by a minimum of two percent, the City Council retains the authority to determine if and what amount of the special tax is levied pursuant to the established parameters.

At the City Council meeting conducted on January 17, 2012, an election was conducted whereby the property owner of the Arrow Station Project, Arrow Station, LLC., voted to impose special taxes on its project pursuant to establishment of CFD No. 2011-2. Therefore, the City Council conducted the first reading of Ordinance No. 12-927 levying the special tax to pay for annual maintenance costs of parks, streets, and storm drain improvements and for public safety services. The City Council's adoption of the second reading of Ordinance No. 12-927 would result in implementation of CFD No. 2011-2.

In the event the City Council adopts Ordinance No. 12-927, the City Council is then asked to consider approval of proposed Agreement No. 12-08 with David Taussig & Associates. The purpose of the proposed Agreement would be to provide financial consulting services to assist the City in the annual administration of CFD No. 2011-2. The activities and tasks to be performed pursuant to the Agreement would include the following:

- The consultant would gather and organize the land use data required to apportion and collect the special taxes.
- The consultant would apply the rate and method of apportionment of the special taxes to determine the appropriate special tax classification for each parcel located in the CFD.
- The consultant would calculate and apportion the special taxes.
- The consultant would prepare the Annual Special Tax Report and file such report with the County of San Bernardino Auditor-Controller for inclusion in the consolidated property tax bill.
- The consultant would also monitor any changes to the secured roll necessitating new or adjusted tax bills.
- The consultant would assist the City in the preparation of special tax-disclosure documents.

The terms of Agreement No. 12-08 include standard termination provisions on 30 days' written notice of either party. However, in the event of default by either party, written notice shall be provided to the defaulting party; and that party shall have ten days to cure the default upon receipt of such default notice. The cost of services is based on time and materials not to exceed \$4,500 per fiscal year. In addition, the consultant shall be reimbursed for out-of-pocket expenses not to exceed \$250 annually. Time and materials fees are subject to change on an annual basis. However, the consultant shall notify the City in advance of any such proposed increases. Any amendments of territory to CFD No. 2011-2 would cause an increase in the annual costs of services to be provided by the consultant. Proposed Agreement No. 12-08 has been reviewed by the City Attorney.

FISCAL IMPACT: Adoption of Ordinance No. 12-927 would establish CFD No. 2011-2. This CFD has been proposed to mitigate the financial impacts of public works maintenance and safety services on General Fund revenues. The estimated annual cost of maintenance, safety, and administrative costs associated with the Arrow Station Project is approximately \$50,496. CFD No. 2011-2 would generate approximately \$50,496 annually to offset the maintenance, safety, and administrative costs. As previously indicated, the special tax imposed by the CFD shall be increased by the cost of the CPI with a maximum annual increase of six percent and a minimum annual increase of two percent. However, the City Council may consider the amount of the actual levy each year.

Approval of proposed Agreement No. 12-08 with David Taussig & Associates to provide financial consulting services related to CFD No. 2011-2 would create no fiscal impact for the General Fund. The estimated \$4,750 cost of the consulting services would be paid with funds generated from CFD No. 2011-2 for administrative purposes.

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

- Adoption of the second reading of Ordinance No. 12-927 levying special taxes to be collected during Fiscal Year 2012-13 to pay the annual costs of the maintenance and lighting of parks, parkways, streets, roads, and open space; the operation and maintenance of bio-retention basins and storm drainage systems; and public safety services including fire protection and suppression services and police protection with respect to Community Facilities District No. 2011-2 (Arrow Station).
- Approval of Agreement No. 12-08 with David Taussig & Associates to provide financial consulting services related to Community Facilities District No. 2011-2.

ORDINANCE NO. 12-927

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR LEVYING SPECIAL TAXES TO BE COLLECTED DURING FISCAL YEAR 2012-13 TO PAY THE ANNUAL COSTS OF THE MAINTENANCE AND LIGHTING OF PARKS, PARKWAYS, STREETS, ROADS, AND OPEN SPACE; THE OPERATION AND MAINTENANCE OF BIO-RETENTION BASINS AND STORM DRAINAGE SYSTEMS; AND PUBLIC SAFETY SERVICES INCLUDING FIRE PROTECTION AND SUPPRESSION SERVICES AND POLICE PROTECTION SERVICES WITH RESPECT TO CITY OF MONTCLAIR COMMUNITY FACILITIES DISTRICT NO. 2011-2 (ARROW STATION)

WHEREAS, the City Council (the "City Council") of the City of Montclair (the "City") has heretofore adopted Resolution No. 11-2933 stating that a community facilities district to be known as "City of Montclair Community Facilities District No. 2011-2, County of San Bernardino, State of California" (the "Community Facilities District"), is proposed to be established under the provisions 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 "Act"), and fixing the time and place for a public hearing on the formation of the Community Facilities District; and

WHEREAS, notice was published and mailed to the owner of all of the property in the Community Facilities District as required by law relative to the intention of the City Council to establish the Community Facilities District and the levy of the special taxes therein to provide certain services, and of the time and place of said public hearing; and

WHEREAS, on January 17, 2012, at the time and place specified in said published and mailed notice, the City Council opened and held a public hearing as required by law relative to the formation of the Community Facilities District, the levy of the special taxes therein and the provision of services by the Community Facilities District; and

WHEREAS, at the public hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of the special taxes, and the provision of services therein were heard; and a full and fair hearing was held; and

WHEREAS, subsequent to said hearing, the City Council adopted Resolutions, entitled: "Resolution of the City Council of the City of Montclair Establishing City of Montclair Community Facilities District No. 2011-2 (Arrow Station), County of San Bernardino, State of California and Establishing the Boundaries Thereof" (the "Resolution of Formation") and "Resolution of the City Council of the City of Montclair Calling a Special Election and Submitting to the Voters of City of Montclair Community Facilities District No. 2011-2 (Arrow

Station) a Proposition with Respect to the Annual Levy of Special Taxes Within the Community Facilities District for Paying the Cost of the Services to be Provided Therein, and a Proposition with Respect to the Establishment of an Appropriations Limit for the Community Facilities District," which Resolutions established the District, authorized the levy of a special tax within the District, and called an election within the District on the proposition of levying a special tax and establishing an appropriations limit within the District, respectively; and

WHEREAS, an election was held within the District in which the sole eligible landowner elector approved said propositions by more than the two-thirds majority vote required by the Act.

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

SECTION I. Findings.

It is necessary that the City Council of the City of Montclair levy special taxes pursuant to Sections 53340 of the Government Code for the payment of the annual costs of the (i) 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 and also public safety services including (ii) fire protection and suppression services; and (iii) police protection services within City of Montclair Community Facilities District No. 2011-2 (Arrow Station), County of San Bernardino, State of California (the "District"), and in the surrounding area and for the payment of administrative expenses incurred in connection with the levy and collection of said special taxes.

SECTION II. Levy of Special Taxes.

Special taxes shall be and are hereby levied for the Fiscal Year 2012-13, and each fiscal year thereafter, on all parcels of real property within the District that are subject to taxation, which are identified in Exhibit "A" attached hereto, and in the amount set forth for each such parcel in said Exhibit "A." Pursuant to said Section 53340, such 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.

SECTION III. Transmittal to County.

The Deputy City Clerk shall immediately following adoption of this Ordinance transmit a copy hereof to the Board of Supervisors and the County Auditor of the County of San Bernardino together with a request that the special taxes as levied hereby be collected on the tax bills for the parcels identified in Exhibit "A" hereto along with the ordinary ad valorem property taxes to be levied on and collected from the owners of said parcels.

SECTION IV. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

SECTION V. Effective Date.

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

SECTION VI. Posting.

The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

APPROVED AND ADOPTED this XX day of XX, 2012.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 12-927 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2012, and finally passed not less than five (5) days thereafter on the XX day of XX, 2012, by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

EXHIBIT "A"

**CITY OF MONTCLAIR
COMMUNITY FACILITIES DISTRICT NO. 2011-2
(ARROW STATION)**

**SPECIAL TAX LEVY
FISCAL YEAR 2012-13**

Assessor's Parcel Number

APN 1007-701-02

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: February 6, 2012
	SECTION: ADMIN. REPORTS
	ITEM NO.: 1
	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated February 6, 2012, and Payroll Documentation dated December 18, 2011; finds them to be in order; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated February 6, 2012, totals \$1,651,826.98. The Payroll Documentation dated December 18, 2011, totals \$625,867.29, with \$450,341.26 being the total cash disbursement.

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

Prepared by: *Gyrene Smith*

Proofed by: *Kathy Dalton*

Reviewed and
Approved by: *[Signature]*

Presented by: *[Signature]*

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 12-09 WITH GRAFFITI TRACKER, INC., FOR CONTINUED USE OF ITS DATABASE TO TRACK AND ANALYZE GRAFFITI

DATE: February 6, 2012

SECTION: AGREEMENTS

ITEM NO.: 1

FILE I.D.: GRF050

DEPT.: POLICE

REASON FOR CONSIDERATION: The Police Department would like to continue contracting with Graffiti Tracker, Inc., to track, analyze, and ultimately reduce the occurrences of graffiti within the City.

BACKGROUND: Graffiti has long been one of the most common urban problems threatening the vitality and beauty of cities across the country. Graffiti continues to be a major concern for the City of Montclair.

Graffiti Tracker, Inc., specializes in providing Police and City personnel with the tools needed to reduce graffiti vandalism. The company assisted the City in implementing a graffiti protocol that continues to provide a graffiti database, analyses, and tracking to further reduce the occurrences of graffiti. The Graffiti Tracker system utilizes cameras equipped with Global Positioning System technology. Photographs of graffiti are taken by the City's graffiti abatement crews and are sent to Graffiti Tracker, where they are analyzed and categorized for reference. The result of the analysis is then stored in a web-based Graffiti Tracker system. Police and City personnel are permitted unlimited searches of the organized database to determine patterns of graffiti incidents, such as the most active vandals and/or gangs, rising tension between rival gangs, and frequently hit areas or "hot spots."

The web-based program requires no software installation and has no restrictions as to the number of system users.

The term of proposed Agreement No. 12-09 is from January 1, 2012, through December 31, 2012.

FISCAL IMPACT: The cost to contract with Graffiti Tracker, Inc., for one year is \$6,000. Funds for this purpose are included in the Police Department Fiscal Year 2011-12 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 12-09 with Graffiti Tracker, Inc., for continued use of its database to track and analyze graffiti.

Prepared by:

Judy Z...

Reviewed and
Approved by:

[Signature]

Proofed by:

Sharon Pizzuto

Presented by:

PROFESSIONAL SERVICES AGREEMENT

(City of Montclair and Graffiti Tracker Inc.)

THIS PROFESSIONAL SERVICES AGREEMENT is made as of January 1, 2012 by and between the City of Montclair, (“Agency”), and Graffiti Tracker Inc. (“Contractor”).

RECITALS

1. Agency has determined that it requires professional services from a Contractor to provide graffiti analysis and tracking services for the Agency.
2. Agency desires to retain Contractor, as an independent contractor to provide such services on an as needed basis.
3. Contractor represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

NOW, THEREFORE, in consideration of performance by the parties of the promises, covenants, and conditions herein contained, the parties hereto agree as follows:

1. Contractor’s Services.

- a. **Scope and Level of Services.** The nature, scope, and level of the specific services to be performed by Contractor are as set forth in Exhibit A, attached to this Agreement and incorporated herein as though set forth in full. Agency is retaining Contractor pursuant to this Agreement on a non-exclusive basis and reserves the right to retain other professionals to perform similar service if Agency determines such services are needed.
 - b. **Time of Performance.** The services shall be performed in a timely manner and on a regular basis in accordance with the written instruction of the Contract Administrator. Time is of the essence in the performance of this Agreement.
2. **Standard of Care.** As a material inducement to Agency to enter into this Agreement, Contractor hereby represents and warrants that it has the professional expertise and experience necessary to undertake the services to be provided herein.
 3. **Compliance with Law.** All services rendered hereunder by Contractor shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of Agency and any federal, state or local governmental agency having jurisdiction in effect at the time

service is rendered.

4. **Term of Agreement.** This Agreement is effective on the date set forth in the initial paragraph of this Agreement and shall remain in effect for a period of 12 months, unless earlier terminated pursuant to Section 14.
5. **Compensation.** Agency agrees to compensate Contractor for its services according to the fee and payment schedule set forth in Exhibit B, attached hereto and incorporated herein as though set forth in full. In no event shall the total compensation and costs payable to Contractor under this Agreement exceed the sum of \$6,000.00 unless specifically approved by the City Council. Agency agrees that services may not begin until first payment is received.
6. **Ownership of Work Product.** All reports, documents or other written material developed by Consultant in the performance of this Agreement shall be and remain the property of Agency without restriction or limitation upon its use or dissemination by Agency.
7. **Representatives.**
 - a. **Project Manager.** The Project Manager for the services required under this Agreement is hereby designated as Timothy M. Kephart who shall be the representative of Contractor authorized to act in its behalf with respect to the services specified herein. It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Project Manager were a substantial inducement for Agency to enter into this Agreement. Therefore, the foregoing Project Manager shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. Contractor may not change the foregoing Project Manager without the express written approval of Agency.
 - b. **Contract Administrator.** The Contract Administrator and Agency's representative shall be the Assistant City Manager, or in his/her absence, an individual designated in writing by the Contract Administrator. It shall be Contractor's responsibility to assure that the Contract Administrator is kept informed of the progress of the performance of the services, and Contractor shall refer any decisions that must be made by Agency to the Contract Administrator. Unless otherwise specified herein, any approval of Agency required hereunder shall mean the approval of the Contract Administrator.
8. **Standard of Performance.** Contractor shall perform all work to the highest professional standards and in a manner reasonably satisfactory to Agency. Contractor hereby covenants that it shall follow the highest professional standards in performing all services required hereunder.

- 9. Status as Independent Contractor.** Contractor is, and shall at all times remain as to Agency, a wholly independent contractor. Contractor shall have no power to incur any debt, obligation, or liability on behalf of Agency or otherwise act on behalf of Agency as an agent. Neither Agency nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner, employees of Agency. Contractor agrees to pay all required taxes on amounts paid to Contractor under this Agreement, and to indemnify and hold Agency harmless from any and all taxes, assessments, penalties, and interest asserted against Agency by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor further agrees to indemnify and hold Agency harmless from any failure of Contractor to comply with applicable workers' compensation laws. Agency shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to Agency from Contractor as a result of Contractor's failure to promptly pay to Agency any reimbursement or indemnification arising under this section.
- 10. Confidentiality.** Agency agrees not to use any intellectual property or information related to the Graffiti Tracker system for purposes of development or competition of another Graffiti Tracker system. Upon request, all Agency data shall be returned to Agency upon the termination of this Agreement. Contractor's covenant under this section shall survive the termination of this Agreement.
- 11. Conflict of Interest.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Contractor under this Agreement, or which would conflict in any manner with the performance of its services hereunder.
- 12. Indemnification.** Contractor agrees to indemnify, hold harmless and defend Agency and the Redevelopment Agency, and their respective officers, employees, volunteers, and agents serving as independent contractors in the role of Agency or Agency officials, (collectively, "Indemnities"), from any claim, demand, damage, liability, loss, cost or expense, for any damage whatsoever, including but not limited to death or injury to any person and injury to any property, resulting from willful misconduct, negligent acts, errors or omissions of Contractor or any of its officers, employees, or agents.
- a. Agency does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by Agency, or the deposit with Agency, of any insurance policy or certificate required pursuant to this Agreement.
 - b. This hold harmless, indemnification and defense provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim,

demand, damage, liability, loss, cost or expense. Contractor agrees that Contractor's covenant under this section shall survive the termination of this Agreement.

13. Cooperation. In the event any claim or action is brought against Agency relating to Contractor's performance or services rendered under this Agreement, Contractor shall render any reasonable assistance and cooperation that Agency might require.

14. Termination.

- a. Agency shall have the right to terminate the services of Contractor at any time for any reason on sixty (60) calendar days written notice to Contractor. In the event this Agreement is terminated by Agency, Contractor shall be paid for services satisfactorily rendered to the last working day this Agreement is in effect, and Contractor shall have no other claim against Agency by reason of such termination, including any claim for compensation.
- b. Contractor shall have the right to terminate this Agreement at any time for any reason on sixty (60) calendar days written notice to Agency, and Contractor shall be paid for services satisfactorily rendered to the last working day this Agreement is in effect.

15. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during receiving party's regular business hours or by facsimile before or during receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses heretofore below, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

Agency:

City of Montclair
4870 Arrow Highway
Montclair, CA 91763

Contractor:

Graffiti Tracker Inc.
12165 West Center Rd, Suite 80
Omaha, NE 68130

- 16. Nondiscrimination and Equal Employment Opportunity.** In the performance of this Agreement, Contractor shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation. Contractor will take affirmative action to ensure that employees are treated without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.
- 17. Assignability; Subcontracting.** Contractor shall not assign, transfer, or subcontract any interest in this Agreement or the performance of any of Contractor's obligations hereunder, without the prior written consent of Agency, and any attempt by Contractor to so assign, transfer, or subcontract any rights, duties, or obligations arising hereunder shall be void and of no effect.
- 18. Compliance with Laws/Licenses.** Contractor shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments. Contractor shall obtain and maintain all necessary professional licenses for providing the services outlined in this Agreement.
- 19. Non-Waiver of Terms, Rights and Remedies.** Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by Agency of any payment to Contractor constitute or be construed as a waiver by Agency of any breach of covenant, or any default which may then exist on the part of Contractor, and the making of any such payment by Agency shall in no way impair or prejudice any right or remedy available to Agency with regard to such breach or default.
- 20. Attorney's Fees.** In the event that either party to this Agreement shall commence any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney's fees. The venue for any litigation shall be Los Angeles County. In the event of any asserted ambiguity in, or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the party who drafted this Agreement or who drafted that portion of the Agreement.
- 21. Exhibits; Precedence.** All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provision of any Exhibit or document incorporated herein by reference, the provisions of this Agreement shall prevail.
- 22. Entire Agreement.** This Agreement, and any other documents incorporated herein by

specific reference, represents the entire and integrated agreement between Agency and Contractor. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties which expressly refers to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

“Agency”

ATTEST:

City of Montclair

By: _____
City Clerk

By: _____
Mayor

“Contractor”

By: _____
Timothy M. Kephart

EXHIBIT A

SCOPE OF SERVICES

Contractor shall perform the following services for the City of Montclair:

Responsibilities

1. Train designated personnel on how to use GPS cameras.
2. Establish graffiti tracking protocols.
3. Train personnel on how to upload graffiti data to the Graffiti Analysis Intelligence Tracking System (GAITS).
4. Provide access to GAITS to all designated personnel twenty-four hours a day, seven days a week until contract ends.
5. On a daily basis, graffiti data will be uploaded to the GAITS system from the City of Montclair's staff. Graffiti Tracker Inc. will be responsible for analyzing all of that data and making the results of that analysis available to the GAITS system.
6. Provide training to all designated personnel (Agency staff/law enforcement/District Attorney's Office) on how to utilize the GAITS system.

This contract constitutes a lease for access to the Graffiti Analysis Intelligence Tracking System (GAITS). Permission from the Contract Administrator will be required for anyone to have access to this system. Upon permission being granted for access to the system, a username and password will be given to those individuals and they will be granted an "Operator" level access to the GAITS system. This lease will be in effect for the duration of the contract.

EXHIBIT B

SCHEDULE OF FEES

Contractor will not be required to work on the following ten holidays:

1. January 1 (New Year's Day)
2. The third Monday in January (Dr. Martin Luther King Jr. Day)
3. The third Monday in February (President's Day)
4. March 31st (Cesar Chavez Day)
5. The last Monday in May (Memorial Day)
6. July 4 (Independence Day)
7. The first Monday in September (Labor Day)
8. November 11 (Veteran's Day)
9. The fourth Thursday in November (Thanksgiving Day)
10. December 25 (Christmas Day)

The total contract amount for the twelve-month time period commencing January 1, 2012 and ending December 31, 2012 will be an amount not to exceed \$6,000.00 based on the average number of incidents analyzed not to exceed 600 per month.

Effective upon the signing of this contract, an invoice for the full amount will be submitted by the Contractor to the Contract Administrator. Payment should be processed and received no later than 30 calendar days from the date invoice was submitted

It is recommended that each graffiti abatement crew be equipped with one (1) camera. Services will commence once equipment has been purchased and first invoice paid.

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 12-2938 DECLARING A STATE OF FISCAL NECESSITY EXISTS REQUIRING REDUCTIONS IN GENERAL FUND OPERATING EXPENDITURES TO ENSURE SUSTAINABILITY AND VIABILITY OF THE GENERAL FUND IN FISCAL YEAR 2011-12 AND SUBSEQUENT FISCAL YEARS

DATE: February 6, 2012
SECTION: RESOLUTIONS
ITEM NO.: 1
FILE I.D.: FIN355
DEPT.: CITY MGR.

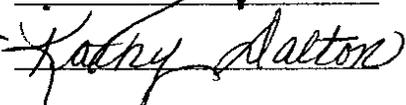
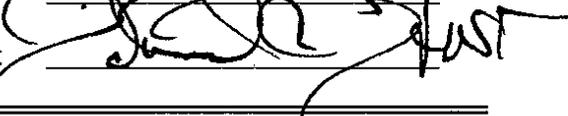
REASON FOR CONSIDERATION: On December 29, 2011, the California Supreme Court published its decision in *California Redevelopment Association et al., v. Ana Matosantos, as Director, et al.*, determining that ABX1 26 is a proper exercise of the state's legislative power including the authority to create and dissolve community redevelopment agencies. Concurrently, the Supreme Court overturned ABX1 27, a measure that conditioned further redevelopment agency operations on "voluntary" payments to the State Treasury. In compliance with directives from the Court, community redevelopment agencies dissolved effective February 1, 2012.

Dissolution of Montclair's Redevelopment Agency now imposes an economic burden on the General Fund, reallocating approximately \$1.35 million in obligations previously funded by the Montclair Redevelopment Agency to the General Fund. The shift of fiscal obligations imposes an undue hardship on the General Fund, necessitating City Council action authorizing the City Manager to evaluate and recommend such means, economic or otherwise, including reorganization, the use of layoff of personnel, reductions in service, contracting of services, inter-/intra-agency sharing of services, and delay in project start dates to achieve and maintain short- and long-term balanced budgets in all City of Montclair funds and accounts.

BACKGROUND:

Historical Antecedents. In recent decades, Montclair's revenue stream successfully weathered cyclical downward trends in the national, state, and local economies (including a steep recession in the early 1990s) and managed to experience modest sales tax growth in the face of increasing retail competition from malls and other retail outlet openings in neighboring communities. This success was attributed to the City's broad retail base, coupled with conservative fiscal management and limited growth in labor costs. However, by Fiscal Year 2005-06, sales tax growth stabilized as consumers were met with growing options beyond Montclair's borders—in that year, Montclair's General Fund Revenues posted at a peak of \$30,179,731.

Expansion of commercial competition produced negative pressure on the City's regional position as per capita leader in sales tax revenues, clearly establishing that future sales

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

tax growth would be minimal without expansive development of the City's commercial base. In an effort to promote and enhance the City's economic vitality, City staff, with direction from the City Council, developed the 2006 North Montclair Downtown Specific Plan and encouraged renovation of the Montclair Plaza. However, by late 2007, a looming and sustained national, regional, and local economic recession discouraged commercial and residential property development; and General Growth Properties, Inc., (GGP) owner of the Montclair Plaza, was moving toward bankruptcy, causing GGP to back away from major exterior and peripheral renovation plans for the Montclair Plaza.

On April 16, 2009, GGP filed for Chapter 11 bankruptcy, the largest real estate bankruptcy since 1980 and the largest-ever filing by a mall operator. According to its bankruptcy filing, GGP had about \$29.6 billion in assets at the end of 2008 and \$27.3 billion in debt. In February 2010, GGP finalized a deal with Canadian property company Brookfield Asset Management that would involve up to a \$2.625 billion equity investment thereby allowing GGP to emerge from bankruptcy. On November 8, 2010, GGP left bankruptcy and created Howard Hughes Corp. as a spinoff to hold assets.

GGP owned four Inland Empire malls before its bankruptcy—in addition to Montclair Plaza, other properties included Galleria at Tyler in Riverside, Redlands Mall, and Moreno Valley Mall—only the Galleria at Tyler remains in the GGP portfolio. Redlands Mall closed its doors at the end of September 2010 after it was jettisoned to Howard Hughes Corp. GGP noted in a bankruptcy-related filing that it might deed some "special consideration" properties back to lenders—Montclair Plaza (as well as Moreno Valley Mall) was one of those "special consideration" properties. In March 2011, Montclair Plaza came under new ownership and management. Commercial real estate firm Cushman & Wakefield provides general property management responsibilities, and Spinoso Real Estate Group provides specialized services and handles leasing and marketing. Ownership of the property is with a group of lenders behind the property's senior mortgage. At the present time, City staff continues to work with Montclair Plaza property managers to encourage exterior renovation and tenant expansion.

By November 2007, the threat of an economic downturn became reality as communities throughout California began to share a common fiscal malaise. For Montclair, the economic recession, coupled with significant growth in regional retail competition, produced a double threat to the City's economic viability. In the last fiscal quarter of 2007, Montclair's sales and transactions and use tax earnings demonstrated the first quarterly stage of successive and expanding declines when compared against the same quarter in the previous year. From the fourth quarter of 2006, when quarterly sales tax dollars peaked at \$3,883,483, to the first quarter of 2010, when quarterly sales tax dollars declined to a low of \$2,119,143, Montclair's quarterly sales tax returns declined by 45.4 percent; transactions and use tax earnings witnessed a similar, concurrent decline of 40.3 percent.

More ominous, however, was the intransigent nature of recessionary forces building up across the nation. The national economic recession that began in 2007 and continued without abatement into 2010, with only minor improvement and stabilization in succeeding fiscal years, was a mix of systemic, institutional, inflationary, unemployment-related, and long-term factors that threatened sustainability of national, state, and local economies, moving Montclair in what can be best characterized as its first major, long-term period of economic uncertainty.

According to the U.S. National Bureau of Economic Research (the official arbiter of U.S. recessions) the economic downturn began in November/December 2007 and is linked to reckless lending practices by financial institutions and the growing trend of securitization of real estate mortgages in the United States. The U.S. mortgage-backed securities, which had risks that were hard to assess, were marketed around the world; and a more broad-based credit boom fed a global speculative bubble in real estate and equities, which served to reinforce risky lending practices. The precarious financial situation was made more difficult by a sharp increase in commodities prices.

Ultimately, emergence of subprime loan losses in late 2007 triggered recessionary forces and exposed other risky loans and over-inflated asset prices. With loan losses mounting, followed by the fall of financial services giant Lehman Brothers in September 2008, national (and global) panic broke out, producing staggering declines in U.S. housing prices followed by huge losses in financial markets, banking institutions, and retail and manufacturing. Many national and international economists believe further U.S. and global economic collapse was avoided only by massive public financial assistance administered by the administrations of U.S. Presidents George Bush and Barrack Obama and by various member states in the European Union.

California was hit particularly hard by the recession, experiencing a virtual halt in residential and commercial construction starts; shuttering of many retail businesses (both large and small); unemployment that reached 12.6 percent (national unemployment reached 10.2 percent and unemployment in the Inland Empire reached 14.8 percent); some of the highest foreclosure and bankruptcy rates in the nation; decline in public services as a result of steep drops in municipal revenues; successive state deficits causing erosion of public confidence in the executive and legislative branches of state government to address California's myriad problems; declines in the state's manufacturing base and aviation and technological industries; and devaluation of both commercial and residential properties—recent indices indicate commercial real estate and housing markets continue to be troubled, which trends poorly for a healthy resurgence in the California economy.

Although the technical end of the recession occurred in 2010, essential factors related to a healthy economy (sustained housing growth, strength in home prices, consumer confidence coupled with consumer spending, and sustained jobs creation) remain missing. Recovery in the housing market is essential to long-term stimulation of the mortgage and construction markets and overall economic health, and meaningful jobs creation is consistent with a resurgence in trade and manufacturing and increased consumer confidence and consumer spending (which typically accounts for 67 percent of the state's gross domestic product growth). Without these positive factors in play, California is expected to remain in a prolonged period of slow economic growth.

As the recession took hold and Montclair's General Fund Revenues declined from a peak of \$30,179,731 in Fiscal Year 2005–06 to a low of \$23,624,667 in Fiscal Year 2009–10, the Montclair City Council took necessary and appropriate actions to reduce operational costs. Reductions were largely achieved by attrition of personnel and minor reductions in community services. Several employee labor groups were also requested to temporarily assist in reducing costs by contributing toward public employee pension costs [the member contribution component of the California Public Employees' Retirement System (CalPERS)] and participating in either a furlough program or accepting a reduction in the City contribution toward the flexible benefit plan. Employee contributions toward the CalPERS member contribution component have since been negotiated as an indefinite

requirement for all but one labor group—the City remains in negotiations with that final labor group.

At the beginning of Fiscal Year 2011–12, the City Council also implemented measures to address a long-term structural deficit related to annual bond payments due on the 2005 Issue of Lease Revenue Bonds for facility construction and improvement and public works projects. Annual debt service on the 2005 Issue is approximately \$1.92 million through Fiscal Year 2034–35—the City has secured bond payments through Fiscal Year 2013–14. In addition, the City Council directed restoration of the General Fund Unreserved Fund to a healthy balance—approximately 25 percent of the General Fund Operating Budget.

Strategic measures addressing the long-term structural deficit include the following:

1. Reduce General Fund Operating Expenditures.
2. Maintain slow growth commensurate with organizational/community needs and revenue inflow.
3. Develop economic growth by pursuing components of the North Montclair Downtown Specific Plan; expansion/remodel of the Montclair Plaza; extension of the Gold Line Phase 2b to a terminus at the Montclair Transcenter; and other housing and commercial development opportunities.
4. Secure immediate, short-term solutions to meeting debt service on the 2005 Issue of Lease Revenue Bonds.
5. Identify and implement alternatives for revenue enhancement.
6. Identify and implement means and objectives for enhancing Montclair's General Fund Unreserved Fund to a healthy 25 percent of the General Fund Operating Budget.
7. Identify and pursue means for addressing spiraling increases in the City's employer rate contribution to the California Public Employee Retirement System—Montclair's annual employer rate contribution increased from a rate of 0 percent in Fiscal Year 2002–03 to an estimated \$3.4 million in Fiscal Year 2012–13.

City staff, under City Council direction, is actively engaged in addressing each of the strategic measures identified in items 1 through 7 above.

Dissolution of Community Redevelopment Agencies. With many California communities already grappling with the short- and long-term impacts of the recession on their respective General Funds, including layoff of personnel and corollary reductions in services and capital outlay, coupled with prospects for lethargic economic recovery over the next several years, it came as a staggering shock when newly elected Governor Jerry Brown, in his first major policy speech in January 2011, announced a concerted effort to kill off California's more than 400 community redevelopment agencies—perhaps the only viable economic tool in the arsenal of California's local governments that could still be deployed to fund job creation, housing construction, and economic development.

Oddly, few politicians understand and have utilized California's redevelopment law to the same degree as Governor Brown. As mayor of Oakland, he utilized redevelopment to

promote his goal of bringing housing and vitality into desolate and deserted stretches of Oakland's downtown.

Californians pay over \$45 billion in property taxes annually—distributed locally to schools, community colleges, counties, cities and special-purpose districts pursuant to state law. More than 60 years ago, the Legislature established the redevelopment process, whereby a city or county can declare an area to be blighted and in need of redevelopment. After making a declaration of blight, most property tax growth in the project area is distributed to the city or county redevelopment agency and used for property tax increment financing—a guaranteed source of continued revenue to pay debt on tax allocation bonds used to finance redevelopment projects.

State law allowed community redevelopment agencies to use property tax increment revenues and tax allocation bonds to finance a broad array of projects—often in conjunction with private developer funds or other governmental resources—including capital improvements, land and real estate acquisitions, affordable housing (20 percent of property tax-increment revenues were intended to be used for low- and moderate-income housing), and planning and marketing programs. State law also required redevelopment agencies to "pass through" an average of 22 percent of property tax increment to other government agencies—offsetting their loss of growth in property tax revenues that would otherwise occur if all property tax increment went solely to redevelopment agencies. The "pass-through" percentage varied across project areas, based primarily on the date the project area was formed—in project areas established before 1993, amounts in "pass-through" agreements were negotiated; for project areas established in 1993 and later, a statewide formula applied. After a redevelopment project ends, all property tax increment revenue that formerly went to the redevelopment agency would be distributed to all eligible local government agencies, as determined by its AB 8 share.

California's expansive use of redevelopment engendered controversy over the years. Program advocates contended redevelopment was a much-needed tool to promote local economic development in blighted areas; meanwhile, critics countered redevelopment diverted property tax revenues from core government services, stripped owners of their property rights through eminent domain, increased state education costs, and completed projects often demonstrated little relationship to the program's intended mission.

Few in government disputed the existence of infrequent abuses; however, when used properly as it was by most community redevelopment agencies, redevelopment offered opportunities in areas that otherwise might be unattractive to developers because of the up-front costs related to environmental cleanup, demolition of structures that outlived their usefulness, infrastructure improvements, and inability to obtain necessary or adequate financing. Without the lure of redevelopment assistance, developers preferred choosing the politically and economically easier recourse of building on empty land away from urbanized/developed areas.

Paradoxically, in a state committed to preserving agriculture and open space, and reducing water usage and greenhouse gas emissions, well-conceived redevelopment in city infield areas helped achieve those objectives. Furthermore, a significant portion of property tax growth enjoyed by California and nearly every state taxing agency may have never happened without redevelopment as an economic tool. Empty warehouses and shuttered store and office buildings do not generate money for schools, libraries and public safety, or for infrastructure improvement.

Despite the positive use of redevelopment as an economic engine for transit-oriented development, urban infill, low- and moderate-income housing development, Brownfield cleanup, jobs creation, infrastructure improvement, and economic stimulation, the California Legislature in June 2011 bowed to political pressure and sent to Governor Brown two companion bills: ABX1 26, the community redevelopment agency "dissolution" bill, and ABX1 27, the community redevelopment agency "pay to play" bill. Both bills were signed into law by the Governor on June 30, 2011.

ABX1 26 mandated the elimination of all redevelopment agencies effective October 2011; ABX1 27 would allow community redevelopment agencies to continue, provided they agreed to make annual payments to the state to offset state General Fund-related education costs. ABX1 26 suspended new redevelopment activity retroactive to January 1, 2011, and prohibited redistribution of redevelopment agency assets to the parent governing body. ABX1 27 imposed similar mandates; however, ABX1 27 mandates were to be relaxed upon adoption of a continuation ordinance and commitment to make annual payments to the state.

In July 2011, the California Redevelopment Agency (CRA) and League of California Cities (LCC), in a moment of hubris, filed a petition with the California Supreme Court to overturn both ABX1 26 and ABX1 27, alleging both bills violated state constitutional protections. On August 11, 2011, the Court agreed to hear arguments and imposed a stay on dates contained in both bills. On September 14, 2011, the state filed its brief in the matter of *California Redevelopment Association et al., v. Ana Matosantos, as Director [of Finance], etc. et al.* Finally, on December 29, 2011, the California Supreme Court upheld ABX1 26, the "dissolution" bill, but struck down ABX1 27, the bill that would have allowed redevelopment agencies to continue upon agreeing to make annual payments to the state.

Under the Court's ruling, community redevelopment agencies were required to end their existence effective February 1, 2012. Cities and counties were granted the option of declaring themselves successor redevelopment agencies for the purpose of administering debt service on bonds, seeing approved projects to completion, and finalizing end of life for respective successor redevelopment agencies. Local governments failing to select this option by January 13, 2012, would see the task of administration move either to another taxing agency, to the county if no other taxing agency elects to serve, or to the state if the county refused.

On January 12, 2012, the Montclair City Council elected to have the City serve as the Successor Redevelopment Agency. The City Council also designated the Montclair Housing Authority as Successor Housing Agency for the purpose of administering Housing Fund-related assets. The decision to serve as Successor Redevelopment Agency was based on an identified need to administer the dissolution process, oversee disbursement of assets controlled by the former Montclair Redevelopment Agency, secure property tax increment revenue for qualifying administrative costs, and support objectives of the designated Oversight Committee.

Many in local government argue the Governor's primary reason for attacking redevelopment is related to the annual structural deficits haunting California legislators and the state's General Fund over the past decade. Under ABX1 27, Governor Brown anticipated the state would receive \$1.7 billion from community redevelopment agencies for the current fiscal year—funds used to offset the Fiscal Year 2011–12 state deficit—and over \$800 million in subsequent years to offset the state's education-related costs. For those community redevelopment agencies opting to go out of business under terms provided for by ABX1 26, the

loss of redevelopment was apparently designed to return property tax increment revenue (beyond what is already allocated through pass-through agreements) to schools and special districts (as well as cities and counties)—as with ABX1 27, the transfer would supposedly reduce state-related operating costs.

However, under the California Supreme Court ruling in *CRA v. Matosantos*, all community redevelopment agencies ended their existence February 1, 2012. The state now anticipates receiving an estimated \$1.1 billion in property tax increment revenue, with remaining tax increment going toward the debt (bonded debt and contractual obligation) of former redevelopment agencies; pass-through payments to local jurisdictions in each county; and distribution of remaining property tax dollars to schools, counties, cities, and special districts. Many heads of former community redevelopment agencies argue the state and other government entities are not likely to see the largesse they are counting on.

Local government officials argue the short-term revenue flow to the State Treasury comes with long-term costs for communities struggling to generate economic activity and transform blighted areas into new housing projects. This message, however, had been harmed by repeated refrains that redevelopment is an abusive process and one that denied valuable property tax dollars for schools and public safety.

For Montclair, the combined loss of the Redevelopment Agency and property tax increment revenue represent serious and significant impacts in both fiscal and community development terms. A review of *Fiscal Year 2010–11 Montclair Redevelopment Agency Financial Statements* demonstrates the Redevelopment Agency received approximately \$11.466 million in property tax increment revenue—funds used to meet debt service and pursue an active agenda designed to improve the quality of life in the Montclair community.

Redistribution of Property Tax Increment Revenue. Under provisions contained in ABX1 26, preliminary estimates indicate property tax increment will be redistributed as follows in priority order—note that all estimates are based on the Enforceable Obligation Payment Schedule (EOPS) (as required by both ABX1 26 and ABX1 27) approved by the City Council/Redevelopment Agency Board on January 17, 2012; actual distributions would be based on a determination by the San Bernardino County Auditor–Controller (by means of an agreed-upon procedures audit to be completed by March 1, 2012) to accept or adjust the submitted EOPS and initial Recognized Obligation Payment Schedule (ROPS)—the ROPS is to be submitted to an Oversight Board with names of the seven-member panel to be reported to the Department of Finance by May 1, 2012.

It is difficult to determine with certainty what the City can expect in relation to approval of the EOPS and initial ROPS by the County Auditor–Controller and approval of the ROPS by the Oversight Board. Therefore, any estimate on the redistribution of property tax increment revenue is preliminary, at best. Furthermore, there is no clear understanding of liabilities to be charged against the EOPS/ROPS by the County Auditor–Controller for costs incurred for its part in administering the dissolution process. However, based on the current EOPS approved by the City Council on January 17, 2012, and excluding administrative debt obligations above the \$250,000 administrative allowance, City staff suggests the following property tax increment revenue allocations—except as otherwise noted, estimates are based on Fiscal Year 2012–13 projections:

1. The San Bernardino County Auditor–Controller will receive an estimated \$250,000 to \$500,000 for administrative costs—actual administrative costs are unknown and will be determined at a later date by the County Auditor–Controller.

2. For Fiscal Year 2012-13, pass-through agreements will transfer approximately \$2.496 million to local agencies.
3. In Fiscal Year 2012-13, the Montclair Successor Redevelopment Agency should anticipate receiving approximately \$7.312 million for debt service.

For the period February 1, 2012, to June 30, 2012, actual Successor Redevelopment Agency receipts may be impacted by a decision from the San Bernardino County Auditor-Controller to accept or reject inclusion of nearly \$8 million in short-term tax allocation notes due June 1, 2012—inclusion of the short-term note on the EOPS would significantly increase the immediate property tax increment revenue requirement for bonded debt service.

4. Of the projected \$1.158 million balance remaining for Fiscal Year 2012-13:
 - (a) A minimum of \$250,000 annually would go to the Montclair Successor Redevelopment Agency for administrative-related costs. Based on identified contractual obligations and administrative costs, it is unlikely any administrative-related funds would be available for personnel-related costs.
 - (1) Fiscal Year 2011-12. Actual distribution will be based on a formula of 5 percent for the "first fiscal year of operation" (estimated not to exceed \$250,000 for the five-month period starting February 1, 2012, through June 30, 2012); actual receipts would be impacted by (1) acceptance of all listed debt service (or rejection of certain parts) listed on the EOPS by the County Auditor-Controller; and (2) acceptance of all listed contractual obligations and administrative costs (or rejection of certain parts) listed on the EOPS by the County Auditor-Controller.
 - (2) Fiscal Year 2012-13. Actual distribution will be based on a formula of 3 percent toward administrative-related costs estimated not to exceed \$329,000 annually; actual receipts would be impacted by (1) acceptance of all listed debt service (or rejection of certain parts) listed on the EOPS by the County Auditor-Controller; and (2) acceptance of all listed contractual obligations and administrative costs (or rejection of certain parts) listed on the EOPS by the County Auditor-Controller.

Allocated funds are restricted to administrative-related costs; however, it remains unclear what the full intent of this allowance addresses. Debt service assigned to the Successor Agency and listed on the EOPS/ROPS may or may not be interpreted to include contractual or operational obligations unrelated to actual debt service. Under an adverse opinion, contractual and/or operational obligations assigned to the "administrative-related" cost category would quickly encumber the Successor Redevelopment Agency's annual administrative cost allocation.

- (b) The County Educational Revenue Augmentation Fund (ERAF) is projected to receive approximately \$246,306 in property taxes.
- (c) The City of Montclair is projected to receive approximately \$167,331 in property taxes—in the event the County Auditor-Controller recognizes all liabilities

contained in the EOPS/ROPS, it is probable the City (and other taxing agencies) will see significantly less in property tax increment revenue distributions.

- (d) The balance of \$415,363 is projected for distribution to San Bernardino County, schools, and special districts—in the event the County Auditor–Controller recognizes all liabilities contained in the EOPS/ROPS, it is probable that all applicable taxing agencies will see significantly less in property tax increment revenue distributions.

The State Department of Finance has established a website intended to clarify and answer many questions regarding implementation of ABX1 26; however, the legislation lacks appropriate implementation guidelines and is often unclear. SB 659, the "Dissolution Date Extension" bill, was intended to provide the state and local agencies time to clarify the ABX1 26 implementation process and introduce necessary cleanup language. However, SB 659 was opposed by Governor Brown; therefore, state officials and local agencies must now proceed with interpretation and implementation of ABX1 26 without the advantage of clear guidelines and necessary cleanup legislation.

Personnel- and Administrative-Related Impacts on the Montclair General Fund Stemming from Dissolution of the Redevelopment Agency. Funds of the Montclair Redevelopment Agency were used to provide for approximately \$1,006,056 in total personnel-related wages and benefits and \$301,592 in service-/administrative-related costs, for a combined total of \$1,307,648—costs that must now be redistributed primarily to the City's General Fund (\$1,138,799) and Montclair Housing Corporation (\$168,849) if the City is to retain personnel and continue programs and services related to the \$1,307,648 liability.

The City General Fund is projected to receive approximately \$167,331 in new property tax revenue, leaving a balance of \$1,021,468 in annual, unfunded General Fund liabilities. In addressing this unfunded liability, the City has limited options beyond reductions in personnel-related expenditures. In the event the County Auditor–Controller recognizes all liabilities contained in the EOPS/ROPS, it is probable the City (and other taxing agencies) will see significantly less in property tax increment revenue distributions. Accordingly, City staff will continue to use the estimate of \$1,138,799 as the General Fund's potential unfunded liability.

In recent years, the City Manager, under direction of the City Council to address long-term fiscal impacts of the Great Recession, reduced General Fund operating expenses by approximately \$5 million. Reductions were achieved largely through employee attrition and reductions in services, supplies, travel and meetings, and capital outlay. The City Council is also in the process of addressing a low balance in the General Fund Unreserved Fund, spiraling public employee pension costs, and a projected long-term structural deficit related to annual payments on the 2005 Issue of Lease Revenue Bonds—addressing the long-term structural deficit requires a concerted effort to generate additional revenues and achieve reductions in personnel-related expenditures.

Loss of Montclair's Redevelopment Agency now imposes upon the General Fund an additional unacceptable fiscal burden—\$1,138,799 related to personnel and service-/administrative-related costs previously funded by the Montclair Redevelopment Agency. Regrettably, the General Fund and General Fund Unreserved Fund are, at this time, incapable of assuming this additional fiscal liability. In order to minimize the fiscal impact of this unfunded liability, the City Manager seeks adoption of Resolution No. 12-2938 to provide necessary direction to pursue reductions in personnel (by a combination of layoffs; maintenance of vacant positions

where appropriate; and/or consolidation of service programs, service contracting, and inter-/intra-agency sharing of services); reductions in service; and any appropriate delays in project start dates to achieve and maintain short- and long-term balanced budgets in all City of Montclair funds and accounts.

As directed by City Council upon its adoption of proposed Resolution No. 12-2938, the City Manager will develop an action plan implementing various cost-saving elements designed to eliminate the unfunded fiscal liability imposed by the loss of Montclair's Redevelopment Agency. Aspects of the action plan, with City Council authorization, would be implemented in phases over the next several months and, in conjunction with other measures designed to address impacts of the recession and the City's projected long-term structural deficit, will be based on the following:

1. Preserving and protecting the public welfare
2. Achieving organizational needs
3. Maintaining balanced budgets
4. Meeting City Council goals, objectives, and strategic priorities
5. Maintaining a capacity to pursue public works-related projects
6. Meeting fiscal requirements and obligations

Dissolution of community redevelopment agencies will obviously produce adverse fiscal, political, and development-related impacts for many of California's local governments and communities. Concurrently, dissolution is unlikely to produce any significant net fiscal gain for schools—educators are accustomed to a pattern of state politics that simply supplant one state education-related fund with another funding source—furthermore, over the next few decades, availability of additional property tax increment revenue for schools will be based on the total of debt service paid out by successor redevelopment agencies.

Local entities that may benefit the most by dissolution of community redevelopment agencies are the vast myriad of enterprise and nonenterprise special-purpose districts. Many special-purpose districts will ultimately see their share of property tax increment revenues climb. Special-purpose districts are independent governmental units that enjoy substantial administrative and fiscal independence, operating without significant oversight beyond an elected board. Authorizing legislation typically empowers special-purpose districts to raise fees; contract with other entities; issue municipal bonds; receive federal, state, and local appropriations; impose special assessments; receive utility revenue; and request voter approval of ad valorem property tax increases. Efforts by certain public employee groups to support abolition of community redevelopment agencies may have centered on the position that special-purpose districts would benefit from increased flow of property tax increment revenue.

Long term, it may prove a grave mistake to have deprived cities of the opportunity to transform themselves in ways that create jobs, housing, and a climate for businesses to grow and prosper in harmony with the state's need to lighten the strain on environment.

It may be argued that California's redevelopment law needed tightening; but abolition will likely be proved a far more perilous choice. However, at this juncture, cities can only move

forward to implement ABX1 26 while concurrently working with legislators to design a new model for a successor redevelopment process that achieves the following objectives:

1. Tighten the definition of what qualifies as blighted area under redevelopment.
2. Limit the assignment of future property tax increment to projects that achieve stated objectives; *e.g.*, transit-oriented development, urban infill, low- moderate-income housing, Brownfield cleanup, jobs creation, infrastructure improvement, and economic stimulation.
3. Prohibit use of property tax increment for general government operations.
4. Limit the life of redevelopment zones, without extension.
5. Guarantee continued pass-through of property tax revenue to schools.
6. Offer stricter oversight of qualifying projects and expenditures.

Failure by the Legislature to pursue extension of the community redevelopment dissolution date (SB 659) indicates a lack of legislative commitment to a new successor model for redevelopment. Therefore, it may be that cities are limited to their own devices to achieve infrastructure and housing improvements for their communities. To that end, the Legislature may grant to cities a range of revenue-raising tools requiring local voter approval. However, the fiscal limitations imposed by Propositions 13 (1978) and 218 (1996) severely limit legislative grants of fiscal authority and the fiscal authority of local governments to raise taxes and fees.

In the short term, many California cities must add one more element to the reality of their "New Economy"—an apparent future without the vast advantage of property tax increment financing as a powerful tool to achieve substantial change and improvements to their respective communities and the lives of residents.

FISCAL IMPACT: Funds of the Montclair Redevelopment Agency were used to provide for approximately \$1,006,056 in total personnel-related wages and benefits and approximately \$301,592 in service-/administrative-related costs, for a combined liability of \$1,307,648. Dissolution of the Montclair Redevelopment Agency as of February 1, 2012, now shifts these liabilities on the City's General Fund (\$1,138,799) and Housing Corporation (\$168,849) if the City is to retain personnel and continue programs and services related to the \$1,307,648 liability.

Loss of Montclair's Redevelopment Agency imposes upon the General Fund an unacceptable fiscal burden—\$1,138,799 related to personnel and service-/administrative-related costs previously funded by the Montclair Redevelopment Agency. In order to minimize the fiscal impact of this unfunded liability, the City Manager seeks adoption of Resolution No. 12-2938 to provide necessary direction to pursue reductions in personnel (by a combination of layoffs; maintenance of vacant positions where appropriate; and/or consolidation of service programs, service contracting, and inter-/intra-agency sharing of services); reductions in service; and any appropriate delays in project start dates to achieve and maintain short- and long-term balanced budgets in all City of Montclair funds and accounts.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 12-2938 declaring a state of fiscal necessity exists requiring reductions in General Fund Operating Expenditures to ensure sustainability and viability of the General Fund in Fiscal Year 2011-12 and subsequent fiscal years.

RESOLUTION NO. 12-2938

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR DECLARING A STATE OF FISCAL NECESSITY EXISTS REQUIRING REDUCTIONS IN GENERAL FUND OPERATING EXPENDITURES TO ENSURE SUSTAINABILITY AND VIABILITY OF THE GENERAL FUND IN FISCAL YEAR 2011-12 AND SUBSEQUENT FISCAL YEARS

WHEREAS, while there are indications the local economy is beginning a slow recovery from the deepest recession the nation, state, and region have experienced since the Great Depression; and

WHEREAS, the local economy remains in a weak and tentative state with restrained consumer spending, high unemployment, and continued instability in the financial and real estate sectors that continue to dampen economic recovery; and

WHEREAS, the economic recession contributed greatly to significant declines in Montclair's General Fund Revenue stream including significant decreases in sales taxes, transactions and use taxes, property taxes, and intergovernmental revenues; and

WHEREAS, Montclair's General Fund Revenues declined from a peak of \$30,179,731 in Fiscal Year 2005-06 to a low of \$23,624,667 in Fiscal Year 2009-10, climbing slowly back up to \$25,385,300 in Fiscal Year 2011-12; and

WHEREAS, Montclair's General Fund Operating Budget experienced a similar but later decline, dropping from \$29,510,256 in Fiscal Year 2008-09 to \$25,572,212 in Fiscal Year 2011-12; and

WHEREAS, Montclair's General Fund Unreserved Fund declined from approximately \$9.6 million in Fiscal Year 2006-07 to approximately \$3.2 million as of June 30, 2011; and

WHEREAS, Montclair's CalPERS employee rate increased from no contribution in Fiscal Year 2002-03 to approximately \$3.4 million projected for Fiscal Year 2012-13 (estimates do not include Montclair's annual payments related to the member contribution); and

WHEREAS, Montclair's future prospect for stabilization and/or growth in community service programs and capital, public works, and infrastructure projects remains threatened by the recession and projections for continued slow growth through Calendar Year 2017; and

WHEREAS, the Montclair City Council has directed pursuit and implementation of a number of strategic measures designed to address and resolve economic issues addressed herein; and

WHEREAS, City staff is pursuing and implementing a number of strategic measures directed by the Montclair City Council designed to address and resolve economic issues addressed herein; and

WHEREAS, despite efforts by the Montclair City Council and City staff to return Montclair to fiscal stability and economic advancement by pursuit of economically directed strategic measures, the State of California continues its assault on the fiscal integrity of local government including the most recent 2011 legislative effort to either eliminate community redevelopment agencies or require they pay an annual portion of property tax increment revenue to the State of California to remain operational; and

WHEREAS, on June 28, 2011, the State Legislature passed and Governor Edmund G. Brown signed ABX1 26, the community redevelopment agency "dissolution" bill and ABX1 27, the community redevelopment agency "pay to play" bill; and

WHEREAS, in July 2011, the California Redevelopment Association and League of California Cities filed a lawsuit with the California Supreme Court to enjoin enforcement of both ABX1 26 and ABX1 27, asking the Court to invalidate both measures; and **WHEREAS**, on December 29, 2011, the California Supreme Court published its decision in *California Redevelopment Association et al., v. Ana Matosantos, as Director [of Finance], etc. et al.*, determining that ABX1 26 "*is a proper exercise of the legislative power vested in the Legislature by the State Constitution. That power includes the authority to create entities, such as redevelopment agencies, to carry out the state's ends and the corollary power to dissolve those same entities when the Legislature deems it necessary and proper,*" and

WHEREAS, on December 29, 2011, the California Supreme Court published its decision in *California Redevelopment Association et al., v. Ana Matosantos, as Director [of Finance], etc. et al.*, determining that ABX1 27, "*the measure conditioning further redevelopment agency operations on additional payments by an agency's community sponsors to state funds benefiting schools and special districts,*" requires a different conclusion. "*Proposition 22 expressly forbids the Legislature from requiring such payments. Matosantos' argument that the payments are valid because 'technically voluntary' cannot be reconciled with the fact that the payments are a requirement of continued operation.*" The Court found that because "*flawed provisions of Assembly Bill 1 X 27 are not severable from other parts of that measure, the measure is invalid in its entirety.*"

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby declares and directs the following:

Section 1. For purposes of this Resolution, a **State of Fiscal Necessity** is defined as a local government declaration stemming from a single, series, or combination of economic, legal, and/or legislative actions or circumstances, either seen or unforeseen, resulting from natural or uncontrolled conditions, inaction(s), or by intent or purpose beyond control of the local governing body, requiring immediate resolution that may result in reductions in personnel, either by layoff or attrition; and/or reductions/delays in providing local government services and/or public works-related projects to achieve an immediate and long-term state of economic stability and balanced operational and revenue budgets as mandated by act of law; and/or required for preservation of the public health, safety, and welfare.

Section 2. A **State of Fiscal Necessity** is declared, requiring Montclair to address the current loss of its community redevelopment agency including the loss of an estimated \$11.4 million in annual tax increment used to fund administrative operations of the Montclair Redevelopment Agency; service bond debt; finance facility construction, public works, and infrastructure improvement projects; finance low- and moderate-income housing projects; and provide for the wages and benefits of 4 full-time positions fully funded by the Montclair Redevelopment Agency and 14 full-time positions partially funded by the Montclair Redevelopment Agency.

Section 3. On January 12, 2012, the Montclair City Council, pursuant to ABX1 26, the California Community Redevelopment Agency "Dissolution Bill," validated by the California Supreme Court decision in *California Redevelopment Association et al., v. Ana Matosantos, as Director [of Finance], etc., et al.*, designated the City of Montclair to serve as Successor Redevelopment Agency to the Montclair Redevelopment Agency for purposes of administering the enforceable obligations of the former Redevelopment Agency and otherwise execute, finalize, and terminate the affairs of the former Redevelopment Agency, subject to review and approval of the County Auditor-Controller and an oversight board.

Section 4. On January 12, 2012, the City of Montclair Housing Authority, pursuant to ABX1 26, the California Community Redevelopment Agency "Dissolution Bill," validated by the California Supreme Court decision in *California Redevelopment Association et al., v. Ana Matosantos, as Director [of Finance], etc., et al.*, designated the City of Montclair Housing Authority to serve as Successor Housing Agency to the Montclair Redevelopment Agency for the purpose of retaining responsibility for performing housing functions previously performed by the Montclair Redevelopment Agency.

Section 5. On February 1, 2012, approximately \$1,006,056 in total personnel-related wages and benefits and \$301,592 in service-/administrative-related costs previously allocated to the Montclair Redevelopment Agency were redistributed to the Montclair General Fund and Montclair Housing Corporation, with approximately \$1,138,799 reallocated to Montclair's General Fund and approximately \$168,849 reallocated to the Montclair Housing Corporation.

Section 6. On June 20, 2011, the Montclair City Council adopted a General Fund Operating Budget recognizing a long-term structural deficit that included (i) a \$1.92 million annual payment through Fiscal Year 2034-35 on the 2005 Issue of Lease Revenue Bonds for facility construction and improvement and public works projects—annual payments are fully funded through Fiscal Year 2012-13; and (ii) a steep decline in the General Fund Unreserved Fund from a estimated \$9.6 million posted in Fiscal Year 2006-07 to \$3.2 million posted as of June 30, 2011—the City Council directed increasing the General Fund Unreserved Fund by \$500,000 annually until the Fund balance represents approximately 25 percent of each annual adopted General Fund Operating Budget.

Section 7. Upon adoption of the California State Budget in June 2011, Montclair's adopted Fiscal Year 2011-12 General Fund Operating Budget was immediately placed into an operating deficit by legislative action diverting approximately

\$164,000 from Montclair's Local Motor Vehicle In -Lieu Account to the State Treasury's Community Oriented Policing Services (COPS) grant account.

Section 8. The Montclair City Council addressed the short-term deficit for Fiscal Year 2011-12 by directing that certain, vacant positions be maintained unfilled until the short-term deficit is resolved.

Section 9. The Montclair City Council addressed the long-term structural deficit by directing City staff to implement, maintain, and pursue a number of strategic measures including the following:

1. Reduce General Fund Operating Expenditures.
2. Maintain slow growth in annual General Fund Operating Budgets commensurate with organizational/community needs and revenue inflow.
3. Develop economic growth by pursuing development components of the North Montclair Downtown Specific Plan; expansion/remodel of the Montclair Plaza; extension of the Gold Line Phase 2b to a terminus at the Montclair Transcenter; and other housing and commercial development opportunities throughout the community.
4. Secure immediate, short-term solutions to meet debt service on the 2005 Issue of Lease Revenue Bonds.
5. Identify and implement alternatives for revenue enhancement.
6. Identify and implement means and objectives for enhancing Montclair's General Fund Unreserved Fund to a healthy 25 percent of the General Fund Operating Budget.
7. Identify and pursue means for addressing spiraling increases in the City's employee rate contribution to the California Public Employees' Retirement System—Montclair's annual employer rate has increased from a rate of 0 percent in Fiscal Year 2002-03 to an estimated \$3.4 million in Fiscal Year 2012-13.

Section 10. City staff is actively engaged in addressing each of the strategic measures outlined by the Montclair City Council as identified in items 1 through 7 above.

Section 11. In addition to addressing Montclair's Fiscal Year 2011-12 short-term deficit and the long-term structural deficit, the City of Montclair is now required to address the impact of ABX1 26 and loss of the Montclair Redevelopment Agency, including reallocation of approximately \$1,006,056 in total personnel-related wages and benefits and \$301,592 in service-/administrative-related costs previously allocated to the Montclair Redevelopment Agency, by pursuing whatever economic measures may remain available at the City Council's discretion, short of impairing any contractual obligations.

Section 12. The Montclair City Council directs Montclair's City Manager to evaluate such means, economic or otherwise, including reductions in personnel (by a

combination of layoffs; maintenance of vacant positions where appropriate; and/or consolidation of service programs, service contracting, and inter-/intra-agency sharing of services), reductions in service, and any appropriate delays in project start dates to achieve and maintain short- and long-term balanced budgets in all City of Montclair funds and accounts.

BE IT FURTHER RESOLVED that all recitals are deemed true and correct. The City Council of the City of Montclair hereby finds and declares a **State of Fiscal Necessity** exists in Montclair because of state legislative actions, adverse economic effects of the Great Recession, and other factors including the following:

1. A 45 percent decline in local sales tax earnings in Fiscal Year 2008-09 and a 29 percent decline in transactions and use tax earnings, also in Fiscal Year 2008-09—the low-point year of the Great Recession.
2. Projected slow economic growth for the Inland Empire through 2017.
3. Need to resolve local fiscal issues related to a short-term deficit in Montclair's Fiscal Year 2011-12 Adopted General Fund Budget.
4. Need to resolve a long-term structural deficit in Montclair's General Fund related to annual debt service payments on the 2005 Issue of Lease Revenue Bonds.
5. Need to restore the General Fund Unreserved Fund to a healthy balance—the Unreserved Fund declined from approximately \$9.6 million in Fiscal Year 2006-07 to approximately \$3.2 million as of June 30, 2011.
6. Spiraling increases in Montclair's pension-related costs for agency employees—Montclair's CalPERS employer rate increased from no contribution in Fiscal Year 2002-03 to approximately \$3.4 million for Fiscal Year 2012-13 (estimates do not include Montclair's annual payments related to the member contribution).
7. Economic impacts stemming from the California Supreme Court's validation of ABX1 26 and its elimination of community redevelopment agencies, together with a corresponding annual loss of approximately \$11.4 million in local property tax increment revenue used for infrastructure improvement and public works projects and low- and moderate-income housing projects in Montclair.
8. Need to continue and maintain an acceptable level of local municipal services.
9. Loss of the Montclair Redevelopment Agency to serve as an economic engine for the community and primary local contributor to low- and moderate-income housing development and public works-related improvement projects.
10. Commitment of the Montclair City Council to its fiduciary responsibilities.
11. Commitment of the Montclair City Council to maintain the public health, safety, and welfare of the community.

Such factors as stated above combine to contribute and result in this present action, course, and direction.

APPROVED AND ADOPTED this XX day of XX, 2012.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 12-2938 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, 2012, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 12-2939 AUTHORIZING PLACEMENT OF LIENS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH CHARGES	DATE: February 6, 2012
	SECTION: RESOLUTIONS
	ITEM NO.: 2
	FILE I.D.: STB300-17
	DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: Staff has identified 202 sewer and trash accounts in the even-numbered-month billing cycle that are more than three billing periods delinquent. Pursuant to Montclair Municipal Code Chapter 1.12, these properties are subject to lien.

BACKGROUND: Ordinance No. 02-815 authorizes the placement of liens on properties on which delinquent civil debts have accrued and makes property owners responsible for delinquent sewer and trash charges accrued after the effective date of the Ordinance (March 1, 2002) for accounts in tenants' names. Prior to the City Council's adoption of Ordinance No. 02-815, property owners were responsible for only those accounts in their own names.

The 202 liens presented for approval are for accounts that are at least 90 days delinquent

FISCAL IMPACT: Recoverable amount is \$39,898.04 plus \$10,100.00 in lien fees, for a total of \$49,998.04.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 12-2939 authorizing placement of liens on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

Prepared by:

James Kelleese
Kathy Dalton

Reviewed and
Approved by:

Presented by:

[Signature]
[Signature]

RESOLUTION NO. 12-2939

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR AUTHORIZING
PLACEMENT OF LIENS ON CERTAIN
PROPERTIES FOR DELINQUENT SEWER
AND TRASH ACCOUNTS**

WHEREAS, Chapter 1.12 of the Montclair Municipal Code authorizes the City to place liens on properties on which delinquent civil debts have accrued; and

WHEREAS, all owners of property in the City of Montclair were notified about the adoption of Ordinance No. 02-815 authorizing placement of liens on properties on which delinquent civil debts have accrued; and

WHEREAS, it has been determined that there are 202 sewer and/or trash accounts on which there are delinquencies in excess of 90 days; and

WHEREAS, the owners of these properties have received regular billing statements and late notices since the onset of such delinquencies; and

WHEREAS, the owners of these properties were notified on January 17, 2012, that their delinquent accounts are subject to causing a lien to be placed on their properties for settlement of such delinquencies; and

WHEREAS, the owners of these properties were again notified on January 26, 2012, and that such liens would be considered for approval by the Montclair City Council on Monday, February 6, 2012.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair approves the placement of liens on the properties and in the amounts specified in Exhibit A, entitled *Report of Delinquent Civil Debts - February 2012*, attached hereto.

BE IT FURTHER RESOLVED that the Deputy City Clerk is authorized to provide the San Bernardino County Auditor/Controller-Recorder with the documents required to cause such liens to be placed.

APPROVED AND ADOPTED this XX day of XX, 2012.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 12-2939 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, 2012, 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 to Resolution No. 12-2939
Report of Delinquent Civil Debts - February 2012

Street No.	Street	Type	Delinquency	Lien Fee	Total Lien Amount
10186	Amherst Avenue	Residential	\$ 188.03	\$ 50.00	\$ 238.03
10207	Amherst Avenue	Residential	261.57	50.00	311.57
10227	Amherst Avenue	Senior	148.36	50.00	198.36
10360	Amherst Avenue	Multifamily	579.44	50.00	629.44
10421	Amherst Avenue	Multifamily	386.30	50.00	436.30
10431	Amherst Avenue	Multifamily	386.30	50.00	436.30
11151	Amherst Avenue	Residential	261.57	50.00	311.57
4224	Appaloosa Way	Residential	188.82	50.00	238.82
4255	Appaloosa Way	Residential	167.81	50.00	217.81
4265	Appaloosa Way	Residential	418.25	50.00	468.25
4337	Appaloosa Way	Residential	188.14	50.00	238.14
10569	Arabian Place	Residential	167.81	50.00	217.81
4741	Arrow Hwy #A	Commercial	153.51	50.00	203.51
5512	Arrow Hwy #B	Commercial	163.08	50.00	213.08
4432-34	Bandera Street	Multifamily	373.32	50.00	423.32
4947	Bandera Street	Residential	261.57	50.00	311.57
4990	Bandera Street	Residential	188.14	50.00	238.14
5215	Bandera Street	Residential	275.54	50.00	325.54
5233	Bandera Street	Residential	275.54	50.00	325.54
5235	Bandera Street	Residential	275.54	50.00	325.54
5243	Bandera Street	Residential	167.81	50.00	217.81
5609	Bandera Street	Residential	261.57	50.00	311.57
10145	Bel Air Avenue	Residential	188.14	50.00	238.14
10186	Bel Air Avenue	Residential	188.14	50.00	238.14
10263	Bel Air Avenue	Residential	185.42	50.00	235.42
5223	Belvedere Way	Residential	221.78	50.00	271.78
5225	Belvedere Way	Residential	197.59	50.00	247.59
5196	Benito Street	Commercial	109.75	50.00	159.75
5206	Benito Street	Commercial	109.75	50.00	159.75
10168	Benson Avenue	Residential	146.75	50.00	196.75
10208	Benson Avenue	Residential	188.14	50.00	238.14
11354	Brunswick Lane	Residential	165.40	50.00	215.40
11419	Brunswick Lane	Residential	109.75	50.00	159.75
11452	Brunswick Lane	Residential	173.46	50.00	223.46
10964	Buckingham Way	Residential	188.77	50.00	238.77
10978	Buckingham Way	Residential	185.71	50.00	235.71
10943	Buckskin Avenue	Residential	228.19	50.00	278.19
10468	Calico Court	Residential	188.14	50.00	238.14
10234	Camulos Avenue	Residential	120.21	50.00	170.21
10241	Camulos Avenue	Residential	188.14	50.00	238.14
10252	Camulos Avenue	Residential	188.14	50.00	238.14
10259	Camulos Avenue	Residential	188.63	50.00	238.63
10271	Camulos Avenue	Residential	182.95	50.00	232.95

Street No.	Street	Type	Delinquency	Lien Fee	Total Lien Amount
10171	Canary Court	Residential	\$ 188.14	\$ 50.00	\$ 238.14
11409	Cannery Row	Residential	109.75	50.00	159.75
4612	Canoga Street	Multifamily	639.99	50.00	689.99
4830	Canoga Street	Multifamily	572.35	50.00	622.35
4830	Canoga Street	Multifamily	572.35	50.00	622.35
4924	Canoga Street	Residential	188.14	50.00	238.14
4949	Canoga Street	Residential	187.25	50.00	237.25
5014	Canoga Street	Residential	221.69	50.00	271.69
5015	Canoga Street	Residential	184.02	50.00	234.02
4912	Carlton Street	Residential	120.26	50.00	170.26
11158	Carriage Avenue	Residential	188.14	50.00	238.14
11253	Carriage Avenue	Residential	211.35	50.00	261.35
9802	Central Avenue	Commercial	571.43	50.00	621.43
11348	Chandler Lane	Residential	109.75	50.00	159.75
4337	Clair Street	Residential	297.98	50.00	347.98
4447	Clair Street	Residential	103.91	50.00	153.91
5176	Clair Street	Residential	176.34	50.00	226.34
4269	Clydesdale Way	Residential	135.08	50.00	185.08
4329	Clydesdale Way	Residential	187.57	50.00	237.57
10231	Coalinga Avenue	Residential	188.14	50.00	238.14
10201	Columbine Avenue	Residential	188.14	50.00	238.14
10213	Columbine Avenue	Residential	188.81	50.00	238.81
11429	Cumberland Lane	Residential	109.75	50.00	159.75
10212	Del Mar Avenue	Residential	187.81	50.00	237.81
10236	Del Mar Avenue	Residential	188.14	50.00	238.14
4501	Donner Court	Residential	188.14	50.00	238.14
4522	Donner Court	Residential	265.35	50.00	315.35
11159	Essex Avenue	Residential	188.14	50.00	238.14
4533	Ewart Street	Senior	111.07	50.00	161.07
4628	Ewart Street	Residential	188.20	50.00	238.20
4674	Ewart Street	Residential	192.43	50.00	242.43
4705	Ewart Street	Residential	188.14	50.00	238.14
5384	Ewart Street	Residential	165.29	50.00	215.29
11341	Fairfax Lane	Residential	146.32	50.00	196.32
11365	Fairfax Lane	Residential	115.38	50.00	165.38
4219	Fauna Street	Residential	188.14	50.00	238.14
4244	Fauna Street	Residential	188.03	50.00	238.03
4267	Fauna Street	Residential	167.81	50.00	217.81
4448	Fauna Street	Residential	168.07	50.00	218.07
4703	Fauna Street	Residential	188.14	50.00	238.14
4974	Fauna Street	Residential	101.68	50.00	151.68
8919-21	Felipe Avenue	Multifamily	376.29	50.00	426.29
8912	Felipe Avenue	Residential	188.14	50.00	238.14
4650	Flora Street	Residential	167.81	50.00	217.81
4693	Flora Street	Residential	167.81	50.00	217.81

Street No.	Street	Type	Delinquency	Lien Fee	Total Lien Amount
4747	Flora Street	Residential	\$ 101.10	\$ 50.00	\$ 151.10
5051	Flora Street	Residential	202.86	50.00	252.86
5185	Flora Street	Residential	188.33	50.00	238.33
5382	Flora Street	Residential	104.51	50.00	154.51
10780	Fremont Avenue	Residential	153.08	50.00	203.08
10782	Fremont Avenue	Residential	111.95	50.00	161.95
10989	Fremont Avenue	Residential	199.61	50.00	249.61
10140	Galena Avenue	Residential	106.61	50.00	156.61
10149	Galena Avenue	Residential	196.03	50.00	246.03
10140	Geneva Avenue	Residential	188.33	50.00	238.33
4125	Grand Avenue	Residential	105.81	50.00	155.81
4265	Grand Avenue	Residential	152.96	50.00	202.96
10198	Greenwood Avenue	Residential	236.41	50.00	286.41
10282	Greenwood Avenue	Residential	188.14	50.00	238.14
11335	Halifax Lane	Residential	152.96	50.00	202.96
5221	Hanover Way	Residential	223.13	50.00	273.13
5230	Hanover Way	Residential	118.79	50.00	168.79
11432	Hartford Lane	Residential	109.75	50.00	159.75
10150	Helena Avenue	Residential	188.06	50.00	238.06
10436	Helena Avenue	Residential	186.98	50.00	236.98
4103	Howard Street	Residential	188.14	50.00	238.14
4113	Howard Street	Residential	196.07	50.00	246.07
4570	Howard Street	Residential	167.81	50.00	217.81
4645	Howard Street	Residential	162.71	50.00	212.71
4780	Howard Street	Residential	188.14	50.00	238.14
4854	Howard Street	Residential	111.42	50.00	161.42
4910	Howard Street	Residential	213.61	50.00	263.61
5013	Howard Street	Residential	261.57	50.00	311.57
5100	Howard Street	Multifamily	240.35	50.00	290.35
5202	Howard Street	Residential	127.58	50.00	177.58
5230	Howard Street	Residential	136.77	50.00	186.77
4554	Humboldt Court	Residential	166.35	50.00	216.35
10236	Kimberly Avenue	Residential	188.14	50.00	238.14
10254	Kimberly Avenue	Residential	196.53	50.00	246.53
10311	Kimberly Avenue	Residential	261.57	50.00	311.57
10386	Kimberly Avenue	Multifamily	605.87	50.00	655.87
11076	Kimberly Avenue	Residential	167.81	50.00	217.81
4521-23	Kingsley Street	Multifamily	163.53	50.00	213.53
4691-93	Kingsley Street	Multifamily	163.53	50.00	213.53
4831-33	Kingsley Street	Multifamily	373.32	50.00	423.32
4909	Kingsley Street	Residential	188.14	50.00	238.14
5003	Kingsley Street	Residential	167.81	50.00	217.81
5019	Kingsley Street	Residential	188.14	50.00	238.14
5130	Kingsley Street	Residential	196.03	50.00	246.03
5198	Kingsley Street	Multifamily	375.38	50.00	425.38

Street No.	Street	Type	Delinquency	Lien Fee	Total Lien Amount
5242	Kingsley Street	Residential	\$ 188.14	\$ 50.00	\$ 238.14
5476	Kingsley Street	Residential	188.20	50.00	238.20
4385	Kingsley Street #2	Residential	187.71	50.00	237.71
11325	Kingston Lane	Residential	171.94	50.00	221.94
11354	Kingston Lane	Residential	109.75	50.00	159.75
10310-12	Lehigh Avenue	Multifamily	376.29	50.00	426.29
4535	Mane Street	Residential	125.09	50.00	175.09
4543	Mane Street	Residential	176.34	50.00	226.34
4555	Mane Street	Residential	188.14	50.00	238.14
4839	Mane Street	Residential	167.81	50.00	217.81
4846	Mane Street	Residential	187.68	50.00	237.68
4855	Mane Street	Residential	188.13	50.00	238.13
10231	Mills Avenue	Residential	188.14	50.00	238.14
5035	Mission Boulevard	Residential	115.79	50.00	165.79
5239	Monte Verde Street	Residential	188.14	50.00	238.14
5242	Monte Verde Street	Residential	167.81	50.00	217.81
10235	Monte Vista Avenue	Residential	272.47	50.00	322.47
10238	Monte Vista Avenue	Residential	188.14	50.00	238.14
10290	Monte Vista Avenue	Senior	201.76	50.00	251.76
11073	Monte Vista Avenue	Residential	134.42	50.00	184.42
10557	Morgan Circle	Residential	188.14	50.00	238.14
10217	Oak Glen Avenue	Residential	213.16	50.00	263.16
10226	Oak Glen Avenue	Residential	187.97	50.00	237.97
10594	Oak Glen Avenue	Residential	120.26	50.00	170.26
10614	Oak Glen Avenue	Multifamily	163.53	50.00	213.53
5097	Orchard Street	Residential	167.81	50.00	217.81
5358	Orchard Street	Residential	188.16	50.00	238.16
5415	Orchard Street	Residential	123.42	50.00	173.42
5422	Orchard Street	Residential	188.14	50.00	238.14
3921	Peachwood Drive	Residential	109.75	50.00	159.75
10845	Pipeline Avenue	Residential	109.42	50.00	159.42
10885	Pipeline Avenue	Residential	109.42	50.00	159.42
10865	Pipeline Avenue #B	Residential	109.42	50.00	159.42
10124	Poulsen Avenue	Residential	188.14	50.00	238.14
10154	Poulsen Avenue	Residential	190.18	50.00	240.18
11254	Poulsen Avenue	Residential	183.47	50.00	233.47
10206	Pradera Avenue	Residential	187.68	50.00	237.68
10198	Ramona Avenue	Residential	101.69	50.00	151.69
4636	Rawhide Street	Residential	107.81	50.00	157.81
4681	Rawhide Street	Residential	167.81	50.00	217.81
4745	Rodeo Street	Residential	188.01	50.00	238.01
5079	Saddleback Street	Residential	253.88	50.00	303.88
5237	Saddleback Street	Residential	125.90	50.00	175.90
5272	Saddleback Street	Residential	188.38	50.00	238.38
5177	San Antonio Way	Residential	188.14	50.00	238.14

Street No.	Street	Type	Delinquency	Lien Fee	Total Lien Amount
10983	San Juan Way	Residential	\$ 261.57	\$ 50.00	\$ 311.57
11022	San Juan Way	Residential	188.14	50.00	238.14
11052	San Juan Way	Residential	188.13	50.00	238.13
11014	San Miguel Way	Residential	188.14	50.00	38.14
11020	San Pasqual Avenue	Residential	188.14	50.00	38.14
11094	San Pasqual Avenue	Residential	228.06	50.00	78.06
10133	Santa Anita Avenue	Residential	185.71	50.00	35.71
10221	Santa Anita Avenue	Residential	188.14	50.00	38.14
10298	Santa Anita Avenue	Residential	192.49	50.00	42.49
10191	Saratoga Avenue	Residential	188.17	50.00	38.17
10289	Tudor Avenue	Residential	188.14	50.00	238.14
10236	Vernon Avenue	Residential	111.57	50.00	161.57
10241	Vernon Avenue	Residential	167.81	50.00	217.81
5554	Vernon Court	Residential	188.14	50.00	238.14
4214	Via Aida	Residential	192.00	50.00	242.00
10416	Via Cara	Residential	122.51	50.00	172.51
10446	Via Palma	Residential	114.26	50.00	164.26
11053	Wesley Avenue	Residential	195.40	50.00	245.40
11178	Whitewater Avenue	Residential	188.82	50.00	238.82
4515	Yosemite Drive	Residential	188.14	50.00	238.14
4525	Yosemite Drive	Residential	186.46	50.00	236.46
4536	Yosemite Drive	Residential	261.57	50.00	311.57
4538	Yosemite Drive	Residential	187.46	50.00	237.46
10462	Yosemite Drive	Residential	188.14	50.00	238.14
			\$ 39,898.04	\$ 10,100.00	\$ 49,998.04

MINUTES OF THE REGULAR MEETING OF THE
PUBLIC WORKS COMMITTEE HELD ON THURSDAY,
NOVEMBER 17, 2011, AT 2:00 P.M. IN THE CITY
HALL CONFERENCE ROOM, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Chairman Paulitz called the meeting to order at 2:00 p.m.

II. ROLL CALL

Present: Chairman Paulitz; Committee Member Eaton; Director of Redevelopment/Public Works Staats; City Engineer Hudson; Facilities and Grounds Superintendent McGehee; Police Chief Jones; Public Works Superintendent Mendez

Also Present: **Hank Voznick**, Montclair Business Owner

Absent: Community Development Director Lustro

III. APPROVAL OF MINUTES

A. Minutes of the Special Public Works Committee Meeting of October 27, 2011

The Public Works Committee approved the minutes of the Special Public Works Committee meeting of October 27, 2011.

IV. PUBLIC COMMENT – None, though **Mr. Voznick** was in attendance to discuss Item VIII-C.

V. TRAFFIC SAFETY/CIRCULATION ISSUES

A. Follow-up Request for Speed Bumps on Howard and Kingsley Streets

At the last meeting, the direction from the Committee was to survey the residents along Kingsley and Howard Streets. City Engineer Hudson reviewed the accident history for both streets and reported the following:

- Howard Street between Monte Vista Avenue and Ramona Avenue – **Howard Elementary School**

City Engineer Hudson reviewed a summary of residents who would support speed bumps on Howard Street including

Mr. Aaron Adams, who submitted the original request. Out of nine responses to the survey, seven residents were in favor of speed bumps, one indicated opposition/abstention, and one survey was returned on a vacant property. There are a total of 45 properties on the north and south side of the street, and seven positive responses does not signify a mandate.

Pursuant to the Police Department's accident history of the area, five accidents occurred on Howard Street over a five-year period and three in the vicinity of **Howard Elementary School**. Five accidents in five years is not a major concern.

It was the consensus of the Committee that because of the low accident history and few responses/little support from residents, no speed bumps would be installed.

Because speed bump requests are brought up from time to time, City Engineer Hudson suggested a policy be developed to include a posted speed limit not to exceed 25 miles per hour; that a certain percentage of residents—whether 51 percent or 70 percent—would be required to support it; and that they would be more of a speed "hump" than a speed "bump" with certain criteria for the speed humps. He advised that a formal policy would be presented at some future time for the Committee's review and consideration. He noted residents requesting speed bumps would be provided a copy of the policy and told to gather the required number of signatures on a petition for determination by the Committee.

- **Kingsley Street between Monte Vista and Ramona Avenues**

The five residents who responded to the survey (out of a total of 70 properties in the area) are in favor of speed bumps. There were a total of 13 accidents over a five-year period. Five of the accidents occurred at the Helena Street intersection. City Engineer Hudson discussed a three-way stop at Kingsley Street and Helena Street with the City's Traffic Engineer and agreed that a three-way stop would be a good idea for the intersection because of the area's accident history. The use of stop signs is not recommended to control speed. There are two different warrants for stop signs, accident history, and traffic volume. The accident history may be enough to warrant the stop signs, though City Engineer Hudson would like to continue conducting traffic counts to see if the situation qualifies for a second warrant.

Staff was asked to look into placing stop signs at Bandera Street and Helena Street.

VI. POLICE DEPARTMENT UPDATES/ITEMS

Public Works Superintendent Mendez extended his gratitude to the Police Department for having the Officers ticket earlier on street sweeping days.

Police Chief Jones noted his attendance at the **2011 COPSWEST Trade Show** at the **Ontario Convention Center** last week. The program included discussion regarding putting cameras on street sweepers. Cameras cost one agency approximately \$45,000. Street sweeper cameras take pictures of the vehicles and the violations, and tickets are issued to the registered vehicle owners. Staff is going to look into camera options and costs.

VII. COMMUNITY DEVELOPMENT DEPARTMENT PROJECT UPDATES/ITEMS

There were no items to report.

VIII. PUBLIC WORKS DEPT. -MAINTENANCE ACTIVITIES UPDATES/ITEMS

A. Flooding at the Police Department

The patio at the Police Station is pie shaped and surrounded by buildings on three sides; on the fourth side, which faces Monte Vista Avenue, there is a wrought-iron gate. During a recent hailstorm, the hail piled up against the wrought-iron gate and created a two-foot-high ice dam. With the ice dam blocking the wrought-iron gate, which is where the water normally drains, the water had no other outlet than to leak into the weight room and lunchroom.

Facilities and Grounds Superintendent McGehee suggested drains be cut in front of the weight room and lunchroom doors and a slot be cut through the landscaping on Monte Vista Avenue so in the future, the water will drain towards the doors and flow into the drains. The building had to be dehumidified, and 12 inches of drywall had to be removed and will be replaced in a few weeks. The cost to repair the damage is estimated to be \$6,000 to \$7,000. An insurance claim was not filed because of the high deductible, and the damage would have been more expensive to claim on the insurance than for the City to pay for the work.

B. Tree Policy Regarding Specific Trees

At the last meeting, the Committee asked to review the current tree policy.

Public Works Superintendent Mendez provided Committee members with a copy of the new tree policy and reviewed the policy, which includes pictures of all approved trees. At the last meeting, Public Works Superintendent Mendez discussed the maintenance issue

Public Works has been experiencing with Cupania and Chitalpa trees. He noted he discussed the problem with **West Coast Arborists**, and the company suggested replacing the Cupania and Chitalpa trees with African Sumac and Australian Willow, both of which are on the approved tree list. African Sumac and Australian Willow are excellent parkway trees because their root systems grow downward and the Australian Willow requires less maintenance than the Chitalpa. However, once the Australian Willow starts and establishes, its maintenance period tends to last a minimum of three years, whereas the maintenance period of Chitalpa and Cupania is at least once a year. City Yard employees provided maintenance on the smaller trees last month during their spare time.

Oak trees are also excellent City trees but require spacious areas in which to grow, such as in parks, and are unsuitable for parkways because their root systems require a large area for percolation for natural waters, they are slow growing, and they require a lot of maintenance while being trained.

The Public Works Department has been unsuccessful in growing oak trees on the south end of Alma Hofman Park; they are continually destroyed. Oak tree roots cannot be pruned; doing so causes the tree to die.

The tree policy was approved in 2004 by the City Council and no new changes have been added.

New developments in the City are required to submit landscaping plans for review by the Community Development and Public Works Departments before trees may be planted, though they are at times not forwarded to the Public Works Department. Trees planted in new developments should be included in the tree policy.

C. RFPs for Median Landscape and City Tree Service

Public Works Superintendent Mendez and Facilities and Grounds Superintendent McGehee will be working on requests for proposals (RFPs) for landscape median maintenance and tree maintenance. Staff typically sends out RFPs every five to eight years.

IX. PUBLIC WORKS DEPT. ENGINEERING DIVISION UPDATES/ITEMS

A. Truck Sign Restrictions

About two years ago, the City began looking at overweight trucks using restricted streets. Southbound Monte Vista Avenue seems to receive the most violations. There is no signage on the westbound I-10 Freeway off-ramp; the first sign that is present is a sign on Monte Vista Avenue just south of Palo Verde Street and by that time, the truck is already in violation.

City Engineer Hudson noted he contacted the **California Department of Transportation (Caltrans)** regarding an encroachment permit for freeway signage. City Engineer Hudson reviewed the most recent set of exhibits that have been reviewed by **Caltrans**. **Caltrans** did not object to the work but suggested placing a sign on the eastbound off-ramp. Signs will be added to the mast arm that indicate "No Left Turn" or "No Right Turn" as appropriate, depending on which ramp is being used. City Engineer Hudson reviewed Figure 2, which depicts the eastbound side; the first sign is on the freeway mainline a few hundred feet before the gore separator and another is located a few hundred feet from the intersection. The sign would read "Trucks over 5 Tons Prohibited on Monte Vista Avenue south of Palo Verde Street." Another exhibit depicts the standard signs that are consistent with the **Manual on Uniform Traffic Control Devices** and shows standard **Caltrans** signs. The signs would be located off the shoulder of the ramp in the landscaped area, and the signs will be 48 inches high and 78 inches across and would be supported by two posts. Figure 5 depicts the signage and location of the "Trucks over 5 Tons Prohibited on Monte Vista Avenue south of Palo Verde Street" sign on the eastbound side. Once the signs are approved by **Caltrans**, an encroachment permit would be issued to the City for the work. The mast arm signs would be installed by the City's traffic maintenance company. The freeway work can either be done by City staff or by a contractor.

City Engineer Hudson proposed using the funds from fines collected from the citations. Currently the fines are deposited into the City's General Fund. Citations are not currently issued if a truck driver exits on Monte Vista Avenue westbound to travel southbound because of inadequate signage. Ticket costs range from just under \$1,000 to a maximum citation amount of \$14,000. The fines are set by the **California Vehicle Code**, and trucks in excess of 10,000 pounds are charged 20 cents per pound over the limit. City Engineer Hudson is the Hearing Officer for the City, and he conducts his hearings on the first Monday of the month. He is currently booked through February 2012. A driver dissatisfied with City Engineer Hudson's findings could appeal to the **San Bernardino County Superior Court**. **Superior Court** judges have been upholding the Hearing Officer's decisions, but fines have been reduced from 50 to 75 percent because judges believe they are excessive.

City Engineer Hudson noted he met with Chief Jones, Deputy Police Chief Lux, and City Attorney Robbins to determine the City's ability to reduce the fines. City Attorney Robbins advised him that as long as judges have been reducing fees, the City could as well. City Engineer Hudson indicated he would reduce fees in excess of \$5,000 to \$2,500, and anything under \$5,000 would be cut in half. A large number of citations could be written if the proper signage were posted on Monte Vista Avenue, and the **Caltrans**

encroachment permit would allow more enforcement on Monte Vista Avenue. The signage would not only be placed on the freeway—additional signage would be placed on Monte Vista Avenue starting north of Arrow Highway. Arrow Highway is a truck route, so a sign would be posted reading "No Trucks Permitted South of Palo Verde Street." The trucks would be able to either continue on Monte Vista Avenue to the freeway or turn onto Arrow Highway. San Bernardino Street is considered an intermediate route, and the weight limit is eight tons, or 16,000 pounds. The Municipal Code does allow vehicles up to 16,000 pounds to continue south on Monte Vista Avenue, but at San Bernardino Street the driver must turn east or west. There have been talks internally about revising the Municipal Code to eliminate the intermediate route because there is nothing south of Palo Verde Street that requires truck deliveries up to 16,000 pounds. A General Plan amendment would be required to change the Municipal Code because the circulation element of the General Plan does specify restricted routes, intermediate routes, and unrestricted routes.

B. Joint City/County Projects Response

The **County of San Bernardino** would like to slurry seal some streets that are jointly located in the City and county. The streets include a portion Central Avenue between Phillips Boulevard and State Street, Grand Avenue, Howard Street, Monte Vista Avenue, Phillips Boulevard, and Ramona Avenue.

City Engineer Hudson reviewed the **County's** somewhat steep cost estimate. The **County** is not certain the project will be done because it would need to obtain discretionary funds from **Supervisor Ovitt's** office to complete the work. The **County** will not know the status of the funds until March 2012.

City Engineer Hudson noted he would recommend the Committee participate and determine the appropriate funding source should the funds be approved next March.

C. Request by Mr. Hank Voznick to Have the City Provide Design for Central Avenue Median Break South of Howard Street

Mr. Henry P. Voznick, 565 Gloria Road, Arcadia, requested a median break and turn pocket on Central Avenue below Howard Street that would allow U-turn movements from southbound Central Avenue into his driveway, where several tenants own auto repair and service businesses. The work would include removal of three trees, demolition of existing curb and gutter, installation of new curb and gutter for the turn pocket and median break, relocation of the irrigation controller and backflow device, and landscape restoration. If the work is done as a City project at prevailing wage, the estimated cost would be approximately

\$60,000. The new median break would line up with the entrance driveway to the auto repair center. **Mr. Voznick** has obtained two quotes and is waiting on a third. He is requesting help from the City to prepare engineering drawings that would define the construction of the left-turn pocket for his contractors' use. The City has the ability to prepare the plans; and they could be funded by Measure I, which would require an amendment to the Measure I expenditure plan. The design and survey could be done for under \$15,000. **Mr. Voznick** received construction quotes based on a sketch provided by City Engineer Hudson; one of the quotes was for \$52,000.

The Committee concurred to move forward with the project.

Because it is a design contract, competitive bids are not required pursuant to the **California Government Code**; and selection of the contractor would be made from qualifications.

City Engineer Hudson stated that he would prepare a Measure I Expenditure Plan amendment. The consultant hired by the City would design the project and submit it to **Mr. Voznick** for review and consideration; and the plans would be given to **Mr. Voznick** for advertising.

Disconnected electrical lines once used for Christmas lighting are located in the median strip. The lines have sustained considerable damage over the years from tree roots, and power cannot be restored.

City Engineer Hudson suggested laying down sleeves to accommodate future electrical or irrigation needs. He advised he would be meeting with **Mr. Voznick** next week to review the project schedule. He noted he would solicit proposals from consultants for the design work, adding that City Manager Starr could sign the agreement if the design work totals \$15,000 or less.

X. CAPITAL PROJECT UPDATES

City Engineer Hudson reported the status of the following capital improvement projects:

A. Monte Vista Grade Separation Project – Monte Vista Avenue Paving

Caltrans issued the Federal Project Number and Advantage ID yesterday, which allows the City to submit requests to **Caltrans** to review the Preliminary Environmental Study (PES) form. Nothing can be submitted to **Caltrans** without the Federal Project Number. It was recommended at the last meeting that the Committee amend the contract with **AECOM** to do the environmental work as a change order. The amended contract will be presented to the City Council

on December 5, 2011, for its review and consideration. In the meantime, **AECOM** will submit the PES form to **Caltrans**. Once the environmental study is started, City Engineer Hudson will ask if **Caltrans** will allow the City to begin demolition on the acquired properties.

There have been constant problems at the site related to break-ins, theft, and the homeless. City Engineer Hudson would like to go through the lead and asbestos survey and raze all the buildings and fence off the property (using federal funds) until construction begins. The **Regional Transportation Improvement Program (RTIP)** provides federal funds for this purpose. It is possible the City will receive authorization from **Caltrans** to use **RTIP** funds for the demolition once the environmental process has begun.

Committee members agreed that a traffic signal should be installed at the Ramona Avenue grade separation at Ramona Avenue and Brooks Street. The stop sign at the intersection was an after-thought after a traffic accident that occurred on opening day of the grade separation. Staff will look at signaling the intersection in the future. The traffic signal at the Dale Street/Ramona Avenue intersection helps with the flow of traffic from **Mission Tiki Drive-In Theater** and swap meet traffic.

B. Community Center Restrooms

The Community Center restrooms are not ADA compliant and are inadequate for the size of the building. **Wheeler and Wheeler Architects** is preparing the design, which should be complete by the end of the year.

A low-energy operator will be added to the bathroom doors in the Senior Center restrooms as well as to the new Community Center restrooms for ease of opening. The doors will be included in the Community Center Restroom Project.

C. Fremont Avenue Improvement Project - Phase II

This phase of Fremont Avenue improvements is located just south of Howard Street. The project involves construction of new curb, gutter, and sidewalk. The contractor will begin paving tomorrow. A resident requested the installation of street lights on Howard Street, and they will be added to the existing wood poles. The lights will improve visibility in the intersection and on Howard Street and will cost between \$1,000 and \$1,500, which would be included in the project cost.

D. Intersection Improvement Project - Phase II

This project is the follow-up to last year's intersection repair project at various locations. Three intersections to be repaired are Holt

Boulevard/Ramona Avenue; Palo Verde Street/Central Avenue; and Monte Vista Avenue/Arrow Highway. The design is far enough along that staff was able to get a cost estimate of \$500,000 for all three intersections and some repair work on Carrillo Avenue that will be included in the project. Funding will be provided by Local Stimulus Funds through the **San Bernardino Associated Governments**. The City has until June 2013 to spend the funds.

The Local Stimulus Funds themselves will not be sufficient to complete all the work.

City Engineer Hudson suggested using **Proposition 1B** funds that must be spent by next year.

The Committee concurred with City Engineer Hudson's recommendation.

E. Alma Hofman Park Improvements

The project is nearly complete. Most of the lighting has been installed; the lights for the tennis courts should be replaced next week. The parking lot is fully paved and striped. The park will be open on December 1, 2011, the day of the tree-lighting ceremony.

F. Carlton Street Improvements

Carlton Street is located just south of Mission Boulevard and runs off of Monte Vista Avenue. The six homes on Carlton Street were annexed from the **County of San Bernardino**. The homes have dirt shoulders and pavement that has been severely damaged or deteriorated.

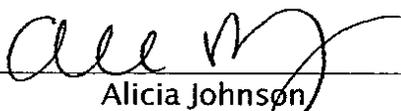
Public Works Superintendent Mendez reported that an AC overlay was performed on Carlton Street about four months ago. Temporary repairs were done; and new curb, gutter, and sidewalk; new pavement; and installation of new sewers will be done. The funding for the sewers will be derived from Community Development Block Grant (CDBG) funds. CDBG and Measure I funds will be used for the street improvements. The project will be ready to advertise after January 1, 2012.

XI. ADJOURNMENT

Prior to adjournment, the Committee agreed to cancel the December 15, 2011 meeting; therefore, the next meeting of the Public Works Committee will be at 2:00 p.m. on January 19, 2012.

At 3:20 p.m., Chairman Paulitz adjourned the Public Works Committee.

Submitted for Public Works Committee approval,



Alicia Johnson
Transcribing Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON TUESDAY,
JANUARY 17, AT 8:17 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 8:17 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
January 3, 2012.**

Moved by City Manager Starr, seconded by Council Member Ruh,
and carried unanimously to approve the minutes of the Personnel
Committee meeting of January 3, 2012.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

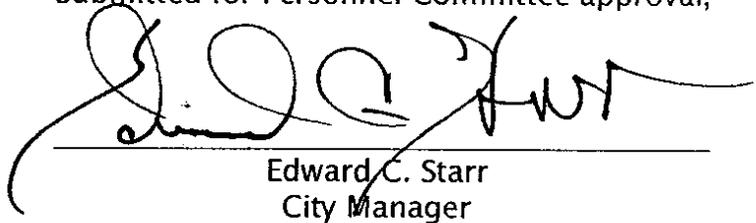
At 8:18 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:34 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:34 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager