

CITY OF MONTCLAIR

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

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

January 7, 2013

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/SA/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 Agency and Montclair Housing Corporation Boards of Directors

II. INVOCATION

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

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS – None

VI. PUBLIC COMMENT

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

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

VII. PUBLIC HEARINGS – None

VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Minutes of the Regular Joint Council/Successor Agency Board/
MHC Meeting of December 17, 2012 [CC/SA/MHC]

B. Administrative Reports

1. Consider Authorizing Staff to Advertise for Bid Proposals for
the Ramona Avenue Rehabilitation Project [CC] 4
2. Consider Approval of Warrant Register and Payroll
Documentation [CC] 5

C. Agreements

1. Consider Approval of Agreement No. 13-01 With Montclair
Little League and Agreement Nos. 13-02 and 13-03 With All
Cities Youth Baseball for Use of Ball Field Facilities [CC] 6
 2. Consider Approval of Agreement No. 13-04, a Memorandum
of Understanding With the San Bernardino Associated Govern-
ments for Participation in the Property Assessed Clean Energy
(PACE) Program [CC] 25
 3. Consider Approval of Agreement No. 13-06 With Douglas
Engineering, Inc., for Engineering Services Associated With
Construction of the Monte Vista Avenue/Union Pacific Railroad
Grade Separation Project [CC]
- Consider Authorization of a \$35,000 Appropriation From
Measure I Funds for Engineering Services [CC] 35

D. Resolutions

1. Consider Adoption of Resolution No. 13-01, a Resolution of
the Successor Agency to the City of Montclair Redevelopment
Agency Approving the Due Diligence Audit Review Completed
by Teaman, Ramirez & Smith, Inc. [SA] 53

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney

1. Closed Session Pursuant to Government Code Section 54957
Public Employee Performance Evaluation
City Manager/Executive Director

2. Closed Session Pursuant to Government Code Section 54956.9(a)
Regarding Pending Litigation

City of Montclair Successor Agency v. State of California
Department of Finance

3. 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/MHC Board

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

1. Minutes of the Personnel Committee Meeting of December 17,
2012

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

(At this time, the City Council will meet in Closed Session regarding public employee performance evaluation, pending litigation, and labor negotiations.)

XIII. CLOSED SESSION ANNOUNCEMENTS

XIV. ADJOURNMENT OF CITY COUNCIL

The next regularly scheduled City Council, Successor Agency Board, and Montclair Housing Corporation Board meetings will be held on Tuesday, January 22, 2013, 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 Agency Board, or Montclair Housing Corporation Board after distribution of the Agenda packet are available for public inspection in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Deputy City Clerk at (909) 625-9416. 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 north door of Montclair City Hall on December 20, 2012.

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING STAFF TO
ADVERTISE FOR BID PROPOSALS FOR THE
RAMONA AVENUE REHABILITATION
PROJECT

DATE: January 7, 2013

SECTION: ADMIN. REPORTS

ITEM NO.: 1

FILE I.D.: STA650

DEPT.: PUBLIC WORKS

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

BACKGROUND: The Ramona Avenue Rehabilitation Project is intended to provide street improvements to Ramona Avenue between Mission Boulevard and Phillips Street. The street right-of-way was originally constructed with tree wells that included pine trees. The street currently has uplifted curbs, gutters, and sidewalks from tree roots and poor pavement conditions. The majority of the trees have since been removed, and the tree wells have been empty for several years. There is also a 15-foot section of sewer mainline that is in need of repair.

The proposed improvements include sewer mainline repair; removal and replacement of damaged curb, gutter and sidewalk; new asphalt concrete pavement; and installation of landscape enhancements that include small trees and groundcover.

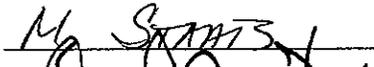
FISCAL IMPACT: The total project cost is estimated to be \$550,000. Funding for the project will come from Gas Tax and Measure I funds if necessary. A portion of the proposed work is within unincorporated San Bernardino County. The County has indicated a willingness to share in the cost of the work. A cooperative agreement with the County will be submitted to the City Council prior to award of the construction contract.

RECOMMENDATION: Staff recommends the City Council authorize staff to advertise for bid proposals for the Ramona Avenue Rehabilitation Project.

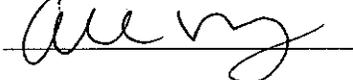
Prepared by:



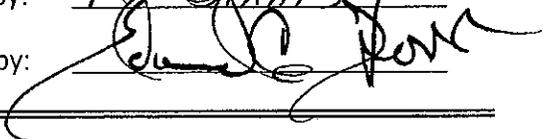
Reviewed and
Approved by:



Proofed by:



Presented by:



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: January 7, 2013
	SECTION: ADMIN. REPORTS
	ITEM NO.: 2
	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Ruh has examined the Warrant Register dated January 7, 2013, and Payroll Documentation dated December 2, 2012, finds them to be in order; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated January 7, 2013, totals \$478,355.81. The Payroll Documentation December 2, 2012, totals \$665,465.18, with \$466,003.99 being the total cash disbursement.

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

Prepared by:

Yvonne L Smith
Amber Dillip

Proofed by:

Reviewed and
Approved by:

Presented by:

[Signature]
[Signature]

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-01 WITH MONTCLAIR LITTLE LEAGUE AND AGREEMENT NOS. 13-02 AND 13-03 WITH ALL CITIES YOUTH BASEBALL FOR USE OF BALL FIELD FACILITIES

DATE: January 7, 2013
SECTION: AGREEMENTS
ITEM NO.: 1
FILE I.D.: ATH020/215/218
DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The Montclair Little League and All Cities Youth Baseball have requested use of City facilities for their spring/summer sports activities. Copies of proposed Agreement No. 13-01 with Montclair Little League and Agreement Nos. 13-02 and 13-03 with All Cities Youth Baseball are attached for the City Council's review and consideration.

BACKGROUND: Pursuant to proposed Agreement No. 13-01, Montclair Little League would use the fields at Saratoga Park for its baseball activities on Mondays, Wednesdays, Fridays, and Saturdays. Pursuant to proposed Agreement Nos. 13-02 and 13-03, All Cities Youth Baseball would use Essex Park weekdays and Saturdays and the fields at Saratoga Park on Tuesdays and Thursdays for its baseball activities. Sunday field use by all leagues is only permitted in the event ball games are rained out.

Montclair Little League and All Cities Youth Baseball have each requested the use of lights for activities that may be conducted after dark. The cost of electrical services associated with such lighting would be divided equally between the requesting league and the City of Montclair at a rate of \$15 per hour, per field for such use.

The terms of proposed Agreement No. 13-01 with Montclair Little League and Agreement Nos. 13-02 and 13-03 with All Cities Youth Baseball are from January 9, 2013, through August 31, 2013.

FISCAL IMPACT: A total of approximately \$100,000 (\$50,000 per park) in maintenance, lighting, and upkeep costs is associated with the leagues' use of the subject parks.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-01 with Montclair Little League and Agreement Nos. 13-02 and 13-03 with All Cities Youth Baseball for use of the subject ball field facilities.

Prepared by:

M. Richter

Reviewed and
Approved by:

Proofed by:

Christine Smiderly

Presented by:

[Signature]

**AGREEMENT NO. 13-01
WITH MONTCLAIR LITTLE LEAGUE
FOR USE OF SARATOGA PARK**

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Montclair Little League, hereinafter called "LEAGUE." This Agreement is contingent upon the LEAGUE fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

WITNESSETH:

WHEREAS, CITY presently has baseball fields (two northern and two southern fields) generally located at the southwest corner of Vernon Avenue and Kingsley Street, Montclair, California, and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for Little League baseball (including the Challenger Division for children with disabilities) activities at such times and hours set forth in Section 1(aa). The term of this Agreement is for January 9, 2013, through August 31, 2013.

SECTION 1: LEAGUE hereby agrees as follows:

- a. Not to use the premises for any other purpose, except as above indicated.
- b. Not to sublet the field.
- c. Not to make any improvements or alterations on said premises.
- d. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.
- e. Not to erect any barriers or fences of any kind unless approved by CITY.
- f. Not to use herbicides at the park for any purpose.
- g. Not to disconnect or make changes to existing phone line account.
- h. Not to allow hitting balls into the chain link fences for batting practice.
- i. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.

- j. To provide a special parking area for participants in the Challenger Division, at the times of their games, by cordoning off the southeast portion of the parking lot; to provide the equipment and personnel needed to set up the special parking area; to see that all equipment is removed and properly stored after each use; to provide personnel to monitor the cordoned off area during its use.
- k. To maintain rest room facilities and to furnish all supplies for the rest rooms. To police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.
- l. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, countertops and utensils after each day's use and leave the snackbar in a condition acceptable to CITY. The snackbar area should not be used for storage of any materials not pertaining to food items.
- m. To maintain Meeting Room located on the second floor by emptying trash and vaccuming carpet from facility after each day's use in a condition acceptable to CITY. This room is not to be used for storage (e.g. field equipment and baseball equipment). Storage for baseball equipment is located in the facility on the northern section of baseball fields.
- n. To ensure when a barbecue is used, it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. LEAGUE must also ensure that barbecue has completely cooled down before returning to storage in any CITY structure.
- o. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for and cleaned up. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.
- p. To conform to all safety and health regulations and maintain all CITY installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.

- q. To be responsible for the payment of an alarm fee at the rate of Forty Dollars (\$40) per month, to remit prompt payment to CITY upon receipt of monthly invoice.
- r. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.
- s. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Superintendent at 625-9466. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.
- t. If LEAGUE elects to use lights for activities conducted after dark, LEAGUE agrees to divide the cost of electrical services associated with such lighting equally with CITY at the rate of Fifteen Dollars (\$15) per hour, per field; and LEAGUE will remit prompt payment to CITY upon receipt of monthly invoice.
- u. To deposit, with the CITY representative, the sum of Five Hundred Dollars (\$500) as a security deposit, to ensure the proper and prompt payment of alarm fees, electrical services for elected use of lights, or any incurred damages to facilities associated with the LEAGUE. In the event all invoices or potential damages are paid by the end of this Agreement term, the deposit will be refunded.
- v. To provide the CITY representative with a list of the Board of Directors, including names, addresses, and telephone numbers.
- w. To provide CITY with participant rosters, practice and game schedules.
- x. To provide CITY with financial statements upon request for audit purposes.
- y. To designate one individual as the LEAGUE's representative to work with the CITY's representative.
- z. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency, of which LEAGUE had knowledge.
- aa. It is agreed that LEAGUE may use said baseball fields from January 9, 2013, through August 31, 2013, Mondays, Wednesdays and Fridays, generally commencing at 4:00 p.m. and Saturdays, generally commencing at 8:00 a.m. No activities will be conducted past 10:00 p.m.
- bb. **PUBLIC LIABILITY AND PROPERTY DAMAGE:** Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to

be kept, in full force and effect, for the mutual benefit of CITY and LEAGUE, comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence, and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and non contributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice, in writing, by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.

- cc. INDEMNIFICATION: LEAGUE shall defend, indemnify and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- dd. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.
- ee. To conduct all operations in compliance with the Americans with Disabilities Act.
- ff. LEAGUE shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for LEAGUE meetings.

SECTION 2: CITY hereby agrees as follows:

- a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.
- b. To pay for all water used on premises.
- c. To have full control over watering the entire premises. LEAGUE shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.
- d. To provide emergency call-out telephone numbers for use by LEAGUE. A Contact List containing the emergency telephone numbers is attached.

- e. To provide to LEAGUE, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.
- f. To invoice LEAGUE monthly for the costs of separately metered field lighting.
- g. To refund, at the end of the agreement period and upon approval of the Community Development Director, LEAGUE's cleaning deposit.
- h. To designate a CITY representative to work with LEAGUE on all nonmaintenance issues relating to the use of CITY facilities.

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities.

APPROVED AND ADOPTED this _____ day of _____, 2012.

LEAGUE:

MONTCLAIR LITTLE LEAGUE

CITY:

CITY OF MONTCLAIR

President

Paul M. Eaton
Mayor

ATTEST:

Secretary

ATTEST:

Yvonne L. Smith
Deputy City Clerk

CITY OF MONTCLAIR – CONTACT LIST FOR SPORTS LEAGUES

JANUARY 2013

After Hours Emergency - Call Montclair PD	Montclair Police Dept	Contact	(909) 621-4771
Sports League Administration	Sports League Liaison	Fernando Saltos	(909) 625-9496 work
Building Maintenance	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Ground Maintenance	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429
Vandalism	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Secondary Contact for Mike McGehee	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work

**AGREEMENT NO. 13-02
WITH ALL CITIES YOUTH BASEBALL
FOR USE OF ESSEX PARK**

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and All Cities Youth Baseball (ACYB), hereinafter called "ACYB."

WITNESSETH:

WHEREAS, CITY presently has a baseball field generally located at the southwest corner of Howard Street and Essex Avenue, adjacent to and directly east of Ramona Elementary School, Montclair, California, and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises ACYB desires to use for Youth Baseball activities at such times and hours set forth in Section 1(w). The term of this Agreement is for January 9, 2013, through August 31, 2013.

SECTION 1: ACYB, a 501c(3) hereby agrees as follows:

- a. Not to use the premises for any other purpose, except as above indicated.
- b. Not to sublet the field.
- c. Not to make any improvements or alterations on said premises.
- d. Not to charge for parking of vehicles in the parking lots located within CITY facilities.
- e. Not to erect any barriers or fences of any kind unless approved by CITY.
- f. Not to use herbicides at the park for any purpose.
- g. Not to disconnect or make changes to existing phone line account.
- h. Not to allow hitting balls into the chain-link fences for batting practice.
- i. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to ACYB. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of ACYB.
- j. To maintain the rest room facilities and to furnish all supplies for the rest rooms. To police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted

cleaning agency will be hired by the CITY and ACYB will be responsible for all fees related to the service.

- k. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks countertops and utensils after each day's use and leave the snack bar in a condition acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items
- l. To ensure when a barbecue is used, it is set up a minimum of ten feet away from any structure; and ACYB must provide one Fire Extinguisher for each barbecue being used. ACYB must also ensure that barbecue has completely cooled down before returning to storage in any CITY structure.
- m. To deposit with the CITY representative the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and ACYB representatives to ensure that all areas and CITY-owned equipment have been properly cared for and cleaned up. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by ACYB shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.
- n. To conform to all safety and health regulations and maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.
- o. To be responsible for all costs as a result of lost or stolen keys.
- p. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.
- q. ACYB agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Superintendent at 625-9466. ACYB will not attempt to remove Graffiti or make repairs to building. ACYB shall furnish and supply personnel to conduct and supervise ACYB activities on the premises.
- r. To provide the CITY representative with a list of the Board of Directors including names, addresses, and telephone numbers.

- s. To provide CITY with participant rosters, practice and game schedules.
- t. To provide CITY with financial statements upon request for audit purposes.
- u. To designate one individual as the ACYB's representative to work with the CITY's representative.
- v. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency of which ACYB had knowledge.
- w. It is agreed that ACYB may use said baseball fields from January 9, 2013, through August 31, 2013, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m. No activities will be conducted past daylight hours.
- x. **PUBLIC LIABILITY AND PROPERTY DAMAGE:** Throughout the term of this Agreement, at ACYB's sole cost and expense, ACYB shall keep, or cause to be kept, in full force and effect for the mutual benefit of CITY and ACYB comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice, in writing, by the insurer to CITY by certified mail. ACYB shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.
- y. **INDEMNIFICATION:** ACYB shall defend, indemnify, and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by ACYB of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the ACYB in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- z. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with ACYB, unless such person is otherwise regularly employed by and conducting official business of CITY.
- aa. To conduct all operations in compliance with the Americans with Disabilities Act.

- bb. ACYB shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for ACYB meetings.

SECTION 2: CITY hereby agrees as follows:

- a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.
- b. To pay for all water used on premises.
- c. To have full control over watering the entire premises. ACYB shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.
- d. To provide emergency call-out telephone numbers for use by ACYB. A Contact List containing the emergency telephone numbers is attached.
- e. To refund, at the end of the agreement period and upon approval of the Community Development Director, ACYB's cleaning deposit.
- f. To provide to ACYB, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.
- g. To designate a CITY representative to work with ACYB on all non-maintenance issues relating to the use of CITY facilities.

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and ACYB will be refused use of CITY facilities.

APPROVED AND ADOPTED this _____ day of _____, 2012.

LEAGUE:

ALL CITIES YOUTH BASEBALL

CITY:

CITY OF MONTCLAIR

President

Paul M. Eaton
Mayor

ATTEST:

Secretary

ATTEST:

Yvonne L. Smith
Deputy City Clerk

CITY OF MONTCLAIR – CONTACT LIST FOR SPORTS LEAGUES

JANUARY 2013

After Hours Emergency - Call Montclair PD	Montclair Police Dept	Contact	(909) 621-4771
Sports League Administration	Sports League Liaison	Fernando Saltos	(909) 625-9496 work
Building Maintenance	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Ground Maintenance	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429
Vandalism	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Secondary Contact for Mike McGehee	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work

**AGREEMENT NO. 13-03
WITH ALL CITIES YOUTH BASEBALL
FOR USE OF SARATOGA PARK**

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and All Cities Youth Baseball (ACYB), hereinafter called "ACYB." This Agreement is contingent upon ACYB fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

WITNESSETH:

WHEREAS, CITY presently has baseball fields (two northern and two southern fields) generally located at the southwest corner of Vernon Avenue and Kingsley Street, Montclair, California, and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises ACYB desires to use for Youth Baseball activities at such times and hours set forth in Section 1(z). The term of this Agreement is for January 9, 2013, through August 31, 2013.

SECTION 1: ACYB hereby agrees as follows:

- a. Not to use the premises for any other purpose, except as above indicated.
- b. Not to sublet the field.
- c. Not to make any improvements or alterations on said premises.
- d. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.
- e. Not to erect any barriers or fences of any kind unless approved by CITY.
- f. Not to use herbicides at the park for any purpose.
- g. Not to disconnect or make changes to existing phone line account.
- h. Not to allow hitting balls into the chain link fences for batting practice.
- i. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to ACYB. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of ACYB.
- j. To maintain rest room facilities and to furnish all supplies for the rest rooms. To police the entire premises after each day's use and pick up all paper, trash, and other

debris that may have accumulated, and leave the premises in a condition acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the ACYB will be responsible for all fees related to the service.

- k. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, countertops and utensils after each day's use and leave the snackbar in a condition acceptable to CITY. The snackbar area should not be used for storage of any materials not pertaining to food items.
- l. To maintain Meeting Room located on the second floor by emptying trash and vaccuming carpet from facility after each day's use in a condition acceptable to CITY. This room is not to be used for storage (e.g. field equipment and baseball equipment).
- m. To ensure when a barbecue is used, it is set up a minimum of ten feet away from any structure and ACYB must provide one fire extinguisher for each barbecue being used. ACYB must also ensure that barbecue has completely cooled down before returning to storage in any CITY structure.
- n. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and ACYB representatives to ensure that all areas and CITY-owned equipment have been properly cared for and cleaned up. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by ACYB shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.
- o. To conform to all safety and health regulations and maintain all CITY installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.
- p. To be responsible for the payment of an alarm fee at the rate of Forty Dollars (\$40) per month, to remit prompt payment to CITY upon receipt of monthly invoice.
- q. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.
- r. ACYB agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious

mischievous to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Superintendent at 625-9466. ACYB will not attempt to remove Graffiti or make repairs to building. ACYB shall furnish and supply personnel to conduct and supervise ACYB activities on the premises.

- s. If ACYB elects to use lights for activities conducted after dark, ACYB agrees to divide the cost of electrical services associated with such lighting equally with CITY at the rate of Fifteen Dollars (\$15) per hour, per field; and ACYB will remit prompt payment to CITY upon receipt of monthly invoice.
- t. To deposit, with the CITY representative, the sum of Five Hundred Dollars (\$500) as a security deposit, to ensure the proper and prompt payment of alarm fees, electrical services for elected use of lights, or any incurred damages to facilities associated with ACYB. In the event all invoices or potential damages are paid by the end of this Agreement term, the deposit will be refunded.
- u. To provide the CITY representative with a list of the Board of Directors, including names, addresses, and telephone numbers.
- v. To provide CITY with participant rosters, practice and game schedules.
- w. To provide CITY with financial statements upon request for audit purposes.
- x. To designate one individual as an ACYB representative to work with the CITY's representative.
- y. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency, of which ACYB had knowledge.
- z. It is agreed that ACYB may use said baseball fields from January 9, 2013, through August 31, 2013, Tuesdays and Thursdays, generally commencing at 4:00 p.m. No activities will be conducted past 10:00 p.m.
- aa. **PUBLIC LIABILITY AND PROPERTY DAMAGE:** Throughout the term of this Agreement, at ACYB sole cost and expense, ACYB shall keep, or cause to be kept, in full force and effect, for the mutual benefit of CITY and ACYB, comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence, and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and non contributing with any insurance that

may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice, in writing, by the insurer to CITY by certified mail. ACYB shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.

- bb. INDEMNIFICATION: ACYB shall defend, indemnify and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by ACYB of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of AYCB in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- cc. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with ACYB, unless such person is otherwise regularly employed by and conducting official business of CITY.
- dd. To conduct all operations in compliance with the Americans with Disabilities Act.
- ee. ACYB shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for ACYB meetings.

SECTION 2: CITY hereby agrees as follows:

- a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.
- b. To pay for all water used on premises.
- c. To have full control over watering the entire premises. ACYB shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.
- d. To provide emergency call-out telephone numbers for use by ACYB. A Contact List containing the emergency telephone numbers is attached.
- e. To provide to ACYB, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.
- f. To invoice ACYB monthly for the costs of separately metered field lighting.
- g. To refund, at the end of the agreement period and upon approval of the Community Development Director, ACYB cleaning deposit.
- h. To designate a CITY representative to work with ACYB on all nonmaintenance issues relating to the use of CITY facilities.

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and ACYB will be refused use of CITY facilities.

APPROVED AND ADOPTED this _____ day of _____, 2012.

LEAGUE:

ALL CITIES YOUTH BASEBALL

CITY:

CITY OF MONTCLAIR

President

Paul M. Eaton
Mayor

ATTEST:

Secretary

ATTEST:

Yvonne L. Smith
Deputy City Clerk

CITY OF MONTCLAIR – CONTACT LIST FOR SPORTS LEAGUES

JANUARY 2013

After Hours Emergency - Call Montclair PD	Montclair Police Dept	Contact	(909) 621-4771
Sports League Administration	Sports League Liaison	Fernando Saltos	(909) 625-9496 work
Building Maintenance	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Ground Maintenance	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429
Vandalism	Facilities and Grounds Superintendent	Mike McGehee	(909) 625-9443 work (909) 721-1744 cell
Secondary Contact for Mike McGehee	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-04, A MEMORANDUM OF UNDERSTANDING WITH THE SAN BERNARDINO ASSOCIATED GOVERNMENTS FOR PARTICIPATION IN THE PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM	DATE: January 7, 2013
	SECTION: AGREEMENTS
	ITEM NO.: 2
	FILE I.D.: TRN510
	DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: On November 2, 2011, the San Bernardino Associated Governments (SANBAG) Board of Directors proceeded with the steps necessary to create a regional energy efficiency and water conservation improvement loan program as defined by Assembly Bills 811 and 474 and commonly referred to as a Property Assessed Clean Energy (PACE) Program.

BACKGROUND: On August 1, 2012, the SANBAG Board of Directors approved a number of contracts with a team of firms for the formation and ongoing operation of a PACE Program in compliance with AB 811 and AB 474. These companion bills facilitate the energy and water efficiency of existing homes and businesses by providing loans to property owners—loans that would be paid back over a designated period of time through property assessments.

The PACE Program allow local government entities to offer sustainable energy project loans to eligible property owners. Loans are facilitated through creation of financing districts—these financing districts provide the economic incentive for property owners to finance onsite renewable energy installations and energy efficiency improvements. Loans are repaid through voluntary assessments on property tax bills.

The finance district approach adds a powerful new option to the clean energy finance landscape. SANBAG and interested property owners enter into contractual agreements to finance the installation of eligible renewable energy, energy efficiency, or water efficiency improvements that are permanently fixed to the property.

Examples of eligible improvements include the following:

- Air sealing and weatherization
- Insulation
- Cool roof systems
- Duct sealing
- High efficiency heat and air conditioning
- Attic fans and whole-house fans

Prepared by:

Mindy Fuentes

Proofed by:

Andrew Sullivan

Reviewed and
Approved by:

Presented by:

[Signature]

- High-efficiency and tankless water heaters
- Weatherized doors and windows and window film
- High-efficiency pool pumps and heaters
- Solar photovoltaic systems
- Solar thermal water heating
- Small wind turbines
- High-efficiency toilets and shower heads
- Weather-based irrigation control systems
- Drip irrigation
- Gray water systems
- Commercial light fixture replacements
- Commercial boiler improvements
- Commercial refrigeration improvements

Under PACE program guidelines, SANBAG lends property owners the funds for improvements. The amount of the loan plus a fixed interest amount is repaid through an assessment on the property tax bill for the property. The term of the loan can be from 5 to 20 years.

SANBAG finances the PACE Program by selling bonds, which are secured by property tax assessments paid by property owners, to private investors. SANBAG has been able to secure commitments from private investors for up to \$200 million in loans.

There are two primary benefits of a PACE program. The first benefit is the facilitation of economic growth including the following:

- Lower utility bills for property owners
- Increased property value due to improvements
- Investment of millions of dollars in local economy through contractors and suppliers
- Local Job

The second benefit is environmental improvement including:

- Lower greenhouse gas emissions because of reduced energy use
- Reductions in air pollution because of reduced energy use
- Water conservation

The program allows both residential and commercial property owners to lower energy bills and reduce water consumption. Businesses realize greater cost efficiencies and an improved competitive climate. Furthermore, the investment of private dollars facilitates job creation for contractors, installers, and suppliers of the materials used for PACE program improvements. The environment also benefits through reductions in greenhouse gas emissions, reduced requirements for new power plants, promotion of energy security, and water conservation—one of California's most precious resources.

The PACE Program provides for a uniform application process for property owners regardless of the communities in which they reside. The process also allows the program to be marketed on a regional basis to reach a wider audience. A regional program would also attract more private capital by providing larger investment opportunities.

To participate in the PACE Program, SANBAG has proposed a Memorandum of Understanding (Agreement No. 13-04) between the City of Montclair and various other cities in SANBAG's jurisdiction.

Proposed Agreement No. 13-04 states that SANBAG is establishing a PACE Program and will generally be responsible for all aspects of Program financing and administration. The term of the Agreement is 20 years—participating jurisdictions may withdraw from the PACE Program with 90 days notice.

FISCAL IMPACT: Approval of proposed Agreement No. 13-04 would allow the City to participate in the PACE Program. There would be no direct fiscal impact to the City's General Fund should the City Council approve Agreement No. 13-04.

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

1. Approve Agreement No. 13-04 with the San Bernardino Associated Governments for implementation of a Property Assessed Clean Energy (PACE) Program.
2. Authorize the City Manager and Deputy City Clerk to execute all documents on behalf of the City of Montclair.

CONTRACT NO: C13066

By and Between

San Bernardino Associated Governments (SANBAG)

And

**CITIES OF ADELANTO, BARSTOW, BIG BEAR LAKE, CHINO, CHINO HILLS,
COLTON, FONTANA, GRAND TERRACE, HESPERIA, HIGHLAND, LOMA LINDA,
MONTCLAIR, NEEDLES, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO,
SAN BERNARDINO, TWENTYNINE PALMS, UPLAND, VICTORVILLE, YUCAIPA, AND
THE TOWNS OF APPLE VALLEY AND YUCCA VALLEY, AND THE COUNTY OF
SAN BERNARDINO**

For

**Implementation of a Property Assessed Clean Energy Program (PACE)
To Finance the Installation of Distributed Generation Renewable Energy Sources, Energy
or Water Efficiency Improvements or Electric Vehicle Charging Infrastructure**

CONTRACT NO. C13066
MEMORANDUM OF UNDERSTANDING
BY AND AMONG THE SAN BERNARDINO ASSOCIATED GOVERNMENTS
AND
CITIES OF ADELANTO, BARSTOW, BIG BEAR LAKE, CHINO, CHINO HILLS,
COLTON, FONTANA, GRAND TERRACE, HESPERIA, HIGHLAND, LOMA LINDA,
MONTCLAIR, NEEDLES, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO,
SAN BERNARDINO, TWENTYNINE PALMS, UPLAND, VICTORVILLE, YUCAIPA, AND
TOWNS OF APPLE VALLEY AND YUCCA VALLEY AND THE COUNTY OF
SAN BERNARDINO
FOR
IMPLEMENTATION OF
A PROPERTY ASSESSED CLEAN ENERGY PROGRAM (PACE)
TO FINANCE THE INSTALLATION OF
DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES,
ENERGY OR WATER EFFICIENCY IMPROVEMENTS OR
ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

This Memorandum of Understanding ("MOU") is nominally dated January 9, 2013 between the SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG"), a joint powers authority formed under Government Code sections 6500 et seq., and the Participating Entities, each a general law or charter city, town or a county formed under the Constitution and the laws of the State of California. SANBAG and the Participating Entities are sometimes collectively referred to in this MOU as the "Parties" or individually as a "Party." The Participating Entities include those cities, towns and county that have duly executed this MOU, as evidenced on the signature pages attached hereto.

RECITALS

WHEREAS, the County of San Bernardino and various cities within such county have entered into an "Amended Memorandum of Understanding for the Joint Exercise of Powers Relative to the San Bernardino Associated Governments" last amended October 17, 1975 (the "JPA"), to create SANBAG; and

WHEREAS, Participating Entities are each signatories to the JPA; and

WHEREAS, the purpose of the JPA is to improve and coordinate governmental services on a countywide, subregional and regional basis through the establishment of SANBAG as a cooperative association of governments; and

WHEREAS, Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.12) (“Chapter 29”) permits cities and counties to establish contractual assessment programs to finance the installation of distributed generation renewable energy sources, energy or water efficiency improvements or electric vehicle charging infrastructure that are permanently fixed to residential, commercial, industrial, agricultural, or other real property; and

WHEREAS, the parties to the JPA, as cities and counties, have the common power to implement and administer contractual assessment programs pursuant to Chapter 29 which programs are commonly referred to as a property assessed clean energy (the “PACE Program”) to finance installation of such improvements within their respective jurisdictions; and

WHEREAS, SANBAG and Participating Entities believe that the establishment by SANBAG of a single, countywide PACE Program would improve and coordinate the provision of such a PACE Program within the jurisdictions of Participating Entities and SANBAG and Participating Entities desire to enter into this MOU in order to authorize SANBAG to implement and administer such a PACE Program on behalf of Participating Entities.

NOW, THEREFORE, it is mutually understood and agreed by SANBAG and the Participating Entities as follows:

AGREEMENT

Section 1: Establishing the PACE Program

SANBAG will undertake proceedings pursuant to Chapter 29 to establish a PACE Program to make such contractual assessment financing available to eligible property owners within the jurisdictional boundaries of Participating Entities.

Section 2: Establishing Eligible Improvements

SANBAG shall identify the kinds of distributed generation renewable energy sources, energy or water efficiency improvements or electric vehicle charging infrastructure that may be financed (“Eligible Improvements”) under the PACE Program.

Section 3: Boundary of Program

SANBAG, in coordination with Participating Entities, shall describe the boundaries of the area within which contractual assessments under the PACE Program may be entered into, which may include the entire jurisdictional area of each of the Participating Entities or a lesser portion thereof.

Section 4: Financing the Installation of Eligible Improvements

SANBAG shall develop and implement a plan for the financing of the purchase and installation of the Eligible Improvements under the PACE Program.

Section 5: Ongoing Administration

SANBAG shall be responsible for the ongoing administration of the PACE Program, including but not limited to producing education plans to raise public awareness of the PACE Program, soliciting, reviewing and approving applications from property owners who freely and willingly consent to participate in the PACE Program, establishing assessment contracts for property owners participating in the PACE Program, establishing and collecting assessments due under the PACE Program, and providing reports as required by Chapter 29. The PACE Program will be administered in accordance with the JPA.

Section 6: Phased Implementation

The Parties recognize and agree that implementation of the PACE Program as a whole can and may be phased as other parties to the JPA elect to enter into the MOU. The Participating Entities entering into this MOU will obtain the benefits of and incur the obligations imposed by this MOU in its jurisdictional area, irrespective of whether other parties to the JPA enter into the MOU.

Section 7: Term

The term of this MOU shall be for twenty (20) years unless modified or extended pursuant to this MOU.

Section 8: Termination

Upon ninety (90) days written notice, a Participating Entity may terminate its participation in the PACE Program through this MOU.

Section 9: Environmental Review

SANBAG shall be the lead agency under the California Environmental Quality Act for any environmental review that may be required in implementing or administering the PACE Program under this MOU.

Section 10: Cooperative Effort

Participating Entities shall cooperate with SANBAG by providing information and other assistance in order for SANBAG to meet its obligations hereunder. Participating Entities recognize that one of their responsibilities related to the PACE Program will include any permitting or inspection requirements as established by the Participating Entities pertaining to the installation of Eligible Improvements within their respective jurisdictions.

Section 11: Miscellaneous Provisions

11.1 Notice. Any and all communications and/or notices in connection with this MOU shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed to the respective Parties at the addresses set forth in Exhibit A attached hereto and incorporated herein by this reference:

11.2 Entire MOU. This MOU, together with the JPA, constitutes the entire agreement among the Parties regarding the subject matter of this MOU. This MOU supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

11.3 Successors and Assigns. This MOU and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this MOU with prior written approval of the other Parties, which approval shall not be unreasonably withheld.

11.4 Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this MOU, each Party to the litigation shall bear its own attorney's fees and costs.

11.5 Governing Law. This MOU shall be governed by and construed in accordance with the laws of the State of California, as applicable.

11.6 No Third Party Beneficiaries. This MOU shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this MOU to maintain a suit for personal injuries or property damages under the provisions of this MOU. The duties, obligations, and responsibilities of the Parties to this MOU with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11.7 Severability. In the event one or more of the provisions contained in this MOU is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this MOU and the remaining parts of this MOU shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this MOU.

11.8 Headings. The paragraph headings used in this MOU are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

11.9 Amendment. No amendment, modification, alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the Parties hereto and no oral understanding or agreement pertaining to the subject matter of this MOU and not incorporated herein shall be binding on any of the Parties hereto.

(Signature pages to follow)

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this MOU to be effective on the date signed below by SANBAG.

SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG")

By: _____
Janice Rutherford
SANBAG President

Date: _____

APPROVED AS TO FORM:

By: _____
Eileen Monaghan Teichert
General Counsel

Date: _____

CONCURRENCE:

By: _____
Jeffery Hill
Contract Administrator

PARTICIPATING ENTITIES SIGNATURES ON THE FOLLOWING PAGES

City of Montclair Signature Page

MEMORANDUM OF UNDERSTANDING Contract C13066

SAN BERNARDINO ASSOCIATED GOVERNMENTS

And

CITIES OF ADELANTO, BARSTOW, BIG BEAR LAKE, CHINO, CHINO HILLS, COLTON, FONTANA, GRAND TERRACE, HESPERIA, HIGHLAND, LOMA LINDA, MONTCLAIR, NEEDLES, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, TWENTYNINE PALMS, UPLAND, VICTORVILLE, YUCAIPA, AND THE TOWNS OF APPLE VALLEY AND YUCCA VALLEY, AND THE COUNTY OF SAN BERNARDINO

For Implementation of a Property Assessed Clean Energy Program (PACE) to Finance the Installation of Distributed Generation Renewable Energy Sources, Energy of Water Efficiency Improvements or Electric Vehicle Charging Infrastructure.

IN WITNESS WHEREOF, the Participating Entity named below has executed this Agreement on the date written below:

CITY OF MONTCLAIR:

ATTEST:

By: _____
Paul M. Eaton
Mayor

Yvonne L. Smith
Deputy City Clerk

Date: _____

APPROVED AS TO FORM:

By: _____
Diane E. Robbins
City Attorney

Date: _____

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-06 WITH DOUGLAS ENGINEERING, INC., FOR ENGINEERING SERVICES ASSOCIATED WITH CONSTRUCTION OF THE MONTE VISTA AVENUE/UNION PACIFIC RAILROAD GRADE SEPARATION PROJECT	DATE: January 7, 2013
	SECTION: AGREEMENTS
	ITEM NO.: 3
	FILE I.D.: TRN510
CONSIDER AUTHORIZATION OF A \$35,000 APPROPRIATION FROM MEASURE I FUNDS FOR ENGINEERING SERVICES	DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-06 with Douglas Engineering, Inc., for Engineering services associated with construction of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project. A copy of proposed Agreement No. 13-06 is attached for the City Council's review and consideration.

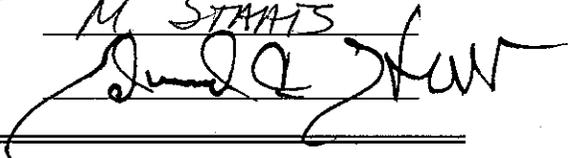
BACKGROUND: The Traffic Congestion Relief Act of 2000 provided state funding for numerous transportation related projects throughout the state, including \$95 million for grade separation projects in San Bernardino County. San Bernardino Associated Governments (SANBAG) was charged with the responsibility for prioritizing various grade separation projects and ranked the Monte Vista Avenue/Union Pacific Railroad crossing at No. 5.

In 2001, the City hired LAN Engineering Corporation to assist the City in getting environmental clearance for the project, develop construction drawings for future construction, and identify the right-of-way necessary for acquisition. Under Agreement No. 01-42, the City hired Douglas Engineering, Inc., to assist the City in working with the Union Pacific Railroad to develop an agreement allowing the construction of a bridge within the railroad right-of-way.

LAN Engineering Corporation completed work on the environmental clearance by 2002, and sufficient design information had been provided by then to begin work on the right-of-way acquisition. At the same time, Douglas Engineering, Inc., was also able to complete negotiations with Union Pacific Railroad and obtain an agreement acceptable to the railroad. Agreement No. 01-187 was approved by the City Council on December 17, 2001. However, when it was submitted to the railroad, the City was told that additional modifications would be required. Discussion of these changes continued for about a year.

Unexpectedly, the state withdrew funding for Transportation Congestion Relief Program, and consequently, work ceased on the design, right-of-way acquisition, and railroad agreement. Work did not resume for this project until 2005 when funding was partially

Prepared by: 
Proofed by: 

Reviewed and Approved by: 
Presented by: 

restored. At that time work resumed for right-of-way acquisition. The railroad agreement was never completed or approved by Union Pacific.

In December 2011, after all right-of-way acquisition had been completed, the City resumed remaining work with the expectation of federal funds being used for construction. Agreement No. 11-133 was approved with AECOM, successor to LAN Engineering Corporation, to assist the City with federal environmental clearance. That work is currently underway with completion expected next spring. It is anticipated that with federal environmental clearance the City will be able to complete the design by the end of 2013 and be able to start construction on the project by early 2014. In order for the City to proceed with construction, it is still necessary to complete the railroad agreement.

Although Agreement No. 01-42 should have culminated in a construction agreement with Union Pacific Railroad, changes requested by the railroad and the later loss of funding from the state prevented this from happening. For the most part, none of the work previously done by Douglas Engineering, Inc., is usable. A new agreement needs to be developed.

The City requested a new proposal from Douglas Engineering, Inc., for the required railroad agreement. The proposal is acceptable to City staff, and proposed Agreement No. 13-06 has been prepared incorporating the proposal dated December 7, 2012, from Douglas Engineering, inc. The agreement also includes assistance in getting separate agreements with the California Department of Transportation, Division of Rail, and the California Public Utilities Commission, also required before the City can use state grade separation funds for construction. These services also include invoicing to both the railroad and the CPUC. A complete list of services is listed in Exhibit "A" of the Agreement, the project schedule is listed in Exhibit "B," compensation in Exhibit "C," and the rate schedule in Exhibit "D."

FISCAL IMPACT: Douglas Engineering, Inc., has proposed a fee not to exceed \$29,750.00. A contingency of an additional \$5,000 is also included in the recommendation. Funding for various elements of the Monte Vista Grade Separation Project is included in the Measure I Expenditure Plan for fiscal years 2011/2012 and 2012/2013.

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

1. Approve Agreement No. 13-06 with Douglas Engineering for engineering services associated with construction of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.
2. Authorize a \$35,000 appropriation from Measure I funds for engineering services.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

MONTE VISTA AVENUE GRADE SEPARATION

THIS AGREEMENT is made and effective as of January 7, 2013, between the City of Montclair, a municipal corporation ("City") and Douglas Engineering, Inc., a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on January 7, 2013, and shall remain and continue in effect for a period of 24 months until tasks described herein are completed, but in no event later than December 31, 2015, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

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

3. PERFORMANCE

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

4. CITY MANAGEMENT

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

5. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates set forth in Exhibit D and terms and the schedule of payment as set forth in Exhibit C, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed \$29,750.00 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs, and expenses including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error, or omission of Consultant, its officers, agents, employees, or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees,

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

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

10. INSURANCE

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

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

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

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

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

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

16. NOTICES

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

To City:	Michael C. Hudson City Engineer City of Montclair P.O. Box 2308 Montclair, CA 91763
To Consultant:	Douglas H. Mays, P.E. President Douglas Engineering 414 Tennessee Street, Suite G Redlands, CA 92373-8152

17. ASSIGNMENT

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

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONFIDENTIALITY

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

22. DISCRIMINATION

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

23. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

CITY:

CITY OF MONTCLAIR, CALIFORNIA

CONTRACTOR:

DOUGLAS ENGINEERING, INC.

Paul M. Eaton
Mayor

Name

Title

ATTEST:

Yvonne L. Smith
Deputy City Clerk

Name

Title

Date

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney

EXHIBIT A

**Professional Engineering Services
To Assist the City in Negotiation of a Public Highway Overpass Crossing Agreement with the Union
Pacific Railroad Company
For
Monte Vista Avenue Overhead
CPUC Crossing Nos.001B-517.46 & 003-35.00
DOT ID NO 746936L & 810896P**

City of Montclair

December 7, 2012

**Exhibit "A"
Scope of Services**

Overview

The City is expecting to complete the environmental documentation for the project by the end of the second quarter, 2013. Once the environmental documentation is complete the City plans to proceed with finalizing the project plans and specifications leading to construction of the Monte Vista Ave Overhead in late 2013.

A Public Highway Overpass Crossing Agreement with the Union Pacific Railroad Company (UPRR) is necessary for the City to proceed with the construction of the grade separation over the UPRR right of way.

The City and the UPRR had entered into a agreement March 22, 2002 for this crossing however the expiration provisions of said agreement has since render this agreement null and void.

In addition to the Public Highway Overpass Crossing Agreement with the UPRR an Order from the California Public Utilities Commission, CPUC, is needed approving the grade separation for construction over the railroad right of way.

Lastly the City has nominated this crossing to the California Public Utilities Commission Grade Separation Priority List for the Fiscal Year 2012-2013 and 2013-2014 with the anticipation of requesting a \$5,000,000 allocation from this list. This is not a guaranteed source of funding however the project is ranked No. 18 on the 2012-2013 priority list of those at-grade crossings most in need of grade separation in California and is certainly in a viable position to be considered for an allocation.

In order for the City to apply for an allocation for the grade separation from this funding source it must have;

- Environmental Documentation
- Public Highway Overpass Crossing Agreement with the UPRR
- CPUC Order Authorizing the Construction of the Grade Separation
- City Resolution attesting to the fact;
 - That the City has matching funds to complete construction,
 - That the project will be advertized for construction within two (2) years from the date of the Caltrans/City funding agreement
 - Authorize a City official to act on behalf of the City on all matters related to the allocation.

Scope of Services

The Engineer will provide management and coordination services with the City, State Agencies, Railroad and City's other Consultants to implement the scope of services provided for herein.

Task 1- City/Railroad Agreement:

**Professional Engineering Services
To Assist the City in Negotiation of a Public Highway Overpass Crossing Agreement with the Union
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DOT ID NO 746936L & 810896P**

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The Engineer will be responsible for assisting the City in obtaining the Public Highway Overpass Crossing Agreement (Agreement) with the UPRR including but not limited to;

- a) Coordinate with the UPRR during the development of the plan for the grade separation and solicit their input and separation requirements.
- b) Request the UPRR to prepare the New Public Highway Overpass Crossing Agreement. Engineer to prepare a draft of the agreement, if requested to do so by UPRR.
- c) Meet and confer with the UPRR regarding the terms and conditions of the Agreement.
- d) Furnish plans and cost estimates to the UPRR for said agreement. Reference documents to be provided by City's Grade Separation Design Engineer.
- e) Prepare the legal description for the permanent bridge crossing of the UPRR right of way and the temporary construction easement. The Engineer will revise and update existing legal descriptions and plats as necessary.
- f) Monitor and coordinate the development of the Agreement with the UPRR and the City.
- g) Keep City updated with regards to the progress of the Agreement development.
- h) Make recommendations to the City regarding the terms of project specific conditions addressed in the Agreement.
- i) With City concurrence, negotiate with the UPRR the terms of project specific conditions.
- j) Coordinate with and provide assistance to the City Engineer and City attorney regarding the terms of the agreement.

Task 2- CPUC Order Authorizing Construction of the Grade Separation.

- a) The Engineer arrange for and conduct a dialogistic meeting with the California Public Utilities Commission (CPUC) to include the UPRR, City and City's Grade Separation Design Engineer to introduce the CPUC Area Engineer to the project and to determine any specific CPUC requirements for the grade separation.
- b) The Engineer will assemble documentation and prepare a GO-88B request to the CPUC for an Order Authorizing Construction of the Separation.
- c) The Engineer will coordinate with the CPUC, UPRR and Metrolink for the Order Authorizing Construction of the Separation.
- d) The Engineer will prepare the notice to the CPUC upon closure of the existing at-grade crossing

Task 3- Request for an Allocation from the Grade Separation Priority List

- a) If the Environmental Documentation, Public Highway Overpass Crossing Agreement with the UPRR and the CPUC Order Authorizing the Construction of the Grade Separation are in place by April 1, 2013 the Engineer will compile the final documentation and make a Request for a \$5.0 million Allocation from the 2012-2013 CPUC Grade Separation Priority List;

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Or

If the request for an allocation submitted by April 1, 2013 is unsuccessful in request for an allocation the Engineer will update the original Request for an Allocation and resubmit a Request for a \$5.0 million Allocation from the 2013-2014 CPUC Grade Separation Priority List on behalf of the City. The request for an allocation must be submitted to Caltrans on or before April 1, 2014.

Or

If all the required documentation is not in place by April 1, 2013 the Engineer will make a Request for a \$5.0 million Allocation from the 2013-2014 CPUC Grade Separation Priority List on behalf of the City. The request for an allocation must be submitted to Caltrans on or before April 1, 2014.

- b) The Engineer will prepare a draft Resolution for City Council approval;
1. Certifying that the City has matching funds for the construction of project and;
 2. That the project will be advertized for construction within two (2) years from the date of the City/Caltrans funding agreement and;
 3. Designate an official of the City to execute agreements and other documents and to act on behalf of the City on all matters relating to the allocation.

Optional Services Not a Part of this Scope of Services; the City, at its option, may elect to proceed with these optional services as an amendment to this agreement.

Task 4- Nominate Monte Vista Avenue Grade Separation to the 2014-2015 and 2015-2016 Grade Separation Priority List.

Should the City not be successful in obtaining a \$5,000,000.00 allocation from the 2012-2013 or 2013-2014 Grade Separation Priority list funding program the Engineer would assist the City in preparing an application to nominate Monte Vista Avenue Grade Separation to the 2014-2015 and 2015-2016 Grade Separation Priority List. In order for the project to be eligible for a \$5.0 million allocation from this funding program the project must be included on the Grade Separation Priority list for the fiscal year which the Request for an Allocation is made.

Task 5- City/Caltrans Grade Separation Funding Agreement

Should the City be successful in receiving \$5,000,000.00 allocation for the Grade Separation Priority List the Engineer will:

- a) Assist the City with progress invoicing for Caltrans reimbursement from the Grade Separation Priority List Allocation, including final Project Cost Accounting Report.

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- b) The City will provide the Engineer the project cost accounting documentation necessary to support invoicing Caltrans for reimbursement. The reimbursements to include previously incurred costs for preliminary engineering, right of way and environmental clearance. The reimbursements will also include current construction engineering and construction costs as they relate to the project. Caltrans may withhold 10% of the requested reimbursements until the project is completed and final accounting is complete.

Task 6- Invoice the Railroad for their mandatory contribution to the total Project Cost.

- a) Assist the City with the final invoice to the Railroad for their required participation in the project cost. This invoice must be prepared upon completion of the project's final cost accounting.

EXHIBIT B

**Professional Engineering Services
To Assist the City in Negotiation of a Public Highway Overpass Crossing Agreement with the Union
Pacific Railroad Company
For
Monte Vista Avenue Overhead
CPUC Crossing Nos.001B-517.46 & 003-35.00
DOT ID NO 746936L & 810896P**

City of Montclair

December 7, 2012

**Exhibit "B"
Project Schedule**

<u>Task</u>	<u>Task Description</u>	<u>Start Date</u>	<u>Finish Date</u>
<u>Task 1</u>	<u>City/Railroad Agreement</u>	<u>NTP</u>	<u>UPRR Dependent</u>
<u>Task 2</u>	<u>CPUC Order Authorizing Construction of the Grade Separation</u>	February 4, 2013	<u>Not later than April 1, 2013 *</u> <u>or</u> <u>April 1, 2014*</u>
<u>Task 3</u>	<u>Request for an Allocation from the Grade Separation Priority List</u>	February 4, 2013	<u>Not later than April 1, 2013 *</u> <u>or</u> <u>April 1, 2014*</u>

- Dependent on whether the Public Highway Overpass Crossing Agreement with the UPRR is in place before April 1, 2013, if not schedule slips to the April 1, 2014 finish date.

EXHIBIT C

**Professional Engineering Services
To Assist the City in Negotiation of a Public Highway Overpass Crossing
Agreement with the Union Pacific Railroad Company
For
Monte Vista Avenue Overhead
CPUC Crossing Nos.001B-517.46 & 003-35.00
DOT ID NO 746936L & 810896P**

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**Exhibit "C"
Compensation**

Task	Task Description	Budget
Task 1	City/Railroad Agreement	\$14,000.00
Task 2	CPUC Order Authorizing Construction of the Grade Separation.	\$6,500.00
Task 3	Request for an Allocation from the Grade Separation Priority List	\$8,500.00
	Subtotal	\$29,000.00
	Reimbursable items of work at cost plus ten percent (10%)	\$750.00
	Total	\$29,750.00

These services will be performed on a time and materials basis for the estimated budgets set forth herein, in accordance with the current Rate Schedule, attached hereto and made a part hereof.

EXHIBIT D

**Professional Engineering Services
To Assist the City in Negotiation of a Public Highway Overpass Crossing
Agreement with the Union Pacific Railroad Company
For
Monte Vista Avenue Overhead
CPUC Crossing Nos.001B-517.46 & 003-35.00
DOT ID NO 746936L & 810896P**

City of Montclair

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**Exhibit "D"
Rate Schedule**

Hourly Billing Rates

Project Manager-Engineer	\$186.83
Engineering/CAD Technician	\$86.41
Engineering Technician	\$77.07

Reimbursable Costs:

<u>All Reproduction, Printing and Materials Costs;</u> Including costs for City as built plans, maps, reports, and studies; utility company plans; printing for City submittals and approvals; and client requested reproduction	Cost + 10%
Express Mail/Courier/Next Day Service	Cost + 10%
Subconsultant Engineering Services	Cost + 10%
Mileage	\$0.65 per mile

**Additional services and/or extra work may be subject to a 10% markup upon
mutual agreement between the Client and Consultant,**

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-01, A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING THE DUE DILIGENCE AUDIT REVIEW COMPLETED BY TEAMAN, RAMIREZ & SMITH, INC.	DATE: January 7, 2013
	SECTION: RESOLUTIONS
	ITEM NO.: 1
	FILE I.D.: SAG060
	DEPT.: SUCCESSOR AGENCY

REASON FOR CONSIDERATION: Pursuant to Health and Safety Code Section 34179.5(a) as amended by AB 1284, the Successor Agency was required to employ a licensed accountant, approved by the County Auditor–Controller, to conduct a due diligence audit review of nonhousing funds held by the successor agency to determine the unobligated balance available for transfer to the affected taxing agencies.

The Diligence Audit Review is included in the agenda report and made a part of Resolution No. 13-01.

BACKGROUND: The Dissolution Act, Parts 1.8 and 1.85 of the California Health and Safety Code, as modified by the Supreme Court's opinion in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 and as amended by Assembly Bill 1484 and effective June 27, 2012, in particular Section 34719.5, requires each successor agency to retain a licensed accountant for the purposes of determining the unobligated fund balances available for transfer to the taxing agencies. Two due diligence reviews are required, one relates to housing assets and obligations and the other relates to nonhousing assets and obligations. This accountant's report, included in the agenda packet, pertains to the nonhousing assets and obligations.

The Housing Due Diligence Audit Review had to be submitted to the Oversight Board, the County Auditor–Controller (CAC), the State Controller's Office (SCO), and State Department of Finance (DOF) by October 1, 2012. Successor Agency staff in Montclair submitted the document by email to the Oversight Board, County, and State agencies on September 27, 2012. The Oversight Board had until October 15, 2012 to complete a public comment session, review public comments and consider the results/opinions offered, if any, by the CAC, and then review, approve and transmit the report again to the CAC, SCO, and DOF. The Oversight Board approved the Housing Due Diligence Review on October 10, 2012. The Successor Agency review of the Housing Due Diligence Review occurred on October 15, 2012.

Successor Agency staff selected and the County Auditor–Controller ("CAC") approved Teaman, Ramirez & Smith, Inc., an accounting firm with experience and expertise in local government accounting to conduct the both due diligence reviews to determine the

Prepared by: <u>M. STARRS</u>	Reviewed and Approved by: <u>M. STARRS</u>
Proofed by: <u>Juanne Lomita</u>	Presented by: <u>[Signature]</u>

unobligated balances available for transfer to taxing entities relating to housing and non-housing assets and obligations in order to ascertain unobligated cash or cash equivalent balances that would be available for transfer to local taxing entities. Teaman, Ramirez & Smith, Inc., currently prepares the City's annual audit reports.

Pursuant to Section 34179.5 of the Health and Safety Code, the due diligence audit review requires the independent accountant to reconcile assets, balances and liabilities with previous reports made to the State. Further, this review includes valuation of cash and cash equivalents (such as Local Agency Investment Fund deposits), and obligations. "At a minimum, the [due diligence] review required by this section shall include the following: ... '[a]n itemized statement of the values of any assets that are not cash or cash equivalents. This may include physical assets, land, records, and equipment.'"

The review and report as to nonhousing assets must occur between November 2012 and April 2013. The review process entails several steps in order to be completed as required, and the penalty for failure to pay or transfer funds to the County will result in the DOF causing the equivalent amount(s) to be deducted from sales and use taxes and/or property taxes due to the City as the sponsoring community.

The key dates for the nonhousing review include the following:

DUE DILIGENCE REVIEW SCHEDULE AND DEADLINES

	<i>Nonhousing Review</i>
Due diligence review due from Successor Agency to Oversight Board, CAC, OSC, and DOF	December 15, 2012
Oversight Board deadline to conduct Hearing and review, approve, and submit due diligence review	January 15, 2013
DOF deadline to issue a "Finding of Completion"	April 1, 2013
Successor Agency deadline to Request a Meet and Confer With DOF about reviews	Five days of DOF action (no later than April 6, 2013)
Successor Agency deadline to make transfers to County Auditor-Controller based on DOF findings	April 10, 2013

Teaman, Ramirez & Smith, Inc., reviewed cash and noncash balances, expenditures, revenues, and transfers prior to and following dissolution on February 1, 2012. In general, the activities noted in the report reflect transactions associated with the former Agency in the course of satisfying enforceable obligations.

The Oversight Board conducted the mandatory meeting to receive public comment on the Housing Due Diligence Audit Review on December 19, 2012. Pursuant to Section 34179 (b) of the Health and Safety Code, a meeting to receive public comment had to be conducted at least five business days prior to Oversight Board consideration of the Due Diligence Audit Review. No public comment was received at the December 19, 2012 meeting. The Oversight Board is scheduled to consider approval of the Due Diligence Review on January 9, 2013.

FISCAL IMPACT: The primary findings of the Housing Due Diligence Audit Review include the following:

Total amount of assets held by the Successor Agency on June 30, 2012:		\$15,882,611
Less assets restricted by debt covenants or other restrictions:		
Unexpended pre-January 1, 2011 bond proceeds:	\$(14,160,644)	
Trustee balances present but committed to debt service:	<u>+(3,963,812)</u>	(18,124,456)
Less balances needed to satisfy ROPS and other enforceable obligation:		(5,595,237)
Add the amount of assets transferred to the City for which An enforceable obligation with a third party requiring transfer And obligating the use of transferred assets did not exist:		14,160,644
Amount available to be remitted to the County for disbursement to taxing agencies:		<u>\$ 6,323,562</u>

RECOMMENDATION: Staff recommends that the Successor Agency adopt Resolution No. 13-01 approving the Due Diligence Review completed by Teaman, Ramirez and Smith, Inc.

RESOLUTION NO. 13-01

**A RESOLUTION OF THE SUCCESSOR AGENCY TO
THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY
APPROVING THE DUE DILIGENCE AUDIT REVIEW
COMPLETED BY TEAMAN, RAMIREZ & SMITH, INC.**

WHEREAS, Assembly Bill 1X 26 (AB 26) was signed by the Governor on June 28, 2011 and upheld as constitutional by the California Supreme Court. On June 27, 2012, the Governor signed Assembly Bill 1484 (AB 1484). AB 26 and AB 1484 (together called the Dissolution Bills) eliminated California Redevelopment agencies statewide and established successor agencies to pay, perform, and effectuate the enforceable obligations of the former redevelopment agencies and to wind down the affairs of the former redevelopment agencies; and

WHEREAS, Health and Safety Code Section 34179.5 (a) as amended by AB 1484 and in furtherance of subdivision (d) of Section 34177 requires the Successor Agency to employ a licensed accountant, approved by the County Auditor-Controller and with experience and expertise in local government accounting, to conduct a due diligence audit review of nonhousing funds transferred from the former City of Montclair Redevelopment Agency to the Successor Agency to determine the unobligated balances available for transfer to the affected taxing agencies; and

WHEREAS, the Successor Agency, with the approval of the County of San Bernardino Auditor-Controller, contracted with Teaman, Ramirez & Smith, Inc., to perform the Due Diligence Audit Review for former nonhousing City of Montclair Redevelopment Agency funds transferred to the Successor Agency and has completed and issued the review that is attached; and

WHEREAS, Section 34179.5(a), as amended by AB 1484, also provides that the Due Diligence Audit Review for the former City of Montclair Redevelopment Agency nonhousing funds transferred to the Successor Agency shall be submitted by December 15, 2012 to the County of San Bernardino Auditor-Controller's Office, the State Controller's Office, and the State Department of Finance at the same time that it submits the Due Diligence Audit Review to the Oversight Board. The Successor Agency for the City of Montclair Redevelopment Agency submitted the completed Review to the Oversight Board, County, and State by email on December 13, 2012; and

WHEREAS, the Oversight Board has convened a public comment session on December 19, 2012, which was at least five business days before the Oversight Board held the approval vote specified in Section 34179.6 (c); and

WHEREAS, Section 34179.6 (c), as amended by AB 1484, requires by January 15, 2013, that the Oversight Board shall review, approve, and transmit to the County of San Bernardino Auditor-Controller, the State Controller, and the State Department of Finance the determination of the amount of cash and cash equivalents that are available for disbursement to the taxing agencies as determined by the Due Diligence Audit Review and according to the method provided in Section 34179.5; and

WHEREAS, the Successor Agency of the City of Montclair Redevelopment Agency desires to approve the Due Diligence Audit Review; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

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

Section 1. That the foregoing recitals are true and correct.

Section 2. The Successor Agency hereby accepts the Due Diligence Audit Review and has received the results of the review conducted pursuant to Section 34179.5 for former funds of the City of Montclair Redevelopment Agency transferred to the Successor Agency, to comply with AB 1484 and the Health and Safety Code Section 34179.6 (a).

Section 3. The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any rights the Successor Agency may have to challenge the effectiveness and/or legality of all or any portion of the Dissolution Bills through administrative or legal proceedings.

Section 4. The Successor Agency hereby approves the Due Diligence Audit Review prepared by Teaman, Ramirez & Smith, Inc., with changes approved by the Oversight Board, if any.

Section 6. This Resolution shall take effect immediately upon its adoption.

Section 7. The Secretary of the Successor Agency shall certify as to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2013.

Chairman

ATTEST:

Secretary

I, Yvonne L. Smith, Secretary of the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 13-01 was duly adopted by the Board of Directors of the Successor Agency to the City of Montclair Redevelopment Agency at a regular meeting thereof held on the XX day of XX, 2013, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Secretary

MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
DECEMBER 17, 2012 AT 8:13 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Pro Tem Ruh called the meeting to order at 8:13 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Ruh; Council Member Raft; City Manager
Starr

III. APPROVAL OF MINUTES

A. Minutes of Regular Personnel Committee Meeting of
December 3, 2012

Moved by Mayor Pro Tem Ruh, seconded by City Manager Starr,
and carried unanimously to approve the minutes of the Personnel
Committee meeting of December 3, 2012.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

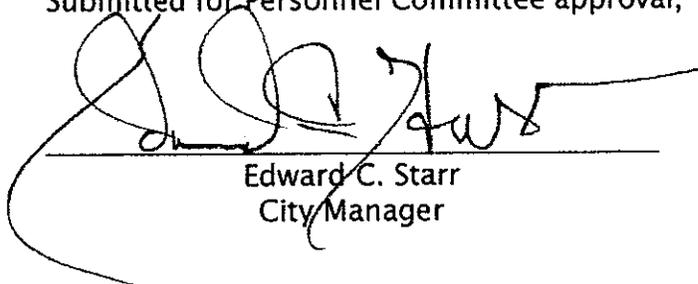
At 8:14 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

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

VI. ADJOURNMENT

At 8:30 p.m., Mayor Pro Tem Ruh adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager