

CITY OF MONTCLAIR

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

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

March 4, 2013

7:00 p.m.

*As a courtesy please silence your cell phones 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](http://www.ci.montclair.ca.us) and can be accessed the day following the meeting after 10:00 a.m.*

Page No.

- I. **CALL TO ORDER** - City Council, Successor Agency and Montclair Housing Corporation Boards of Directors, and Montclair Housing Authority Commissioners

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**

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, Montclair Housing Corporation Board of Directors, and Montclair Housing Authority Commissioners. (Government Code Section 54954.3)*

*Under the provisions of the Brown Act, the Council/Successor Agency Board/MHC Board/MHA Commission 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 Adjourned Council Meeting of February 16, 2013 [CC]

**B. Administrative Reports**

1. Consider Authorization of a \$6,125 Appropriation From the Contingency Fund for Improvements Associated With the City Hall Handicap Accessibility and Patio Project [CC] 4
2. Consider Approval of the City of Montclair Statement of Investment Policy [CC] 6
3. Consider Successor Agency Board of Directors' Approval of the City of Montclair as Successor Agency for the City of Montclair Redevelopment Successor Agency Statement of Investment Policy [SA] 19
4. Consider Montclair Housing Corporation Board of Directors' Approval of the City of Montclair Housing Corporation Statement of Investment Policy [MHC] 32
5. Consider Montclair Housing Authority Commissioners' Approval of the City of Montclair Housing Authority Statement of Investment Policy [MHA] 45
6. Consider Declaring Certain City Property and Unclaimed Property in Police Custody as Surplus and Available for Auction [CC] 58
7. Consider Approval of Warrant Register and Payroll Documentation [CC] 61

**C. Agreements**

1. Consider Approval of Agreement No. 13-17, a Tolling Agreement Between the City of Montclair and San Bernardino County Concerning Property Tax Administration Fees [CC] 62
2. Consider Approval of Agreement No. 13-18 With Ontario-Montclair School District for Use of Kingsley Park Ball Fields [CC] 70
3. Consider Approval of Agreement No. 13-20 Amending Agreement No. 12-36 With the San Bernardino County Department of Aging and Adult Services to Increase Funding for the Senior Citizen Nutrition Program [CC] 88
4. Consider Approval of Agreement No. 13-21 Amending Agreement No. 12-21 With the County of San Bernardino for Access to the Sheriff's Automated Systems [CC] 108

D. Resolutions

1. Consider Adoption of Resolution No. 13-2979 Supporting the Renewal, Expansion, and Renaming of the San Bernardino County Recycling Market Development Zone [CC] 112
2. Consider Adoption of Resolution No. 13-2980 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges [CC] 117

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

- A. City Attorney
- 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 February 19, 2013 126

XII. ADJOURNMENT OF CITY COUNCIL, SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS, AND MONTCLAIR HOUSING AUTHORITY COMMISSIONERS

*The next regularly scheduled City Council, Successor Agency Board, and Montclair Housing Corporation Board meetings will be held on Monday, March 18, 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, Montclair Housing Corporation Board, and Montclair Housing Authority Commission 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 February 28, 2013.*

## AGENDA REPORT

**SUBJECT:** CONSIDER AUTHORIZATION OF A \$6,125 APPROPRIATION FROM THE CONTINGENCY FUND FOR IMPROVEMENTS ASSOCIATED WITH THE CITY HALL HANDICAP ACCESSIBILITY AND PATIO PROJECT

**DATE:** March 4, 2013  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 1  
**FILE I.D.:** PUB102  
**DEPT.:** PUBLIC WORKS

**REASON FOR CONSIDERATION:** Appropriation of general funds requires City Council approval.

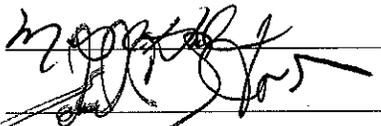
**BACKGROUND:** In response to a complaint received last year about lack of handicap accessibility to City Hall from the City Hall parking lot, City personnel have undertaken significant reconstruction around the southern entrance. Although ramps and handrails were previously constructed for accessibility purposes, the ramps no longer met accessibility standards. Tree roots had caused significant uplift, causing ramp grades to exceed the maximum permissible of 5 percent and cross slopes to exceed the maximum permissible of 2 percent. Uplift over the years had also created pavement offsets which had been ground down for years, resulting in some very thin pieces of concrete.

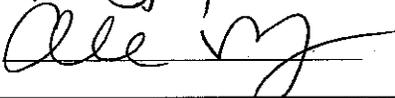
A design was prepared for the required work with the construction cost estimated at \$34,000. At the City Manager's direction, the City Engineer was asked to determine if staff could perform most or all of the work and what the cost would be. Direction was given for staff to proceed with the work, minimizing the amount of contract work required.

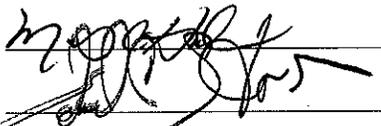
Public Works Maintenance Workers have completed all work to date with the exception of some landscaping in planter areas. The gate installation was performed by an outside contractor, Dan Lyman Construction, Inc., at a cost of \$6,125. This company also recently completed the fencing improvements at the Senior Center facility. Landscaping within surrounding planter areas will be completed by City Maintenance Workers this spring. The completed improvements included removal and replacement of concrete walkways, new hand railings, and a new break room patio.

**FISCAL IMPACT:** The cost of materials to date is approximately \$11,000. Funds used for this work were included in this year's Public Works budget for concrete, tool purchases and rentals, and other miscellaneous materials. Personnel costs to date are approximately \$12,000. The cost for installation of the gate and hardware for the new employee patio is \$6,125. The City Council also previously approved an appropriation of \$3,000 for the purchase of security card readers for City Hall access points. Neither the cost for the gate and hardware nor the security card readers were included in the original \$34,000 construction cost estimate for this project.

Prepared by: 

Reviewed and Approved by: 

Proofed by: 

Presented by: 

**RECOMMENDATION:** Staff recommends the City Council authorize a \$6,125 appropriation from the Contingency Fund for improvements associated with the City Hall Handicap Accessibility and Patio Project.

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF THE CITY OF  
MONTCLAIR STATEMENT OF INVESTMENT  
POLICY

**DATE:** March 4, 2013  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 2  
**FILE I.D.:** FIN370  
**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of the City of Montclair Statement of Investment Policy. The Statement of Investment Policy is attached for the City Council's review and consideration.

**BACKGROUND:** The City of Montclair Statement of Investment Policy outlines the following:

- The Treasurer's authority to invest surplus moneys
- The criteria for investment selection
- The permissible investment media as set forth in Government Code Section 53635
- Internal control procedures
- The City's investment strategy

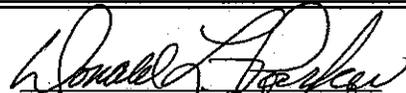
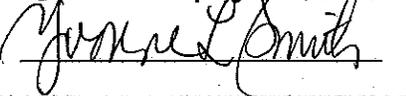
The Policy is submitted to the City Council in accordance with Government Code Section 53646—Section 53646 was added to the Government Code as a result of the 1995 Orange County bankruptcy.

In addition to an annual investment policy, the Treasurer or his designee may issue a quarterly report to the City Council that provides specifics of the investment activity during the period covered, a statement of compliance with the investment policy, and a statement denoting the City's ability to meet its expenditure requirements during the next six months. This is done monthly in the form of a Treasurer's Report to the City Council.

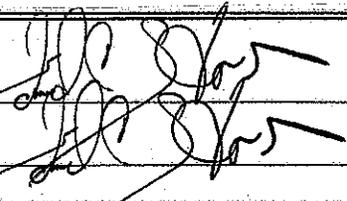
The Statement of Investment Policy in all important respects is identical to previous annual policies approved by the City Council in previous fiscal years; however, the annual designations have been removed and the current policy would continue until modified. Prior to 2006, Government Code Section 53646 required municipalities to annually review and approve, at a public meeting, their investment policies and present quarterly reports to their respective legislative bodies. As part of the reform of the State Mandate Reimbursement Program, these two requirements were changed to become optional and, thus,

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Prepared by:

Reviewed and  
Approved by:



Proofed by:

Presented by:

ineligible for state mandate reimbursement by simply changing the word "shall" to "may" as demonstrated below:

- "In the case of any other local agency, the treasurer or chief fiscal officer of the local agency *may* annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting."
- "The treasurer or chief fiscal officer *may* render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

The State Legislature encourages city officials to continue taking the actions formerly mandated by Government Code Section 53646 in recognition of state and local interests.

It is important to note a change that occurred two years ago to Section 53646 of the Government Code: The requirement that the City must continue with semiannual submission of the investment report and annual submission of the investment policy as required by AB 943 was deleted from this Section.

**FISCAL IMPACT:** Approval of the City of Montclair Statement of Investment Policy would create no fiscal impact to the City's General Fund.

**RECOMMENDATION:** Staff recommends the City Council approve the City of Montclair Statement of Investment Policy.



## CITY OF MONTCLAIR

### Statement of Investment Policy

#### I. PURPOSE

The purpose of this investment policy is (1) to fix the responsibility for investing surplus moneys with the City Treasurer and his designee; (2) to establish criteria for selecting investments; (3) to outline investment media in which a local agency may invest its surplus money; (4) to establish internal control procedures to assure the investment program is operated in a safe and prudent manner; and (5) to set forth the investment strategy.

This policy shall continue until such time as it is revised or superseded by a subsequent investment policy.

#### II. SCOPE

It is intended that this policy cover all funds and investment activities under the direct authority of the City of Montclair.

#### III. TREASURER'S AUTHORITY TO INVEST SURPLUS MONEYS

It is the responsibility of the City Treasurer and his designee, the Finance Director, to invest the City's surplus moneys. Government Code Section 53607 enables a city council to delegate its responsibility to invest surplus moneys to the treasurer, provided he submits to the council a monthly report of investment transactions (Treasurer's Report).

#### IV. PUBLIC TRUST

All participants in the investment process shall act as custodians of the public trust. The City Treasurer or his designee, the Finance Director, shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust. In a diversified portfolio it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

## **V. PRUDENCE**

The City of Montclair adheres to the guidance provided by the "prudent investor standard," which obligates a fiduciary to insure that all persons investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds shall act with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the City.

## **VI. DIVERSIFICATION**

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

## **VII. MARKET-AVERAGE RATE OF RETURN**

The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the City of Montclair's risk constraints, the cash flow characteristics of the portfolio, state and local laws, and ordinances and resolutions that restrict investments.

## **VIII. CRITERIA FOR INVESTMENT SELECTION**

In accordance with Government Code Section 53600.5, the primary criteria, in priority of order, which investment decisions shall be based upon are as follows:

- (a) **SAFETY:** Safety of principal is the most important criteria of investment. Attention must be given to the continued solvency of financial institutions in which the City invests money. Also, investments in long-term securities must be considered from the standpoint of potential losses incurred upon sale of securities to meet operating needs.
- (b) **LIQUIDITY:** The City's investment portfolio will remain sufficiently liquid to meet all operating requirements that might be reasonably anticipated.
- (c) **YIELD (RETURN ON INVESTMENT):** Investments should be made with the objective of maximizing the rate of return consistent with safety and liquidity requirements.

## **IX. PERMISSIBLE INVESTMENTS**

Government Code Section 53635 authorizes a local agency to deposit a portion or all of its moneys in state or national banks, savings

associations or federal associations, credit unions, or any federally insured industrial loan company in this state. Also, Code Section 53635 enumerates investment media in which a local agency may invest its surplus moneys pursuant to Code Section 53601. The following list of permissible investment media is verbatim from Government Code Section 53601:

- (a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency, or authority of the local agency.
- (b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.
- (c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency, or authority of the state.
- (d) Registered Treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.
- (e) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.
- (f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
- (g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of banker's acceptances may not exceed 180 days maturity or 40 percent of the agency's surplus funds, which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the banker's acceptances of any one commercial bank pursuant to this section.

- (h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Nationally Recognized Statistical-Rating Organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):
  - (1) The entity must be organized and operating in the United States as a general corporation having total assets in excess of five hundred million dollars (\$500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, as provided for by a nationally recognized statistical-rating organization.
  - (2) The entity must be organized within the United States as a special purpose corporation, trust, or limited liability company having program-wide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond, and having commercial paper that is "A-1" or higher rating, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 40 percent of the agency's money may be invested in eligible commercial paper.

- (i) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.
- (j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any

securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

- (2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreements does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.
- (3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:
  - (A) The security to be sold on reverse repurchase agreement or securities lending agreements has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.
  - (B) The total of all reverse repurchase agreements and securities lending agreement owned by the local agency does not exceed 20 percent of the base value of the portfolio.
  - (C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.
  - (D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

- (4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.
- (B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:
- (i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.
  - (ii) Financing of a local agency's activities.
  - (iii) Acceptance of a local agency's securities or funds as deposits.
- (5) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.
- (B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.
- (C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.
- (D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third

party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

- (E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.
- (F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.
- (k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.
- (l) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.
- (2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 *et seq.*).

- (3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:
    - (A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
    - (B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000).
  - (4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:
    - (A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
    - (B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).
  - (5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).
- (m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

- (n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.
- (o) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.
- (p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (o), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:
  - (1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.
  - (2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (o), inclusive.
  - (3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

Government Code Section 16429.1 authorizes a local agency to deposit a portion or all of its surplus moneys in the Local Agency Investment Fund (LAIF). LAIF is an account established by the state that offers a local agency a safe, highly liquid means to invest its surplus funds.

Government Code Section 16430 limits LAIF to investing in securities, which are essentially the same as those prescribed in Section 53635 above.

#### **X. INTERNAL CONTROL PROCEDURES**

The following internal control procedures are established to assure that the investment program is operated in a safe and prudent manner. An employee of the City, other than the City Treasurer or his designee, will verify on a monthly basis to City Council that all investment activity undertaken during the month has been conducted in compliance with the investment policy, including the below internal control procedures.

- (a) **SAFEKEEPING:** Securities purchased from brokers/dealers must be held in a third-party custodial safekeeping account. The securities should be held in a manner that establishes the City's right of ownership.
- (b) **CONFIRMATION:** Confirmation receipts for purchase of authorized securities should include the following information: trade date, par value, maturity value, interest rate, price, settlement date, description of securities purchased, agency's name, net amount due, and third-party custodial information. The confirmation receipt must be issued by the third-party custodian and must be received by the City prior to remitting payment for the security.
- (c) **PAYMENT:** Payment for securities should be on a Delivery Versus Payment (DVP) basis. This must be done via the City's third-party safekeeping agent. **NOTE:** Book entry is considered delivery.
- (d) **WIRE TRANSFERS:** All wire transfers for the purchase of securities should be initiated by the City Treasurer or his designee who is authorized to invest on behalf of the City. The bank document used to initiate a wire transfer must be approved by the employee responsible for monitoring compliance with internal control procedures prior to executing the wire transfer. **NOTE:** This procedure does not apply to deposits with the LAIF.

#### **XI. BANKS AND SECURITIES DEALERS**

In selecting financial institutions for the deposit or investment of the City of Montclair funds, the Treasurer or his designee, the Finance Director, shall consider the creditworthiness of institutions. The Treasurer and his designee, the Finance Director, shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which funds are deposited or invested.

## **XII. RISK TOLERANCE**

The City of Montclair recognizes that investment risks can result from issuer defaults, market price changes, or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. The City Treasurer and his designee, the Finance Director, are expected to display prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken which jeopardizes the total capital position of the overall portfolio. The Treasurer or his designee, the Finance Director, may periodically establish guidelines and strategies to control risks of default, market price changes, and illiquidity.

## **XIII. INVESTMENT STRATEGY**

The City shall invest at least 15 percent of its surplus moneys to mature within one year. The moneys will be deposited in the LAIF, in certificates of deposit issued by banks and savings and loans in amounts which are fully insured by FDIC and invested in the securities discussed in (a) through (p) of Section IX above, provided no moneys will be invested in reverse repurchase agreements, nor will any securities be purchased on margin. Further, pursuant to Government Code Section 53601.6, no moneys will be invested in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

The City shall invest at least 50 percent of its surplus moneys, including the moneys invested pursuant to paragraph (1), in investment media with maturities no greater than three years. The investment restrictions outlined in paragraph (1) will apply to investments made in accordance with this paragraph.

The City may invest the balance of its surplus funds in any of the investment media set forth in paragraph (1), provided the investment has a maturity no greater than five years. The investment restrictions outlined in paragraph (1) will apply to investments made in accordance with this paragraph.

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER SUCCESSOR AGENCY BOARD OF DIRECTORS' APPROVAL OF THE CITY OF MONTCLAIR AS SUCCESSOR AGENCY FOR THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY STATEMENT OF INVESTMENT POLICY	<b>DATE:</b> March 3, 2013 <b>SECTION:</b> ADMIN. REPORTS <b>ITEM NO.:</b> 3 <b>FILE I.D.:</b> FIN360 <b>DEPT.:</b> ADMIN. SVCS.
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**REASON FOR CONSIDERATION:** The Successor Agency Board of Directors is requested to consider approval of the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency (Successor Agency) Statement of Investment Policy. The Statement of Investment Policy is attached for the Successor Agency Board of Directors' review and consideration.

**BACKGROUND:** The Successor Agency Statement of Investment Policy outlines the following:

- The Treasurer's authority to invest surplus moneys
- The criteria for investment selection
- The permissible investment media as set forth in Government Code Section 53635
- Internal control procedures
- The Successor Agency's investment strategy

The Policy is submitted to the Successor Agency Board of Directors in accordance with Government Code Section 53646—Section 53646 was added to the Government Code as a result of the 1995 Orange County bankruptcy.

In addition to an annual investment policy, the Treasurer or his designee may issue a quarterly report to the Successor Agency Board of Directors that provides specifics of the investment activity during the period covered, a statement of compliance with the investment policy, and a statement denoting the Successor Agency's ability to meet its expenditure requirements during the next six months. This is done monthly in the form of a Treasurer's Report to the Successor Agency Board of Directors.

The Statement of Investment Policy in all important respects is identical to previous annual policies approved by the former Redevelopment Agency Board of Directors in previous fiscal years; however, the annual designations have been removed and the current policy would

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Prepared by: <u>Donald L. Parker</u>	Reviewed and Approved by: <u>[Signature]</u>
Proofed by: <u>Yvonne Smith</u>	Presented by: <u>[Signature]</u>

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continue until modified. Prior to 2006, Government Code Section 53646 required municipalities to annually review and approve, at a public meeting, their investment policies and present quarterly reports to their respective legislative bodies. As part of the reform of the State Mandate Reimbursement Program, these two requirements were changed to become optional and, thus, ineligible for state mandate reimbursement by simply changing the word "shall" to "may" as demonstrated below:

- "In the case of any other local agency, the treasurer or chief fiscal officer of the local agency *may* annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting."
- "The treasurer or chief fiscal officer *may* render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

The State Legislature encourages city officials to continue taking the actions formerly mandated by Government Code Section 53646 in recognition of state and local interests.

It is important to note a change that occurred two years ago to Section 53646 of the Government Code: The requirement that the Successor Agency must continue with semiannual submission of the investment report and annual submission of the investment policy as required by AB 943 was deleted from this Section.

**FISCAL IMPACT:** Approval of the Successor Agency Statement of Investment Policy would create no fiscal impact to the Successor Agency.

**RECOMMENDATION:** Staff recommends the Successor Agency Board of Directors approve the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency Statement of Investment Policy.



**CITY OF MONTCLAIR AS SUCCESSOR AGENCY FOR THE  
CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**Statement of Investment Policy**

**I. PURPOSE**

The purpose of this investment policy is as follows: (1) to fix the responsibility for investing surplus moneys with the Successor Agency Treasurer and his designee; (2) to establish criteria for selecting investments; (3) to outline investment media in which a local Successor Agency may invest its surplus money; (4) to establish internal control procedures to assure the investment program is operated in a safe and prudent manner; and (5) to set forth the investment strategy.

This policy shall continue until such time as it is revised or superseded by a subsequent investment policy.

**II. SCOPE**

It is intended that this policy cover all funds and investment activities under the direct authority of the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency (Successor Agency).

**III. TREASURER'S AUTHORITY TO INVEST SURPLUS MONEYS**

It is the responsibility of the Successor Agency Treasurer and his designee, the Finance Director, to invest the Successor Agency's surplus moneys. Government Code Section 53607 enables a legislative body to delegate its responsibility to invest surplus moneys to the treasurer, provided he submits to the legislative body a monthly report of investment transactions.

**IV. PUBLIC TRUST**

All participants in the investment process shall act as custodians of the public trust. The Successor Agency Treasurer or his designee, the Finance Director, shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust. In a diversified portfolio it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

**V. PRUDENCE**

The Successor Agency adheres to the guidance provided by the "prudent investor standard," which obligates a fiduciary to insure that all persons investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds shall act with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Successor Agency.

**VI. DIVERSIFICATION**

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

**VII. MARKET-AVERAGE RATE OF RETURN**

The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the Successor Agency's risk constraints, the cash flow characteristics of the portfolio, state and local laws, and ordinances and resolutions that restrict investments.

**VIII. CRITERIA FOR INVESTMENT SELECTION**

In accordance with Government Code Section 53600.5, the primary criteria, in priority of order, which investment decisions shall be based upon are as follows:

- A. **SAFETY:** Safety of principal is the most important criteria of investment. Attention must be given to the continued solvency of financial institutions in which the Successor Agency invests money.
- B. **LIQUIDITY:** The Successor Agency's investment portfolio will remain sufficiently liquid to meet all operating requirements that might be reasonably anticipated.
- C. **YIELD (RETURN ON INVESTMENT):** Investments should be made with the objective of maximizing the rate of return consistent with safety and liquidity requirements.

**IX. PERMISSIBLE INVESTMENTS**

Government Code Section 53635 authorizes a local agency to deposit a portion or all of its moneys in state or national banks, savings associations or federal associations, credit unions, or any federally insured industrial loan company in this state. Also, Code Section 53635

enumerates investment media in which a local agency may invest its surplus moneys pursuant to Code Section 53601. The following list of permissible investment media is verbatim from Government Code Section 53601:

- (a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency, or authority of the local agency.
- (b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.
- (c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency, or authority of the state.
- (d) Registered Treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.
- (e) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.
- (f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
- (g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of banker's acceptances may not exceed 180 days maturity or 40 percent of the agency's surplus funds, which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the banker's acceptances of any one commercial bank pursuant to this section.
- (h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Nationally Recognized Statistical-Rating Organization (NRSRO).

The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

- (1) The entity must be organized and operating in the United States as a general corporation having total assets in excess of five hundred million dollars (\$500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, as provided for by a nationally recognized statistical-rating organization.
- (2) The entity must be organized within the United States as a special purpose corporation, trust, or limited liability company having program-wide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond, and having commercial paper that is "A-1" or higher rating, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 40 percent of the agency's money may be invested in eligible commercial paper.

- (i) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.
- (j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

- (2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreements does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.
- (3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:
  - (A) The security to be sold on reverse repurchase agreement or securities lending agreements has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.
  - (B) The total of all reverse repurchase agreements and securities lending agreement owned by the local agency does not exceed 20 percent of the base value of the portfolio.
  - (C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.
  - (D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.
- (4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the

governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

- (B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:
  - (i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.
  - (ii) Financing of a local agency's activities.
  - (iii) Acceptance of a local agency's securities or funds as deposits.
- (5) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.
- (B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.
- (C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.
- (D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

- (E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.
- (F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.
- (k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.
- (l) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.
- (2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 *et seq.*).
- (3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

- (A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
  - (B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000).
- (4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:
- (A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
  - (B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).
- (5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).
- (m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.
- (n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that

required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

- (o) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.
- (p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (o), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:
  - (1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.
  - (2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (o), inclusive.
  - (3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

Government Code Section 16429.1 authorizes a local agency to deposit a portion or all of its surplus moneys in the Local Agency Investment Fund (LAIF). LAIF is an account established by the state that offers a local agency a safe, highly liquid means to invest its surplus funds. Government Code Section 16430 limits LAIF to investing in securities, which are essentially the same as those prescribed in Section 53635 above.

## **X. INTERNAL CONTROL PROCEDURES**

The following internal control procedures are established to assure that the investment program is operated in a safe and prudent manner. An employee of the Successor Agency, other than the Successor Agency Treasurer or his designee, will verify on a monthly basis to the Successor Agency Board that all investment activity undertaken during the month has been conducted in compliance with the investment policy, including the below internal control procedures.

- A. **SAFEKEEPING:** Securities purchased from brokers/dealers must be held in a third-party custodial safekeeping account. The securities should be held in a manner that establishes the Successor Agency's right of ownership.
- B. **CONFIRMATION:** Confirmation receipts for purchase of authorized securities should include the following information: trade date, par value, maturity value, interest rate, price, settlement date, description of securities purchased, Successor Agency's name, net amount due and third-party custodial information. The confirmation receipt must be issued by the third-party custodian and must be received by the Successor Agency prior to remitting payment for the security.
- C. **PAYMENT:** Payment for securities should be on a Delivery Versus Payment (DVP) basis. This must be done via the Successor Agency's third-party safekeeping agent. NOTE: Book entry is considered delivery.
- D. **WIRE TRANSFERS:** All wire transfers for the purchase of securities should be initiated by the Successor Agency Treasurer or his designee who is authorized to invest on behalf of the Successor Agency. The bank document used to initiate a wire transfer must be approved by the employee responsible for monitoring compliance with internal control procedures prior to executing the wire transfer. NOTE: This procedure does not apply to deposits with the LAIF.

## **XI. BANKS AND SECURITIES DEALERS**

In selecting financial institutions for the deposit or investment of Successor Agency funds, the Treasurer or his designee, the Finance Director, shall consider the creditworthiness of institutions. The Treasurer and his designee, the Finance Director, shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which funds are deposited or invested.

## **XII. RISK TOLERANCE**

The Successor Agency recognizes that investment risks can result from issuer defaults, market price changes, or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. The Successor Agency Treasurer and his designee, the Finance Director, are expected to display prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken which jeopardizes the total capital position of the overall portfolio. The Treasurer or his designee, the Finance Director, may periodically establish guidelines and strategies to control risks of default, market price changes and illiquidity.

## **XIII. INVESTMENT STRATEGY**

The Successor Agency will invest at least 25 percent of its surplus moneys (excluding tax allocation bond proceeds) in the LAIF and in certificates of deposit issued by banks and savings and loans provided, however, that money deposited with banks and savings and loans are fully insured by FDIC and have maturities of no more than one year. The balance of the Successor Agency's surplus moneys may be invested in any of the investment media discussed in subsections A to P of Section IX above, provided the investment term is no greater than three years and no investments are made in reverse repurchase agreements. Further, pursuant to Government Code Section 53601.6, no moneys will be invested in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

Remaining tax allocation bond proceeds, however, will be invested directly in short-term governmental securities and mutual funds comprised of short-term governmental securities. Investments of tax allocation bond proceeds will be made pursuant to Government Code Section 5922 and the bond indentures. The permitted investments set forth in Government Code Section 5922 and the bond indentures are substantially the same as those set forth in Government Code Section 53635.

## AGENDA REPORT

**SUBJECT:** CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' APPROVAL OF THE CITY OF MONTCLAIR HOUSING CORPORATION STATEMENT OF INVESTMENT POLICY

**DATE:** March 4, 2013  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 4  
**FILE I.D.:** FIN380  
**DEPT.:** ADMIN. SVCS.

**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to consider approval of the City of Montclair Housing Corporation Statement of Investment Policy. The Statement of Investment Policy is attached for the Montclair Housing Corporation Board of Directors' review and consideration.

**BACKGROUND:** The Montclair Housing Corporation Statement of Investment Policy outlines the following:

- The Treasurer's authority to invest surplus moneys
- The criteria for investment selection
- The permissible investment media as set forth in Government Code Section 53635
- Internal control procedures
- The Montclair Housing Corporation's investment strategy

The Policy is submitted to the Montclair Housing Corporation Board of Directors in accordance with Government Code Section 53646—Section 53646 was added to the Government Code as a result of the 1995 Orange County bankruptcy.

In addition to an annual investment policy, the Treasurer or his designee may issue a quarterly report to the Montclair Housing Corporation Board of Directors that provides specifics of the investment activity during the period covered, a statement of compliance with the investment policy, and a statement denoting the Montclair Housing Corporation's ability to meet its expenditure requirements during the next six months. This is done monthly in the form of a Treasurer's Report to the Montclair Housing Corporation Board of Directors.

The Statement of Investment Policy in all important respects is identical to previous annual policies approved by the Montclair Housing Corporation Board of Directors in previous fiscal years; however, the annual designations have been removed and the current policy would continue until modified. Prior to 2006, Government Code Section 53646 required entities

Prepared by:

*Donald A. Baker*  
*George L. Smith*

Reviewed and Approved by:

*[Signature]*

Proofed by:

Presented by:

to annually review and approve, at a public meeting, their investment policies and present quarterly reports to their respective legislative bodies. As part of the reform of the State Mandate Reimbursement Program, these two requirements were changed to become optional and, thus, ineligible for state mandate reimbursement by simply changing the word "shall" to "may" as demonstrated below:

- "In the case of any other local agency, the treasurer or chief fiscal officer of the local agency *may* annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting."
- "The treasurer or chief fiscal officer *may* render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

The State Legislature encourages city officials to continue taking the actions formerly mandated by Government Code Section 53646 in recognition of state and local interests.

It is important to note a change that occurred two years ago to Section 53646 of the Government Code: The requirement that the Montclair Housing Corporation must continue with semiannual submission of the investment report and annual submission of the investment policy as required by AB 943 was deleted from this Section.

**FISCAL IMPACT:** Approval of the Montclair Housing Corporation Statement of Investment Policy would create no fiscal impact to the Montclair Housing Corporation.

**RECOMMENDATION:** Staff recommends the Montclair Housing Corporation Board of Directors approve the City of Montclair Housing Corporation Statement of Investment Policy.



## **CITY OF MONTCLAIR HOUSING CORPORATION**

### **Statement of Investment Policy**

#### **I. PURPOSE**

The purpose of this investment policy is as follows: (1) to fix the responsibility for investing surplus moneys with the Housing Corporation Treasurer and his designee; (2) to establish criteria for selecting investments; (3) to outline investment media in which a local agency may invest its surplus money; (4) to establish internal control procedures to assure the investment program is operated in a safe and prudent manner; and (5) to set forth the investment strategy.

This policy shall continue until such time as it is revised or superseded by a subsequent investment policy.

#### **II. SCOPE**

It is intended that this policy cover all funds and investment activities under the direct authority of the City of Montclair Housing Corporation.

#### **III. TREASURER'S AUTHORITY TO INVEST SURPLUS MONEYS**

It is the responsibility of the Housing Corporation Treasurer and his designee, the Finance Director, to invest the Housing Corporation's surplus moneys. Government Code Section 53607 enables a public housing corporation's board to delegate its responsibility to invest surplus moneys to the treasurer, provided he submits to the board a monthly report of investment transactions (Treasurer's Report).

#### **IV. PUBLIC TRUST**

All participants in the investment process shall act as custodians of the public trust. The Housing Corporation Treasurer or his designee, the Finance Director, shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust. In a diversified portfolio it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

**V. PRUDENCE**

The City of Montclair adheres to the guidance provided by the "prudent investor standard," which obligates a fiduciary to insure that all persons investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds shall act with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Housing Corporation.

**VI. DIVERSIFICATION**

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

**VII. MARKET-AVERAGE RATE OF RETURN**

The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the City of Montclair Housing Corporation's risk constraints, the cash flow characteristics of the portfolio, state and local laws, and ordinances and resolutions that restrict investments.

**VIII. CRITERIA FOR INVESTMENT SELECTION**

In accordance with Government Code Section 53600.5, the primary criteria, in priority of order, which investment decisions shall be based upon are as follows:

- A. **SAFETY:** Safety of principal is the most important criteria of investment. Attention must be given to the continued solvency of financial institutions in which the Housing Corporation invests money. Also, investments in long-term securities must be considered from the standpoint of potential losses incurred upon sale of securities to meet operating needs.
- B. **LIQUIDITY:** The Housing Corporation's investment portfolio will remain sufficiently liquid to meet all operating requirements, which might be reasonably anticipated.
- C. **YIELD (RETURN ON INVESTMENT):** Investments should be made with the objective of maximizing the rate of return consistent with safety and liquidity requirements.

**IX. PERMISSIBLE INVESTMENTS**

Government Code Section 53635 authorizes a local agency to deposit a portion or all of its moneys in state or national banks, savings

associations or federal associations, credit unions, or any federally insured industrial loan company in this state. Also, Code Section 53635 enumerates investment media in which a local agency may invest its surplus moneys pursuant to Code Section 53601. The following list of permissible investment media is verbatim from Government Code Section 53601:

- A. Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency, or authority of the local agency.
- B. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the payment of principal and interest.
- C. Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency or authority of the state.
- D. Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.
- E. Bonds, notes, warrants or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency or authority of the local agency.
- F. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
- G. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of banker's acceptances may not exceed 180 days maturity or 40 percent of the agency's surplus funds, which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the banker's acceptances of any one commercial bank pursuant to this section.

- H. Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Nationally Recognized Statistical-Rating Organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):
1. The entity must be organized and operating in the United States as a general corporation having total assets in excess of five hundred million dollars (\$500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, as provided for by a nationally recognized statistical-rating organization.
  2. The entity must be organized within the United States as a special purpose corporation, trust, or limited liability company having programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond, and having commercial paper that is "A-1" or higher rating, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 40 percent of the agency's money may be invested in eligible commercial paper.

- I. Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office, manager's office, budget office, auditor/controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.
- J. 1. Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements

are subject to this subsection, including the delivery requirements specified in this section.

2. Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreements does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.
3. Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:
  - (a) The security to be sold on reverse repurchase agreement or securities lending agreements has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.
  - (b) The total of all reverse repurchase agreements and securities lending agreement owned by the local agency does not exceed 20 percent of the base value of the portfolio.
  - (c) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.
  - (d) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.
4. (a) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase

with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

- (b) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:
    - (i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.
    - (ii) Financing of a local agency's activities.
    - (iii) Acceptance of a local agency's securities or funds as deposits.
5. (a) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.
- (b) "Securities," for purpose of repurchase under this subsection, means securities of the same issuer, description, issue date, and maturity.
  - (c) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.
  - (d) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

- (e) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.
  - (f) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.
- K. Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subsection shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.
- L. 1. Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized in subsections A to K, inclusive, and subsections M to O, inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.
2. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 *et seq.*).
3. If investment is in shares issued pursuant to subsection 1, the company shall have met either of the following criteria:

- (a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
  - (b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subsections A to K, inclusive, and subsections M to O, inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000).
- 4. If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:
  - (a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
  - (b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).
- 5. The purchase price of shares of beneficial interest purchased pursuant to this subsection shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).
- M. Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.
- N. Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of

securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

- O. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subsection shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subsection may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.
  
- P. Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subsections A to O, inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:
  - 1. The adviser is registered or exempt from registration with the Securities and Exchange Commission.
  - 2. The adviser has not less than five years of experience investing in the securities and obligations authorized in subsections A to O, inclusive.
  - 3. The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

Government Code Section 16429.1 authorizes a local agency to deposit a portion or all of its surplus moneys in the Local Agency Investment Fund (LAIF). LAIF is an account established by the state that offers a local agency a safe, highly liquid means to invest its surplus funds. Government Code Section 16430 limits LAIF to investing in securities, which are essentially the same as those prescribed in Section 53635 above.

## **X. INTERNAL CONTROL PROCEDURES**

The following internal control procedures are established to assure that the investment program is operated in a safe and prudent manner. An employee of the Housing Corporation, other than the Housing Corporation Treasurer or his designee, will verify on a monthly basis to the Housing Corporation's Board that all investment activity undertaken during the month has been conducted in compliance with the investment policy, including the below internal control procedures.

- A. **SAFEKEEPING:** Securities purchased from brokers/dealers must be held in a third-party custodial safekeeping account. The securities should be held in a manner that establishes the Housing Corporation's right of ownership.
- B. **CONFIRMATION:** Confirmation receipts for purchase of authorized securities should include the following information: trade date, par value, maturity value, interest rate, price, settlement date, description of securities purchased, agency's name, net amount due, and third-party custodial information. The confirmation receipt must be issued by the third-party custodian and must be received by the Housing Corporation prior to remitting payment for the security.
- C. **PAYMENT:** Payment for securities should be on a Delivery Versus Payment (DVP) basis. This must be done via the Housing Corporation's third-party safekeeping agent. NOTE: Book entry is considered delivery.
- D. **WIRE TRANSFERS:** All wire transfers for the purchase of securities should be initiated by the Housing Corporation Treasurer or his designee who is authorized to invest on behalf of the Housing Corporation. The bank document used to initiate a wire transfer must be approved by the employee responsible for monitoring compliance with internal control procedures prior to executing the wire transfer. NOTE: This procedure does not apply to deposits with the LAIF.

## **XI. BANKS AND SECURITIES DEALERS**

In selecting financial institutions for the deposit or investment of the City of Montclair Housing Corporation funds, the Treasurer or his designee, the Finance Director, shall consider the credit-worthiness of institutions. The Treasurer and his designee, the Finance Director, shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which funds are deposited or invested.

## **XII. RISK TOLERANCE**

The City of Montclair Housing Corporation recognizes that investment risks can result from issuer defaults, market price changes, or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. The Housing Corporation Treasurer and his designee, the Finance Director, are expected to display prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken that jeopardizes the total capital position of the overall portfolio. The Treasurer or his designee, the Finance Director, may periodically establish guidelines and strategies to control risks of default, market price changes, and illiquidity.

## **XIII. INVESTMENT STRATEGY**

The Housing Corporation will invest at least 50 percent of its surplus moneys in the LAIF and in certificates of deposit issued by banks and savings and loans provided, however, that money deposited with banks and savings and loans are fully insured by FDIC and have maturities of no more than one year. The balance of the Housing Corporation's surplus moneys may be invested in any of the investment media discussed in subsections A to P of Section IX above, provided the investment term is no greater than three years and no investments are made in reverse repurchase agreements. Further, pursuant to Government Code Section 53601.6, no moneys will be invested in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

## AGENDA REPORT

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**SUBJECT:** CONSIDER MONTCLAIR HOUSING  
AUTHORITY COMMISSIONERS' APPROVAL  
OF THE MONTCLAIR HOUSING AUTHORITY  
STATEMENT OF INVESTMENT POLICY

**DATE:** March 4, 2013  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 5  
**FILE I.D.:** FIN390  
**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Commission is requested to consider approval of the Montclair Housing Authority Statement of Investment Policy. The Statement of Investment Policy is attached for Montclair Housing Authority Commissioners' review and consideration.

**BACKGROUND:** The Montclair Housing Authority Statement of Investment Policy outlines the following:

- The Treasurer's authority to invest surplus moneys
- The criteria for investment selection
- The permissible investment media as set forth in Government Code Section 53635
- Internal control procedures
- The Montclair Housing Authority's investment strategy

The Policy is submitted to the Montclair Housing Authority Commissioners in accordance with Government Code Section 53646—Section 53646 was added to the Government Code as a result of the 1995 Orange County bankruptcy.

In addition to an annual investment policy, the Treasurer or his designee may issue a quarterly report to the Montclair Housing Authority that provides specifics of the investment activity during the period covered, a statement of compliance with the investment policy, and a statement denoting the Montclair Housing Authority's ability to meet its expenditure requirements during the next six months. This is done monthly in the form of a Treasurer's Report to the Montclair Housing Authority Commissioners.

The Statement of Investment Policy in all important respects is identical to previous annual policies approved by the Montclair Housing Authority Commissioners in previous fiscal years; however, the annual designations have been removed and the current policy would continue until modified. Prior to 2006, Government Code Section 53646 required municipalities to annually review and approve, at a public meeting, their investment

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Reviewed and  
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*[Signature]*

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policies and present quarterly reports to their respective legislative bodies. As part of the reform of the State Mandate Reimbursement Program, these two requirements were changed to become optional and, thus, ineligible for state mandate reimbursement by simply changing the word "shall" to "may" as demonstrated below:

- "In the case of any other local agency, the treasurer or chief fiscal officer of the local agency *may* annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting."
- "The treasurer or chief fiscal officer *may* render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

The State Legislature encourages city officials to continue taking the actions formerly mandated by Government Code Section 53646 in recognition of state and local interests.

It is important to note a change that occurred two years ago to Section 53646 of the Government Code: The requirement that the Montclair Housing Authority must continue with semiannual submission of the investment report and annual submission of the investment policy as required by AB 943 was deleted from this Section.

**FISCAL IMPACT:** Approval of the Montclair Housing Authority Statement of Investment Policy would create no fiscal impact to the Montclair Housing Authority.

**RECOMMENDATION:** Staff recommends the Montclair Housing Authority Commissioners approve the Montclair Housing Authority Statement of Investment Policy.



## **MONTCLAIR HOUSING AUTHORITY**

### **Statement of Investment Policy**

#### **I. PURPOSE**

The purpose of this investment policy is (1) to fix the responsibility for investing surplus moneys with the Housing Authority Treasurer and his designee; (2) to establish criteria for selecting investments; (3) to outline investment media in which a local agency may invest its surplus money; (4) to establish internal control procedures to assure the investment program is operated in a safe and prudent manner; and (5) to set forth the investment strategy.

This policy shall continue until such time as it is revised or superseded by a subsequent investment policy.

#### **II. SCOPE**

It is intended that this policy cover all funds and investment activities under the direct authority of the Montclair Housing Authority (Authority).

#### **III. TREASURER'S AUTHORITY TO INVEST SURPLUS MONEYS**

It is the responsibility of the Authority's Treasurer and his designee, the Finance Director, to invest the Authority's surplus moneys. Government Code Section 53607 enables a legislative body to delegate its responsibility to invest surplus moneys to the treasurer, provided he submits to the council a monthly report of investment transactions (Treasurer's Report).

#### **IV. PUBLIC TRUST**

All participants in the investment process shall act as custodians of the public trust. The Authority's Treasurer or his designee, the Finance Director, shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust. In a diversified portfolio it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

## **V. PRUDENCE**

The Authority adheres to the guidance provided by the "prudent investor standard," which obligates a fiduciary to insure that all persons investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds shall act with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Authority.

## **VI. DIVERSIFICATION**

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

## **VII. MARKET-AVERAGE RATE OF RETURN**

The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the Authority's risk constraints, the cash flow characteristics of the portfolio, state and local laws, and ordinances and resolutions that restrict investments.

## **VIII. CRITERIA FOR INVESTMENT SELECTION**

In accordance with Government Code Section 53600.5, the primary criteria, in priority of order, which investment decisions shall be based upon are as follows:

- (a) **SAFETY:** Safety of principal is the most important criteria of investment. Attention must be given to the continued solvency of financial institutions in which the Authority invests money. Also, investments in long-term securities must be considered from the standpoint of potential losses incurred upon sale of securities to meet operating needs.
- (b) **LIQUIDITY:** The Authority's investment portfolio will remain sufficiently liquid to meet all operating requirements that might be reasonably anticipated.
- (c) **YIELD (RETURN ON INVESTMENT):** Investments should be made with the objective of maximizing the rate of return consistent with safety and liquidity requirements.

## **IX. PERMISSIBLE INVESTMENTS**

Government Code Section 53635 authorizes a local agency to deposit a portion or all of its moneys in state or national banks, savings

associations or federal associations, credit unions, or any federally insured industrial loan company in this state. Also, Code Section 53635 enumerates investment media in which a local agency may invest its surplus moneys pursuant to Code Section 53601. The following list of permissible investment media is verbatim from Government Code Section 53601:

- (a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency, or authority of the local agency.
- (b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.
- (c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency, or authority of the state.
- (d) Registered Treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.
- (e) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.
- (f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
- (g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of banker's acceptances may not exceed 180 days maturity or 40 percent of the agency's surplus funds, which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the banker's acceptances of any one commercial bank pursuant to this section.

- (h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Nationally Recognized Statistical-Rating Organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):
  - (1) The entity must be organized and operating in the United States as a general corporation having total assets in excess of five hundred million dollars (\$500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, as provided for by a nationally recognized statistical-rating organization.
  - (2) The entity must be organized within the United States as a special purpose corporation, trust, or limited liability company having program-wide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond, and having commercial paper that is "A-1" or higher rating, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 40 percent of the agency's money may be invested in eligible commercial paper.

- (i) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.
- (j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any

securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

- (2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreements does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.
- (3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:
  - (A) The security to be sold on reverse repurchase agreement or securities lending agreements has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.
  - (B) The total of all reverse repurchase agreements and securities lending agreement owned by the local agency does not exceed 20 percent of the base value of the portfolio.
  - (C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.
  - (D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

- (4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.
- (B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:
  - (i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.
  - (ii) Financing of a local agency's activities.
  - (iii) Acceptance of a local agency's securities or funds as deposits.
- (5) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.
- (B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.
- (C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.
- (D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third

party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

- (E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.
- (F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.
- (k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.
- (l) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.
- (2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 *et seq.*).

- (3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:
  - (A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
  - (B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000).
- (4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:
  - (A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.
  - (B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).
- (5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).
- (m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

- (n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.
- (o) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.
- (p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (o), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:
  - (1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.
  - (2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (o), inclusive.
  - (3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

Government Code Section 16429.1 authorizes a local agency to deposit a portion or all of its surplus moneys in the Local Agency Investment Fund (LAIF). LAIF is an account established by the state that offers a local agency a safe, highly liquid means to invest its surplus funds.

Government Code Section 16430 limits LAIF to investing in securities, which are essentially the same as those prescribed in Section 53635 above.

## **X. INTERNAL CONTROL PROCEDURES**

The following internal control procedures are established to assure that the investment program is operated in a safe and prudent manner. An employee of the Authority, other than the Authority's Treasurer or his designee, will verify on a monthly basis to Authority's governing board that all investment activity undertaken during the month has been conducted in compliance with the investment policy, including the below internal control procedures.

- (a) **SAFEKEEPING:** Securities purchased from brokers/dealers must be held in a third-party custodial safekeeping account. The securities should be held in a manner that establishes the Authority's right of ownership.
- (b) **CONFIRMATION:** Confirmation receipts for purchase of authorized securities should include the following information: trade date, par value, maturity value, interest rate, price, settlement date, description of securities purchased, agency's name, net amount due, and third-party custodial information. The confirmation receipt must be issued by the third-party custodian and must be received by the Authority prior to remitting payment for the security.
- (c) **PAYMENT:** Payment for securities should be on a Delivery Versus Payment (DVP) basis. This must be done via the Authority's third-party safekeeping agent. **NOTE:** Book entry is considered delivery.
- (d) **WIRE TRANSFERS:** All wire transfers for the purchase of securities should be initiated by the Authority's Treasurer or his designee who is authorized to invest on behalf of the Authority. The bank document used to initiate a wire transfer must be approved by the employee responsible for monitoring compliance with internal control procedures prior to executing the wire transfer. **NOTE:** This procedure does not apply to deposits with the LAIF.

## **XI. BANKS AND SECURITIES DEALERS**

In selecting financial institutions for the deposit or investment of the Authority funds, the Authority's Treasurer or his designee, the Finance Director, shall consider the creditworthiness of institutions. The Treasurer and his designee, the Finance Director, shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which funds are deposited or invested.

## **XII. RISK TOLERANCE**

The Authority recognizes that investment risks can result from issuer defaults, market price changes, or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. The Authority's Treasurer and his designee, the Finance Director, are expected to display prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken which jeopardizes the total capital position of the overall portfolio. The Authority's Treasurer or his designee, the Finance Director, may periodically establish guidelines and strategies to control risks of default, market price changes, and illiquidity.

## **XIII. INVESTMENT STRATEGY**

The Authority shall invest at least 15 percent of its surplus moneys to mature within one year. The moneys will be deposited in the LAIF, in certificates of deposit issued by banks and savings and loans in amounts which are fully insured by FDIC and invested in the securities discussed in (a) through (p) of Section IX above, provided no moneys will be invested in reverse repurchase agreements, nor will any securities be purchased on margin. Further, pursuant to Government Code Section 53601.6, no moneys will be invested in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

The Authority shall invest at least 50 percent of its surplus moneys, including the moneys invested pursuant to paragraph (1), in investment media with maturities no greater than three years. The investment restrictions outlined in paragraph (1) will apply to investments made in accordance with this paragraph.

The Authority may invest the balance of its surplus funds in any of the investment media set forth in paragraph (1), provided the investment has a maturity no greater than five years. The investment restrictions outlined in paragraph (1) will apply to investments made in accordance with this paragraph.

## AGENDA REPORT

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**SUBJECT:** CONSIDER DECLARING CERTAIN CITY  
PROPERTY AND UNCLAIMED PROPERTY  
IN POLICE CUSTODY AS SURPLUS AND  
AVAILABLE FOR AUCTION

**DATE:** March 4, 2013

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 6

**FILE I.D.:** EQS051/052

**DEPT.:** POLICE

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**REASON FOR CONSIDERATION:** The City Council is requested to consider declaring certain City property and unclaimed property in Police custody as surplus so it may be made available for auction.

**BACKGROUND:** The items included on the attached lists are surplus City property or unclaimed property in Police custody. Upon being declared by the City Council as surplus, they would be available for auction.

**FISCAL IMPACT:** There is no estimation as to the proceeds to be received through auction of these items.

**RECOMMENDATION:** Staff recommends the City Council declare certain City property and unclaimed property in Police custody as surplus and available for auction.

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Prepared by:

*Sharon Ferguson*

Reviewed and  
Approved by:

*H. J. Roberts*

Proofed by:

*Judy B.*

Presented by:

MONTCLAIR POLICE DEPARTMENT

CITY OF MONTCLAIR  
 SURPLUS PROPERTY LIST  
 DATE: FEBRUARY 2013

Tag No.	Qty.	Description	Serial No.	CR No.
1	1	SILVER SUN NECKLACE (321F)		11-4912
2	1	CLEAR STONE W/ PEARL RING (332E)		11-3752
3	1	BLUE "DURALAST" CAR JACK (333D)		11-3167
4	1	BLACK GUN CASE (327J)		11-1043
5	1	SILVER "PROLIFT" FLOOR JACK (263M)		11-5764
6	1	SPEAKER (263N)		11-5764
7	1	FLOOR JACK (263L)		11-5764
8	1	METAL LIGHT CASING (263A)		11-5764
9	1	CORK SCREW (263B)		11-5764
10	1	MALLET/PRY BAR COMBO (263C)		11-5764
11	1	"CHALLENGER" RACHET (263D)		11-5764
12	1	JUMPER CABLES (263E)		11-5764
13	1	"MILLERS FALLS" ELECTRIC DRILL (263G)		11-5764
14	1	ELECTRIC DRILL (263H)		11-5764
15	1	SOCKET SET W/ GRAY CASE (263I)		11-5764
16	1	BLACK PLASTIC LUNCH BOX W/ MISC TOOLS (263J) - SOCKETS, PLIERS, SCREWDRIVERS, RATCHETS		11-5764
17	1	CROW BAR (263K)		11-5764
18	1	10" VISE GRIP (263O)		11-5764
19	1	PAIR OF MENS GREEN TENNIS SHOES, SIZE 10 (142A)		12-1284
20	1	SONY XPLD CAR CD PLAYER (R38E)	6651160	11-1120
21	1	SONY CD PLAYER FOR VEHICLE (R8E)		11-1120
22	1	PORTER CABLE NAIL GUN (333A)		11-4340

Tag No.	Qty.	Description	Serial No.	CR No.
23	1	COPPER WIRE (333B)		11-4340
24	1	NECKLACE WITH CROSS (257A)		12-0717
25	1	WHITE METAL RING WITH WHITE STONE (348A)		12-5255
26	4	BLACK TIRES WITH WHITE RIMS (333E)		11-3167
27	1	BLACK GUITAR (328A)		12-4378
28	1	"FIRST UP" 10X10 TAN GAZEBO (301A)		11-2031
29	1	MAKITA DRILL WITH BLUE BOX (270K)		11-3839
30	1	OPEN BLACK BAG WITH MISC TOOLS (270G)		11-3839
31	1	BLK AND RED BAG WITH MISC EQUIPMENT (270H)		11-3839
32	1	YELLOW PORTABLE POWER PACK (270L)		11-3839
33	1	RETANGULAR BAKING DISH (324A)		11-5520
34	1	SMALL WHITE BAG WITH MISC TOOLS (270J)		11-3839
35	1	CUTTING STAND (270N)		11-3839
36	1	YELLOW AND BLACK BAG WITH MISC ELECTRICAL TOOLS (270I)		11-3839
37	1	DEWALT BLACK BAG WITH MISC ELECTRICAL ITEMS (270G)		11-3839
38	4	CHROME 18" RIMES WITH TIRES (270O)		11-3839
39	2	DUNLAP TIRES 225/35R18 (270P)		11-3839
40	1	DUNLAP TIRE 225/45R18 (270Q)		11-3839
41	1	DRIPLESS POORER STOPPER (324B)		11-5520
42	1	CITRUS PRESS (324C)		11-5220
43	1	SERRATED PEELER (324D)		11-5220
44	1	AVACADO PEELER (324E)		11-5220
45	1	MIX'N CHOP TOOL (324F)		11-5220

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	<b>DATE:</b> March 4, 2013
	<b>SECTION:</b> ADMIN. REPORTS
	<b>ITEM NO.:</b> 7
	<b>FILE I.D.:</b> FIN540
	<b>DEPT.:</b> ADMIN. SVCS.

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

**BACKGROUND:** Mayor Pro Tem Ruh has examined the Warrant Register dated March 4, 2013, and Payroll Documentation dated January 27, 2013; finds them to be in order; and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated March 4, 2013, totals \$1,546,958.45. The Payroll Documentation dated January 27, 2013, totals \$722,261.59, with \$395,641.13 being the total cash disbursement.

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

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Prepared by:

*Yvonne Smith*  
*Andrea Phillips*

Reviewed and  
Approved by:

Presented by:

*[Signature]*  
*[Signature]*

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 13-17, A TOLLING AGREEMENT BETWEEN THE CITY OF MONTCLAIR AND SAN BERNARDINO COUNTY CONCERNING PROPERTY TAX ADMINISTRATION FEES	DATE: March 4, 2013 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: SBC315 DEPT.: ADMIN. SVCS.
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**REASON FOR CONSIDERATION:** In November 2012, the California Supreme Court ruled in *City of Alhambra et al. v. County of Los Angeles* that Los Angeles County improperly included Triple Flip and Vehicle License Fee Swap funds when calculating Property Tax Administration Fees (PTAFs) for 47 plaintiff cities.

The Court further stated that as a result of the improper calculations, California counties excessively charged cities for PTAFs. As a result of the ruling and further pending litigation, counties across the state have begun negotiating with cities over PTAF refunds. Currently, the County of San Bernardino has initiated discussions with the cities in the County over the amount of money to be repaid for excessive PTAFs. The County of San Bernardino has requested that cities enter into a Tolling Agreement with the County regarding PTAF refund claims. The proposed Tolling Agreement between the County of San Bernardino and the City of Montclair is attached as Agreement No. 13-17.

**BACKGROUND:** Each year, County auditors calculate and distribute to local governments their share of property tax revenues. For this service, counties charge a fee known as the Property Tax Administration Fee. This fee covers costs associated with data processing, collection, and any appeals that are acquired by County auditors, assessors, and tax collectors. Each agency's PTAF is automatically withheld from annual property tax allocation distributions by counties in approximately June of each year.

By statute, counties are responsible for the administration of local property taxes by assessing and collecting them and then disbursing the revenue to various cities, special districts, schools, and other entities within each county. Some of the revenue, however, must be allocated to each county's Educational Revenue Augmentation Fund (ERAF)—a state-created fund that reallocates portions of local property tax revenue to fulfill the state's constitutional obligation to fund education at specified levels.

In order to cover county costs in administering the property tax system, a county is statutorily authorized to impose a PTAF on each city or other entity within its borders. The PTAF is based on an apportionment of the amount of property tax revenue allocated to the city or other entity. The Legislature determined, however, that property tax

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Prepared by: <u>Miky Fuentes</u>	Reviewed and Approved by: <u>[Signature]</u>
Proofed by: <u>Andrea Pineda</u>	Presented by: <u>[Signature]</u>

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revenues allocated from cities and other public agencies to county ERAFs are exempt from PTAF.

### *Revenue and Taxation Code*

In 2004, the Legislature passed Senate Bill 1096, which contained two different budgetary measures that allowed for diverting local property tax revenues away from each county's ERAF to instead fund various state budget gaps.

In 2004, the Legislature reduced the sales tax rate paid to cities and counties in order to repay State-issued economic recovery bonds. Voter-approved Proposition 57, the California Economic Recovery Bond Act, allowed the State to sell up to \$15 billion in bonds to close the State budget deficit. In order to create a dedicated revenue source to guarantee repayment of these bonds without raising taxes, a temporary revenue measure that allowed for the shifting in revenue was implemented. This revenue swap, commonly known as the "Triple Flip," was intended to last as a temporary measure until the economic recovery bonds were repaid.

In the first "flip," 0.25 percent of local sales and use tax revenues were diverted to the State for bond repayment. In the second "flip," lost local sales and use tax revenues are replaced by property tax revenue that would otherwise have been placed in county ERAFs but are instead set aside in a Sales and Use Tax Compensation Fund established in each county's treasury. In the final "flip," any shortfall to schools caused by the reduction of funds to county ERAF is compensated out of the State's General Fund.

Concurrent with the Triple Flip swap, the Legislature reduced the annual vehicle license fee (VLF) from 2 percent of a vehicle's market value to 0.65 percent of market value. Because the VLF has been a significant source of local revenue, a temporary revenue measure that allowed for the shifting in revenue was implemented. This shifting in revenue is more commonly referred to as the "VLF swap." The VLF swap diverts property tax revenue to fully compensate cities and counties for VLF revenue that they otherwise would receive. This diverted property tax revenue, which otherwise would have been allocated to each county's ERAF, is placed in a Vehicle License Fee Property Tax Compensation Fund in each county's treasury, and then distributed to each city in lieu of lost VLF revenue.

As part of the same legislation that created the VLF swap and Triple Flip, the Legislature also enacted section 97.75 in the Revenue and Taxation Code. The Revenue and Taxation Code was amended to allow counties to charge administrative fees for the above mentioned services, provided that the fee did not exceed the actual cost of providing the services.

The California State Association of County Auditors prepared informal guidelines to help implement the Triple Flip-VLF swap and changes in the Revenue and Taxation Code. These guidelines contained a model schedule to implement changes introduced by the 2004 budgetary measures. The model schedule did not change the calculation of PTAF for Fiscal Years 2004-05 and 2005-06; but beginning with Fiscal Year 2006-07, the model schedule imposed a higher property tax administration fee on cities and other local entities. Without explanation, the Fiscal Year 2006-07 model schedule included in the cities' base administrative cost apportionment factor those funds that would have been placed in County ERAF but were not deposited as a result of the Triple Flip and VLF swap.

### *City of Alhambra et al. v. County of Los Angeles*

At issue is a dispute between the County of Los Angeles and 47 cities within the County regarding how Los Angeles County calculates and imposes PTAFs on cities for their share of County costs in administering the property tax system stemming from PTAFs commencing in Fiscal Year 2006-07.

The County took the position that the two budgetary measures and the adjustments made under the Revenue and Taxation Code allowed the County to impose PTAFs on diverted local property taxes because they no longer funded County ERAFs. The County stated that local property tax money was used to fund state budget gaps and thus no longer qualified under exempt status. The County also indicated it was merely following guidelines that the California State Association of County Auditors had created for implementation of the two budgetary measures. Cities took the position that the ERAF exemption from PTAFs still applied under Revenue and Taxation Code Section 97.75.

Los Angeles County's position allowed it to withhold from cities approximately \$4.8 million in property tax administration fees for Fiscal Year 2006-07 and \$5.3 million in Fiscal Year 2007-08.

In 2008, the cities petitioned the trial court for a writ of administrative mandate under Code of Civil Procedure Section 1085, challenging the County of Los Angeles' method of calculating PTAFs and seeking a writ ordering the County and its auditor-controller to reimburse cities for the amount disputed in Fiscal Year 2006-07. The parties agreed to try the matter by reference under Code of Civil Procedure Section 638 and stipulated to most of the relevant facts.

Following a trial, the court ruled in mid-2009 that the County's method of calculating the disputed fee was consistent with legislative intent and did not violate Revenue and Taxation Code Section 97.75. The cities appealed the case; and in June 2010, the California Second District Court of Appeal reversed the prior court's ruling, relying almost exclusively on the plain meaning of Section 97.75 of the Revenue and Taxation Code to conclude that the County's method of calculation was unlawful. The Court ruled that the County's method of including VLF swap and Triple Flip money in the County's calculation was unlawful and contrary to Revenue and Taxation Code Section 97.75.

### *Supreme Court Ruling*

Shortly after the ruling from the California Second District Court of Appeal, the County of Los Angeles appealed the Court's ruling; and on October 20, 2010, in a unanimous decision, the California Supreme Court agreed to review the California Second District Court of Appeal's decision in *City of Alhambra et al. v. County of Los Angeles*.

On November 19, 2012, the California Supreme Court ruled that the County's method of calculating PTAFs was not consistent with legislative intent and did violate Revenue and Taxation Code Section 97.75. Shortly thereafter, the County of Los Angeles asked the California Supreme Court to revisit its decision in *City of Alhambra v. County of Los Angeles*. The Court had until February 2013 to decide whether to grant the County of Los Angeles' request for a revisit—no reconsideration occurred.

In its ruling, the Supreme Court failed to settle the period of retroactivity related to refunding excessive PTAFs to cities. Cities argue that they should be reimbursed back to Fiscal

Year 2006-07, while counties argue they should only be required to go back one year; and statute of limitation laws provide that counties may be required to go back three years.

The court was also silent on how much interest should be paid to cities related to PTAFs. Cities argue for a 7 percent interest rate; however, counties argue for no interest or a smaller interest rate of 1 percent.

Under the California Supreme Court's ruling, Montclair and other cities throughout the state stand to receive a refund of excessive PTAFs. Montclair City Attorney Robbins has filed a request with the County for a full refund of excess PTAFs, plus interest, retroactive seven years.

By current estimates, Montclair stands to receive \$453,618.09, equal to the amount of PTAFs withheld from the City from Fiscal Years 2006-07 through 2011-12. San Bernardino County officials note the amount withheld and the amount to be potentially repaid pending ongoing litigation are not the same. San Bernardino County officials are currently evaluating a course of action and determining amounts owed to the County's various cities.

It is the position of San Bernardino County that each agency is required to have on record an agreement that tolls (suspends) each three-year statute of limitations cycle. A tolling agreement entered into in 2009 would suspend the statute of limitations covering Fiscal Years 2006-07 to 2008-09 and Fiscal Years 2009-10 to 2011-12. Montclair apparently has no tolling agreement on record from 2009. San Bernardino County's current position is that without the 2009 tolling agreement, Montclair would receive only \$217,093.11 in PTAF reimbursement. City staff will return to the City Council at a future date with a recommendation on the settlement offer.

The San Bernardino County Treasury apparently has sufficient funds set aside to reimburse cities for the principle, but not interest on excessive PTAFs.

### *Tolling Agreement*

Rather than pursue duplicative, expensive litigation against the County of San Bernardino, the County of San Bernardino has agreed to enter into a tolling agreement with the City of Montclair for the next six years (Fiscal Years 2012-13 through 2017-18) pending the final outcome of *City of Alhambra et al. v. County of Los Angeles*.

Proposed Tolling Agreement No. 13-17 would put on hold the need to file a lawsuit to litigate claims against the County regarding PTAF reimbursement for future years. County officials are demonstrating a willingness to discuss PTAF payments and arrive at an out-of-court settlement.

The proposed Tolling Agreement will not limit the ability of the City to directly negotiate with the County with regard to the PTAFs. The purpose of the Tolling Agreement is to preserve the City's claim against the County for future PTAF liabilities.

The proposed term for the Tolling Agreement is six years—participating jurisdictions may withdraw from the Tolling Agreement with 90 days notice. A tolling agreement suspends the three-year statute of limitations restriction on collecting revenues owed the City.

**FISCAL IMPACT:** Approval of proposed Tolling Agreement No. 13-17 would preserve the City's potential rights to illegally collected property tax administration fees. Based on

San Bernardino County's property tax administrative fee records, the amount withheld from Montclair from Fiscal Year 2006-07 through Fiscal Year 2011-12 is \$453,618.09.

However, given that the City did not sign a prior tolling agreement with the County, the County is only willing to go back to Fiscal Year 2009-10 for PTAF reimbursements to Montclair. The County has taken the position that without a prior tolling agreement, it is only required to go back three years on payment of property tax administration fees. This position potentially reduces the amount owed to the City of Montclair to \$217,093.11. Estimates do not take into consideration any interest that may be due to cities. However, it is unlikely any county will consider reimbursement, with interest, without further litigation.

Authorization to enter into a tolling agreement with the County of San Bernardino creates no fiscal impact but could preserve the City's interest in securing property tax administrative fees illegally withheld by the County of San Bernardino.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 13-17, a Tolling Agreement between the City of Montclair and San Bernardino County concerning property tax administration fees.



County of San Bernardino  
**F A S**  
**STANDARD CONTRACT**

**FOR COUNTY USE ONLY**

<input type="checkbox"/> New	Vendor Code	SC	Dept.	A	Contract Number	
<input type="checkbox"/> Change						
<input type="checkbox"/> Cancel						
County Department			Dept.	Orgn.	Contractor's License No.	
County Department Contract Representative			Telephone		Total Contract Amount	
			( ) -		\$ 0	
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount	
				\$	\$	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
						\$
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
						\$
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
						\$
Project Name			Estimated Payment Total by Fiscal Year			
Tolling Agreement			FY	Amount	I/D	FY

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

Address \_\_\_\_\_ hereinafter called City

Telephone ( ) - \_\_\_\_\_ Federal ID No. or Social Security No. \_\_\_\_\_

**IT IS HEREBY AGREED AS FOLLOWS:**

*(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)*

**TOLLING AGREEMENT**

This Tolling Agreement is entered into by and between the County and the City with respect to the following facts:

1. A dispute has arisen between the City and the County regarding the amount of property tax administration fees charged by the County and its County Assessor/Tax Collector to cities, beginning in fiscal year 2006/2007 and continuing through fiscal year 2007/2008, pursuant to Revenue and Taxation Code sections 95.3 and 97, in light of the provisions of Revenue and Taxation Code sections 97.68 and 97.70 (the "Administrative Fees Dispute"). The City contends that the County has charged more for property tax administration

<b>Auditor/Controller-Recorder Use Only</b>	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

fees than its statutory mandate allows, whereas the County contends that it has charged property tax administration fees within the statutory authority.

2. That same Administrative Fees Dispute has arisen between the County and many other cities located within the County, and has also arisen between other California counties and many cities within those counties' territory.

3. Conflicting legal opinions as to the Administrative Fees Dispute have been rendered by various state and local agencies and their counsel.

4. Many California cities have filed claims against counties seeking reimbursement for alleged overcharges of property tax administration fees, and litigation between cities and counties over the Administrative Fees Dispute has been threatened and has been filed or is imminent in the County of Los Angeles and possibly other jurisdictions.

5. The City and the County wish to preserve their respective rights concerning the Administrative Fee Dispute but want to avoid duplicative and potentially wasteful litigation of an issue that will likely be resolved in other litigation.

THEREFORE, the City and the County hereby agree as follows:

1. The statute of limitations or any other time within which the City may file a claim pursuant to the Tort Claims Act or any applicable claims statute or County ordinance, and the statute of limitations or other time within which the City may file litigation against the County challenging the County's calculation of the property tax administration fee for fiscal years 2006/2007 and later arising out of the Administrative Fees Dispute shall be, and hereby is, tolled and extended until the earlier of (a) six years from the date of this Tolling Agreement or (b) a final judgment or opinion by a California court of competent jurisdiction adjudicating the Administrative Fees dispute between the County of Los Angeles and any city therein, or between any other California county and cities.

2. Each party represents and warrants that the individuals executing this Tolling Agreement on each party's behalf possess full authority to execute this agreement and to settle and compromise all claims settled and compromised by this agreement.

3. This Tolling Agreement contains the entire agreement of the parties and supersedes any and all prior or contemporaneous understandings, negotiations, representations, promises and agreements, oral or written, by or between the parties with respect to the matters set forth in this Tolling Agreement. This Tolling Agreement shall not be amended, modified, or otherwise changed except by a writing duly signed by authorized representatives of each party.

4. In entering into this Tolling Agreement, each party has had the opportunity to consult with and rely upon the advice of the attorneys of its own choice. Each party represents and warrants that the terms of this Tolling Agreement have been completely read by and explained to it by its attorneys, and that those terms are fully understood and voluntarily accepted by it.

**Auditor/Controller-Recorder Use Only**

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

Accordingly, any rule of law, including but not limited to Section 1654 of the California Civil Code, or any other statutes, legal decisions, or common law principles of similar effect, which would require interpretation of ambiguities in this Tolling Agreement against the party that has drafted it are of no application and are expressly waived.

5. This Tolling Agreement shall be construed and interpreted in accordance with the laws of the State of California.

6. This Tolling Agreement shall become effective upon execution by all parties. This agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall be deemed to constitute one and the same document.

7. Either party may terminate this Agreement by providing written notice to the other party at least ninety (90) days before the date of termination. The amount of time tolled prior to the date of termination pursuant to this Agreement shall not be affected by such termination.

IN WITNESS WHEREOF, the parties have executed this Tolling Agreement on the dates set forth below.

APPROVED AS TO FORM:

ATTEST:

City Attorney Diane E. Robbins

Deputy City Clerk Yvonne L. Smith

COUNTY OF SAN BERNARDINO

(Print or type name of corporation, company, contractor, etc.)

Janice Rutherford, Chair, Board of Supervisors

By Paul M. Eaton (Authorized signature - sign in blue ink)

Dated:

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

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

Title Mayor (Print or Type)

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

Dated:

By Deputy

Address 5111 Benito Street Montclair, CA 91761

Table with 3 columns: Approved as to Legal Form, Reviewed by Contract Compliance, Presented to BOS for Signature. Includes fields for County Counsel, Date, Department Head, and Date.

Auditor/Controller-Recorder Use Only. Includes checkboxes for Contract Database and FAS, and fields for Input Date and Keyed By.

## AGENDA REPORT

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT  
NO. 13-18 WITH ONTARIO-MONTCLAIR  
SCHOOL DISTRICT FOR USE OF KINGSLEY  
PARK BALL FIELDS

**DATE:** March 4, 2013

**SECTION:** AGREEMENTS

**ITEM NO.:** 2

**FILE I.D.:** PRK300

**DEPT.:** PUBLIC WORKS

**REASON FOR CONSIDERATION:** The agreement with Ontario-Montclair School District for the use of Kingsley Park has expired. Proposed Agreement No. 13-18 with the District has been prepared and is attached for the City Council's review and consideration.

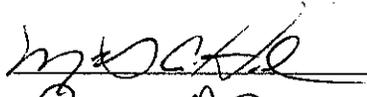
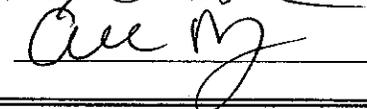
**BACKGROUND:** Since 1975, the City has had agreements with Ontario-Montclair School District for the use of a portion of Kingsley Street Elementary School for ball fields. The ball fields have come to be known as Kingsley Park. The most recent agreement, Agreement No. 87-11, was written for a term of 25 years and expired February 11, 2012.

A new agreement has been negotiated with School District staff and will be retroactive back to February 12, 2012. Proposed Agreement No. 13-18 will be valid through June 30, 2020. In most respects, the new Agreement is similar to previous agreements, with new clauses added reflecting current contract language with respect to indemnification and insurance. The City would continue to be responsible for maintenance of the site and payment of utilities. In addition, the proposed Agreement includes two clauses not addressed in previous contracts.

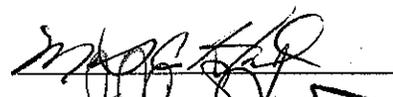
The first additional clause addresses close-out issues for a ball field lighting project the City did several years ago. The City installed the lighting under a permit issued by the Division of State Architect (DSA), the state authority responsible for issuance of permits for work on properties owned or used by public schools. Although the City had obtained a final inspection by DSA in 2004, DSA has never closed its files on the project. The City was recently notified by the District that DSA still needed some paperwork from the City to close its files on the permit. City staff is currently preparing the necessary documentation. The clause in the new agreement states that failure of the City to provide the documentation required by DSA would be a material breach of contract and grounds for termination of the agreement. At this time, staff believes the DSA issue can be resolved within one month.

The second additional clause addresses the form of compensation that the School District will receive as payment from the City for use of the park. The clause requires the City perform crack sealing and slurry sealing of the parking lot immediately north of the ball fields at the end of the second and seventh years of the proposed Agreement term. This form of compensation is not unprecedented. Under the terms of the original 1975

Prepared by:

Reviewed and  
Approved by:


Proofed by:

Presented by:

City was required to connect Serrano Junior High School to the City sewer system at City expense.

**FISCAL IMPACT:** The annual cost of maintenance and repairs at Kingsley Park is estimated at under \$1,500. In the second and seventh years of the contract, crack sealing and slurry sealing will be required at an estimated cost of \$3,000 each year. These costs will be budgeted in the applicable years as General Fund expenditures.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 13-18 with Ontario-Montclair School District for the use of Kingsley Park ball fields.

**AGREEMENT BETWEEN  
ONTARIO-MONTCLAIR SCHOOL DISTRICT  
AND  
THE CITY OF MONTCLAIR  
FOR RECREATIONAL USE OF FACILITIES**

**THIS AGREEMENT**, effective February 12, 2012, by and between the Ontario-Montclair School District (hereinafter School District), a California public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California, and the City of Montclair (hereinafter City), a municipal corporation (individually a Party and collectively the Parties).

**RECITALS**

**WHEREAS**, California Education Code Section 10900 *et seq.* (Community Recreation Programs Law) authorizes public authorities to organize, promote, and conduct such programs of community recreation as will contribute to the attainment of general educational and recreational objectives for children and adults and further empowers public authorities to cooperate with each other to attain such objectives; and

**WHEREAS**, the Community Recreation Programs Law defines recreation to include any activity voluntarily engaged in that contributes to the "...mental or moral development of the individual or group participating therein, and includes any activity in the fields of... art, handicrafts, ... nature contacting, aquatic sports, and athletics..."; and

**WHEREAS**, School District and City are authorized under California law to operate and maintain recreation centers, as defined in Education Code Section 10901(f), for community recreation (Recreation Center); and

**WHEREAS**, School District and City desire to enter into an agreement pursuant to the aforesaid provisions of the Education Code of the State of California providing for the joint use of a Recreation Center that is located within the boundaries of both School District and City; and

**WHEREAS**, School District owns property located at 5625 Kingsley Street, Montclair, California 91763, known as Kingsley Elementary School (School Site); and

**WHEREAS**, a baseball field and related amenities (Licensed Facilities) are located at the School Site; and

**WHEREAS**, City desires to use the Licensed Facilities for community recreation activities; and

**WHEREAS**, School District desires to license the Licensed Facilities to City for purpose of organizing and implementing community recreation activities; and

**WHEREAS**, the Parties desire by this Agreement to provide for the terms and conditions for the use of the Licensed Facilities.

**NOW, THEREFORE**, in consideration of the foregoing recitals and of the mutual promises of the covenants hereinafter contained and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

Section 1. Description of Licensed Facilities. A description and map depiction of the Licensed Facilities subject to this Agreement are attached hereto as Exhibit A.

Section 2. License. School District grants a license to City to use the Licensed Facilities for conducting community recreation activities pursuant to the terms and conditions set forth herein. School District shall not charge the City a license fee for use of the Licensed Facilities; however, City agrees to provide funding for and/or perform the services described in Exhibit B. City shall ensure that any use of the Licensed Facilities by a community recreation group complies with the terms and conditions of this Agreement. City shall not charge for the use of the Licensed Facilities without the advance written approval by the District.

Section 3. Term. Subject to the early termination provisions of Section 6 of this Agreement, the term of this Agreement shall commence February 12, 2012, and extend through June 30, 2020, unless mutually extended in writing by both Parties. Upon the expiration or termination of this Agreement, at any time or upon any grounds provided herein, City shall immediately vacate the Licensed Facilities, and unless the School District requires their removal, all alterations, improvements or additions which are made at the Licensed Facilities by City shall become the property of School District and remain upon, and be surrendered with, the Licensed Facilities at the expiration of the Term. If School District so elects it may require City, at City's sole cost, to remove the alterations, improvements, or additions, and to restore the Licensed Facilities to the prior condition before the last day of the term of the Agreement.

Section 4. Conditions to Use.

(a) Maintenance and Operation of the Licensed Facilities by City. City hereby acknowledges that it has received the Licensed Facilities in good order and condition, except as noted in Exhibit C to this agreement. City agrees that it will, at its sole cost and expense, keep and maintain (including custodial and groundskeeping services) the entire Licensed Facilities and improvements thereon or therein in good repair and appearance, except for ordinary wear and tear, and will with reasonable promptness make all structural and nonstructural, foreseen and unforeseen, and ordinary and extraordinary changes and repairs of every kind and nature which may be required to be made upon or in connection with the Licensed Facilities or improvements thereon or therein in order to keep and maintain the same in such good order, condition and repair. City shall promptly repair any vandalism, including graffiti, on the Licensed Facilities. The School District shall not be required to maintain, repair or rebuild, or to make any alterations, replacements, or renewals of any nature or description to the Licensed Facilities or improvements thereon or therein (or any part thereof), whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen, or to maintain the Licensed Facilities or improvements or any part thereof in any way during the term of this Agreement; and City hereby expressly waives the right to make repairs at the

expense of School District. City shall not be responsible for repair of damages resulting from School District use or School District authorized use of property.

(b) Cleanup of Licensed Facilities. During their respective times of use of the Licensed Facilities as set forth in this Agreement, School District and City shall be responsible for cleanup of the Licensed Facilities. School District and City shall each require users of the Licensed Facilities to provide adequate supervision and guarantee that the Licensed Facilities will be cleaned up after such usage. As used herein, the term cleanup shall mean putting away equipment and supplies, picking up trash and similar related activities. In the event that City fails to clean up and maintain the Licensed Facilities, School District may, at School District's sole discretion, undertake any cleanup or maintenance of the Licensed Facilities and City shall reimburse School District for the costs of such cleanup or maintenance within thirty (30) days of invoice by School District. Additionally, under no circumstances during the term of this Agreement shall City use or cause to be used in the Licensed Facilities any hazardous or toxic substances or materials, and under no circumstance during the term of this Agreement shall City store or dispose of any such substances or materials in the Licensed Facilities.

(c) Noninterference with School District Activities. This Agreement shall not grant City the right to interfere with any activities of School District.

(d) Conduct of City, Employees, and Invitees. City shall ensure that all employees, invitees, and all others in attendance will adhere to proper standards of public conduct. There is to be no consumption of intoxicating liquors or other controlled substances, smoking, gambling, quarreling, fighting, use of profane language, or indecent exposure on or near the Licensed Facilities. Each Party agrees to utilize the Licensed Facilities in conformance with Federal and State law as well as School District and City administrative regulations, ordinances, and policies.

(e) Utilities. City shall be responsible for payment of all utilities associated with the operation and use of the Licensed Facilities during the periods when City uses the Licensed Facilities. For any portion of the City's share of utility costs not billed directly to City, City's pro-rata share shall be billed to City each quarter. Said invoice shall itemize City's share of the total costs of utilities for the Licensed Facilities. City shall promptly pay to the School District its share of such utility costs within thirty (30) days of receipt of such invoice.

(g) Insurance.

(i) Public Liability and Property Damage. City agrees to maintain in full force and effect throughout the duration of the Agreement a suitable policy or policies of public liability and property damage insurance, insuring against all bodily injury, property damage, personal injury, and other loss or liability caused by or connected with City's use of the Licensed Facilities under this Agreement. Such insurance shall be in amounts not less than \$1,000,000 per occurrence; \$3,000,000 for general aggregate and \$1,000,000 for property damage.

(ii) Automobile Liability. City also agrees to maintain in full force and effect with regard to any City owned vehicles, which City brings onto the Licensed Facilities, a suitable policy or policies of automobile liability insurance with a combined single limit of \$1,000,000 per accident throughout the duration of the Agreement.

(iii) Workers' Compensation. City shall also maintain, in full force and effect throughout the term of this Agreement, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence.

(iv) Notice: Additional Named Insureds. All insurance required under this Agreement shall be issued as a primary policy and contain an endorsement requiring thirty (30) days written notice from the insurance company to both Parties hereto before cancellation or change in coverage, scope or amount of any policy. School District, its directors, officers, agents, employees, and consultants, shall be designated as additional named insureds.

(v) Insurance Endorsements. Concurrent with the execution of the Agreement and prior to any use by City of the Licensed Facilities, City will provide School District with an endorsement(s) verifying such insurance and the terms described herein.

(vi) Right to Self Insure. In lieu of commercial insurance, City shall retain the right to self insure all or any portion of its insurance obligations herein.

(h) Indemnification. City shall be responsible for, and School District shall not be answerable or accountable in any manner for any loss or expense by reason of any damage or injury to person or property, or both, arising out of the acts of City, its agents, officers, employees, guests or invitees, or resulting from City's activities at the Licensed Facilities or from any cause whatsoever arising out of or in connection with this Agreement or any other use or operations by City at the Licensed Facilities. City shall indemnify and defend School District, its directors, officers, agents, employees, and invitees against and will hold and save them and each of them harmless from any and all actions, claims, liens, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, association, entity, corporation, political subdivision, or other organization arising out of or in connection with City's activities at the Licensed Facilities, this Agreement, and any other use of and operations by City at the Licensed Facilities pursuant to this Agreement, whether or not there is concurrent passive negligence on the part of School District, its agents, employees, or officers, but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the active negligence or willful misconduct of School District. City further agrees to indemnify, defend, and hold harmless School District, its directors, officers, and employees and each of them from any claim or cause of action arising out of or related to liability resulting from City's violation of any applicable Federal, State, or local statute, ordinance, order, requirement, law, or regulation that may adversely affect the Licensed Facilities including, without limitation, any applicable labor laws and/or regulations. In connection therewith:

(i) Actions Filed. City shall defend any action or actions filed in connection with any of said claims, liens, damages, penalties, obligations, or liabilities and will pay all costs and expenses including attorneys' fees incurred in connection therewith.

(ii) Judgments Rendered. City shall promptly pay any judgment rendered against City or School District covering such claims, liens, damages, penalties, obligations, and liabilities arising out of or in connection with such use of and operations by City at the Licensed Facilities referred to herein and agrees to save and hold School District harmless therefrom.

(iii) Costs and Expenses; Attorneys' Fees. In the event School District is made a party to any action or proceeding filed or prosecuted against City for such damages or other claims arising out of the use of and operations at the Licensed Facilities referred to herein, City agrees to pay School District any and all costs and expenses incurred by them in such action or proceeding together with reasonable attorneys' and expert witness fees.

The provisions of this Section shall survive the termination or expiration of this Agreement.

(i) Scheduling. Representatives of School District and City shall meet at least quarterly to establish schedules for use of the Licensed Facilities (Scheduling Meetings). At each Scheduling Meeting, School District and City shall agree upon a schedule, in writing, for the coming quarter with respect to the use of the Licensed Facilities including, but not limited to, the proposed times, uses, and users of the Licensed Facilities (Master Calendar).

Parties agree that the Licensed Facilities shall be for the exclusive use of School District during school hours, defined as 6:00 a.m. – 4:00 p.m., Monday through Friday, excluding School District holidays. Should School District have an emergency need to use Licensed Facilities outside these hours, it will attempt to provide City a minimum of twenty-four (24) hours notice prior to the anticipated need. City shall coordinate and schedule use of the Licensed Facilities by community recreation groups. Within ten (10) days of receiving the request, City shall provide School District with notice of the community recreation group schedules via email to the District's representative.

(j) Program Costs and Equipment. The Parties agree that each Party shall provide all materials and equipment to be used in their respective activities.

(k) Program Supervision and Security. The Parties agree that each Party will provide all necessary supervision and security at their respective activities. City shall be responsible for supervising/staffing its recreational programs and ensuring that community recreation groups supervise and staff their recreation programs to provide adequate supervision. City shall require community recreation groups designate one or more representatives and ensure that at least one such representative is present and available at the Licensed Facilities during all hours of groups' use.

(l) Locks – Keying and Access Authorization. The lock style, types of gates, and key/code authorization to be utilized at the Licensed Facilities will be coordinated in such a manner as to allow dual access while maintaining the safety and security of people and property. School District shall retain sole discretion and authority to determine lock style, types of gates, and key/code authorization at the Licensed Facilities. If required, the School District Representative shall provide City Representative with one copy of each key necessary to access the Licensed Facilities. A City Representative shall sign and complete a Contractor Key Use Agreement for each key/code. This requirement is not applicable to snack bar, electrical room, or other buildings at the Licensed Facilities.

(m) Parking. Parking in the north parking lot adjacent to the Licensed Facilities shall not be reserved and shall be limited to standard-sized automobiles. City shall not allow large trucks or other large vehicles to use the parking lot on the Licensed Facilities and shall not allow overnight parking. All vehicles shall be parked only in marked parking areas and not in driveways, loading areas, or other areas not specifically designated for parking.

(n) Alterations. City shall not structurally alter improvements on the Licensed Facilities or make any alteration or change to the improvements on the Licensed Facilities, or make any additional improvements to the Licensed Facilities, without the prior written consent of the School District, which may be granted in the School District's sole discretion. Any request for such an alteration, change, or improvement shall be accompanied by plans and specifications providing for the alteration, change, or improvement, which plans and specifications shall be subject to the School District's approval. All construction or alterations shall be performed diligently and in a good and workmanlike manner, and shall comply with all applicable laws, rules, and regulations of the Division of the State Architect (DSA) and any and all other governmental authorities having jurisdiction over the Licensed Facilities.

City shall pay all costs including, but not limited to, demolition and construction; planning and permit fees; architectural, engineering, and legal fees; taxes; and insurance for or related to construction or alterations performed by it, or caused to be performed by it, on the Licensed Facilities as permitted by this Agreement. City shall keep the Licensed Facilities and improvements thereon or therein free and clear of all mechanics' liens resulting from construction and/or alterations performed by, for or at the request of City, it being acknowledged and agreed that nothing herein is intended to state or imply that the Licensed Facilities is subject to mechanic's liens, as the Licensed Facilities is and will continue to constitute real property owned by a public entity during the entire term of this Agreement. City shall do all things reasonably necessary to prevent the filing of any such mechanic's or other liens against the Licensed Facilities or improvements thereon or therein. If any such lien shall at any time be filed against the Licensed Facilities and/or improvements thereon or therein as a result of construction activities or maintenance services initiated by City, City shall cause the same to be discharged of record or bonded over to the satisfaction of the District within thirty (30) days from City's receipt of a copy of such lien.

City shall deliver to School District, promptly after City's receipt thereof, originals or, if originals are not available, copies of any and all of the following instruments and documents pertaining to any construction, repair, or replacement of improvements on the Licensed Facilities: (a) plans and specifications for the subject improvements; (b) test results, physical condition and environmental reports and assessments, inspections, and other due diligence materials related to the subject improvements; (c) permits, licenses, certificates of occupancy, and any and all other governmental approvals issued in connection with the subject improvements; (d) agreements and contracts with architects, engineers, and other design professionals executed with respect to the design of the subject improvements; (e) construction contracts and other agreements with consultants, construction managers, general and other contractors, and equipment suppliers pertaining to the construction, repair or replacement, as the case may be, of the subject improvements; and (f) all guaranties and warranties pertaining to the construction, repair or replacement, as the case may be, of the subject improvements.

Notwithstanding anything to the contrary stated or implied in this Agreement, City shall not take any action or give any approval that will result in a change in the zoning of the Licensed Facilities that will be binding on the Licensed Facilities or impact or affect School District after the expiration or earlier termination of this Agreement, or alter, eliminate or in any way modify any of the entitlements for the Licensed Facilities in any manner that will be binding on the Licensed Facilities or School District after the expiration or earlier termination of this Agreement, in each case without prior written consent of the School District.

(o) Division of State Architect (DSA) Close-Out and Certification. City may not use or operate the City's improvements until the project of constructing any improvements is closed-out and certified by DSA. City shall provide evidence of close-out and certification in a form acceptable to the School District. If the evidence of DSA close-out and certification is acceptable to the School District, the School District will provide written authorization to use and operate the City's improvements. Use and/or operation of the City's improvements prior to School District authorization shall be considered a breach of this Agreement.

The requirement to obtain DSA closeout and certification applies to improvements City has installed at the Licensed Facilities prior to the execution of this Agreement. Specifically, City agrees to obtain closeout and certification of the Kingsley Elementary School, Construction of Six Light Poles, File #36-46, Application #04-105679 project (Project). City shall be liable for any injuries sustained as the result of any City improvements made to the Licensed Facilities until the project receives certification by the DSA. City shall provide evidence of its efforts to obtain DSA certification and final certification in a form acceptable to the School District. Insufficient effort on the part of the City to acquire DSA certification shall constitute a material breach of this Agreement. In the event that City's efforts to obtain DSA approval are deemed insufficient, in the sole discretion of School District, School District shall notify City of such by written notice as provided Section 8. Within sixty (60) days from receipt of written notice, City, at its sole expense, shall remove the alterations, improvements,

and additions made under the Project and restore the Licensed Facilities to the prior condition.

(p) Parking Lot Improvements. City agrees to perform maintenance on existing parking lot located directly north of and adjacent to the Licensed Facilities as described in Exhibit B. City agrees to perform maintenance as described in Exhibit B. A schedule for the crack sealing and slurry seal coating activities shall be prepared by mutual agreement of the parties within 30 days of execution of this Agreement. Should School District desire to perform maintenance work described in Exhibit B sooner than the agreed upon schedule, School District may, at its sole option, perform the work and bill City for actual cost of work, for a total amount not exceed the cost estimates stated in Exhibit B. Said estimates may be modified using the Engineering News Record Construction Cost Index applicable at the time the work is actually performed.

Section 5. Compliance with Law. City shall comply with all requirements, laws, ordinances, rules, and regulations applicable to the Licensed Facilities, enacted or promulgated by any public or governmental authority or agency, including without limitation School District, having jurisdiction over the Licensed Facilities existing at the time this Agreement is executed by both parties. City shall be responsible for obtaining and maintaining throughout the Term of the Agreement all permits, licenses, and approvals from any local, state, or federal agency necessary for the use of the Licensed Facilities by City or community recreation groups. City shall comply with requirements of state law regarding fingerprinting and background checks, as applicable, for City or community recreation group programs.

Section 6. Termination. If either Party fails to perform any term, covenant or condition of this Agreement, or otherwise breaches this Agreement, and such failure or breach continues for more than thirty (30) days after written notice is received by the defaulting Party (or if the breach or default is of such character as to reasonably require more than thirty (30) days to cure, and the defaulting Party fails, within thirty (30) days after it receives written notice of such breach or default from the nondefaulting Party, to commence the cure of such default or thereafter fails to pursue with reasonable diligence the curing of such default to completion), then the nondefaulting Party may, at its option and without any further demand or notice terminate this Agreement. Either Party may terminate this Agreement upon one hundred and eighty (180) days notice without cause.

Section 7. Legal Interpretation of Instrument. The Parties expressly understand and agree that this Agreement constitutes a nonexclusive license for use of the Licensed Facilities. This Agreement is not intended by the Parties, nor shall it be legally construed, to convey a leasehold, easement, or other interest in real property. Should either Party be compelled to institute arbitration, legal, or other proceedings against the other for or on account of the other Party's failure or refusal to perform or fulfill any of the covenants or conditions of this Agreement on its part to be performed or fulfilled, the Parties agree that the rules and principles applicable to licenses shall govern such actions or proceedings. This Agreement shall be governed by the laws of the State of California.

Section 8. Notices. Any notice, request, information, or other document to be given hereunder to any of the Parties by any other Parties shall be in writing and shall be deemed given and served upon delivery, if delivered personally, or three (3) days after mailing by United States mail as follows:

If to CITY: CITY OF MONTCLAIR  
Attention: City Manager  
5111 Benito Street  
Montclair, CA 91763

If to SCHOOL DISTRICT: ONTARIO-MONTCLAIR SCHOOL DISTRICT  
Attention: Office of the Superintendent  
950 W. D Street  
Ontario, CA 91761

Any Party may change the address or persons to which notices are to be sent to it by giving the written notice that such change of address or persons to the other Parties in the manner provided for giving notice. The Parties will provide each other after-hours emergency contact phone numbers of appropriate supervisory staff which shall be periodically updated.

Section 9. Official Representatives. The official representative for School District shall be its Deputy Superintendent or, in his or her absence, the Director, Facilities Planning and Operations. The official representative for City shall be Marilyn J. Staats, its Deputy City Manager, or her designee.

Section 10. Employees/Independent Contractors. For purposes of this Agreement, all persons employed by City in the performance of services and functions with respect to this Agreement shall be deemed employees of City and no City employee shall be considered as an employee of the School District under the jurisdiction of School District; nor shall such City employees have any School District pension, civil service, or other status while an employee of the City.

City shall have no authority to contract on behalf of School District. It is expressly understood and agreed by both Parties hereto that City, while engaged in carrying out and complying with any terms of this Agreement, is not acting as an agent, officer, or employee of School District.

11. Attorneys' Fees; Litigation. In the event any action or suit is brought by a Party against another Party by reason of the breach of any of the covenants or agreements set forth in this Agreement, or any other dispute between the Parties concerning this Agreement, each Party shall be responsible for its own attorney's fees and costs.

12. Assignment/Subletting. City shall not assign or sublet this Agreement or any right or privilege City might have under this Agreement without the prior written consent of School District, which consent maybe withheld and/or conditioned at the discretion of the School District. Notwithstanding the foregoing, City may allow third

parties to use the Licensed Facilities for community recreation purposes as contemplated by this Agreement.

13. Signs. City shall not have the right to place, construct, or maintain any sign, advertisement, awning, banner, or other external decorations on the improvements that are a part of the Licensed Facilities without School District's prior written consent, which consent shall not be unreasonably withheld.

14. Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Agreement.

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

16. Entire Agreement, Waivers and Amendments. This Agreement incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the Parties with respect to all or part of the subject matter thereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged. Any amendment or modification to this Agreement must be in writing and executed by City and School District.

17. Authority. The person(s) executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing; (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound. In accordance with California Education Code section 17604, this Agreement is not a valid or enforceable obligation against the School District until approved or ratified by motion of the Governing Board of the School District duly passed and adopted.

18. Execution in Counterpart. This Agreement may be executed in several counterparts; and all so executed shall constitute one agreement binding on all Parties hereto, notwithstanding that all Parties are not signatories to the original or the same counterpart.

19. Effect of Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Section as though fully set forth herein, and City and School District acknowledge and agree that they are each bound by the same.

20. Exhibits. Exhibits A, B, and C attached to this Agreement are incorporated herein by this reference and made a part hereof.

21. Conflicts of Interest. No director, officer, official, representative, agent or employee of either Party shall have any financial interest, direct or indirect, in this Agreement.

22. Nondiscrimination. There shall be no discrimination by City or School District against any person on account of race, color, religion, sex, marital status, disability, gender, gender identity, gender expression, sexual orientation, ethnicity, national origin or nationality, or ancestry.

23. Rights and Remedies are Cumulative. Except as may be otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative; and the exercise by any Party of one or more of its right or remedies shall not preclude the exercise by it, at the same time or at different times, of any other rights or remedies for the same default or any other default by another Party.

24. Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein; and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either Party, the Agreement shall forthwith be physically amended to make such insertion or correction.

25. Cooperation. School District and City acknowledge that it may be necessary to execute documents other than those specifically referred to herein in order to accomplish the objectives and requirements that are set out in this Agreement. Both School District and City hereby agree to cooperate with each other by executing such other documents or taking such other actions as may be reasonably necessary to complete this transaction in accordance with the intent of the Parties as evidenced in this Agreement and attached Exhibit hereto.

26. Ambiguities not to be Construed against Drafting Party. The doctrine that any ambiguity contained in a contract shall be construed against the Party whose counsel has drafted the contract is expressly waived by each of the Parties hereto with respect to this Agreement.

27. Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other agreement between School District and City. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization, or corporation not a party hereto; and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

28. Days/Holidays. All references to days herein shall refer to calendar days unless otherwise noted. When performance of an obligation or satisfaction of a condition set forth in this Agreement is required on or by a date that is a Saturday, Sunday, or legal holiday, such performance or satisfaction shall instead be required on or by the next business day following that Saturday, Sunday, or holiday, notwithstanding any other provisions of this Agreement.

29. Nonliability of Officials. No officer, member, employee, agent, or representative of the Parties shall be personally liable for any amounts due hereunder; and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

30. No School District Affiliation/Endorsement. City shall not imply, indicate, or otherwise suggest that the City's use and/or any related activities are connected or affiliated with, or are endorsed, favored or supported by, or are opposed by the School District. No signage, fliers, or other material may reference the School District, any school name, logo, or mascot without the School District's written consent, except that City may indicate the location of City's activities.

31. Third-Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not signatory to this Agreement

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement as of the date first above written.

Dated: \_\_\_\_\_

**ONTARIO-MONTCLAIR SCHOOL DISTRICT**

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

\_\_\_\_\_

Dated: \_\_\_\_\_

**CITY OF MONTCLAIR**

\_\_\_\_\_

Paul M. Eaton  
Mayor

**ATTEST:**

\_\_\_\_\_

Yvonne L. Smith  
Deputy City Clerk

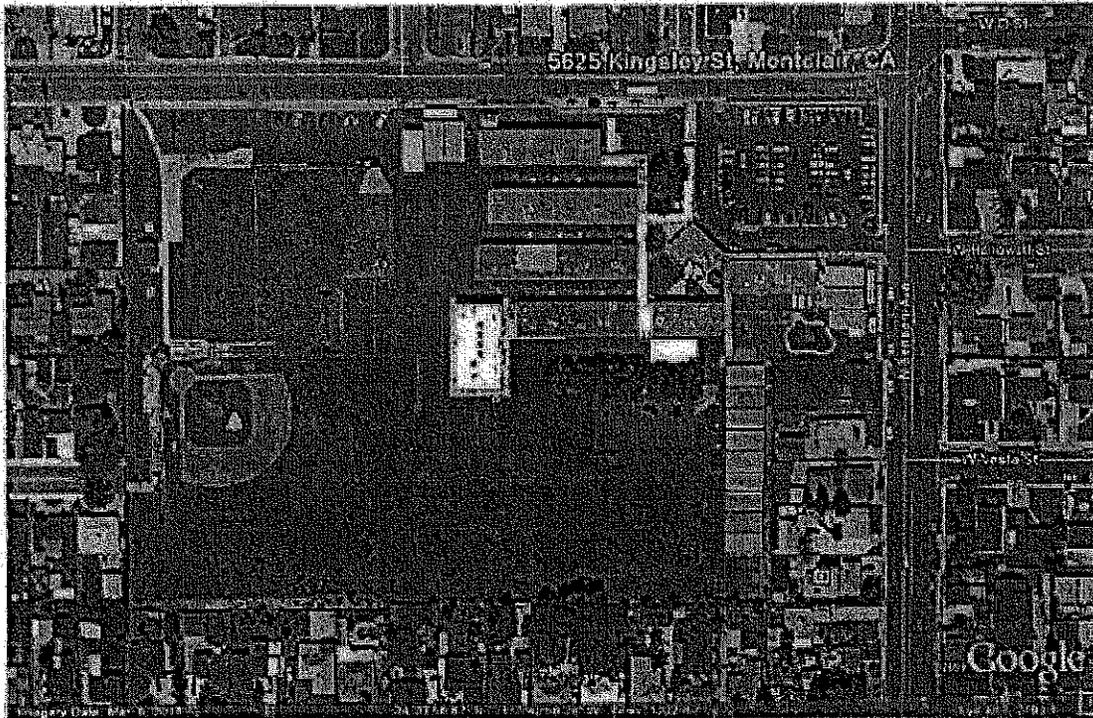
**APPROVED AS TO FORM:**

\_\_\_\_\_

Diane E. Robbins  
City Attorney

**EXHIBIT "A"**

**DESCRIPTION AND MAP OF SCHOOL SITE AND LICENSED FACILITIES**



**Description of Licensed Facilities**

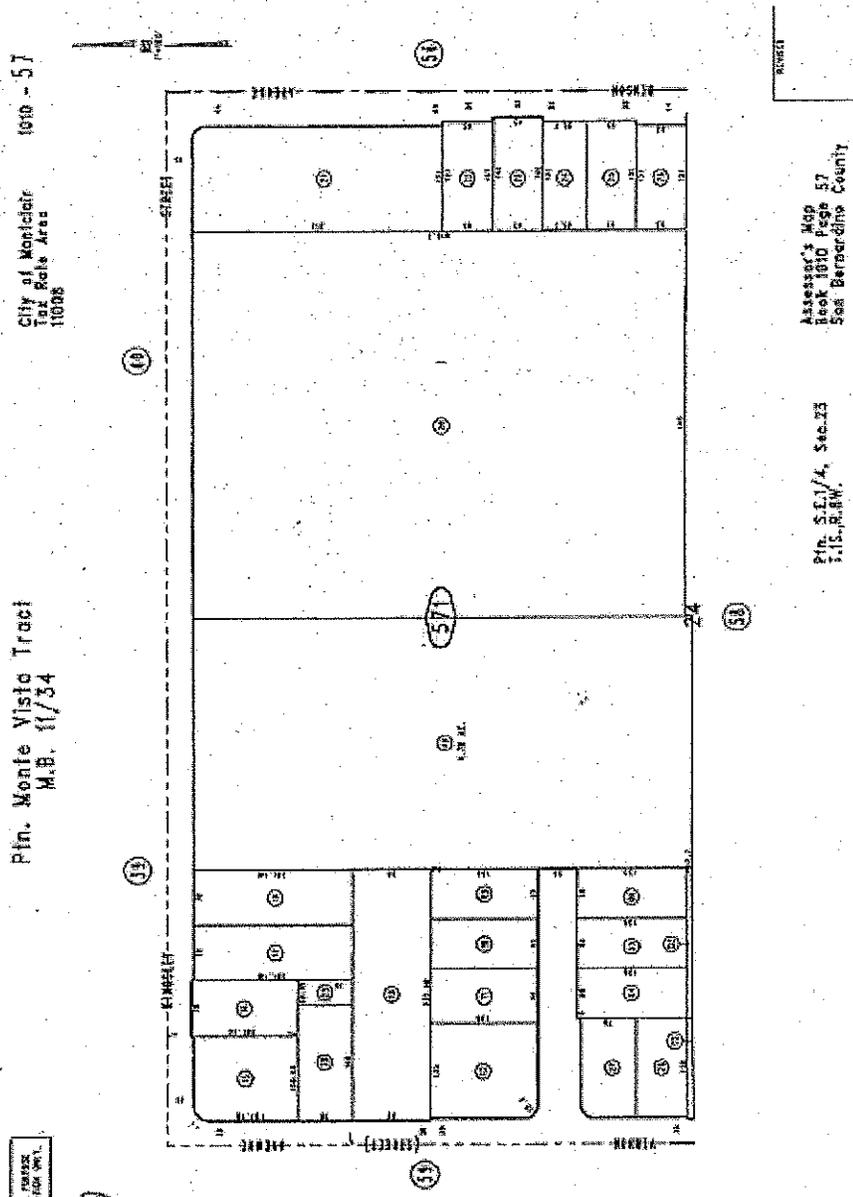
The West 263.2 feet of the East one-half of Lot 2, Block 24, Monte Vista Tract, as per plat recorded in Book 11 of Maps, Page 34, Records of San Bernardino County.

(1 of 2)

005137.00003/10748006v1

**EXHIBIT "A"**

**DESCRIPTION AND MAP OF SCHOOL SITE AND LICENSED FACILITIES**



CITY OF MONTECLAIR  
Tax Rate Area  
11006

Pin. Monte Vista Tract  
M.B. 11/34

Assessor's Map  
Book 1010 Page 57  
San Bernardino County

Plat S.1/4, Sec.23  
T.15.N.W.

100 JAP 6 SEP 1967  
100 JAP 6 SEP 1967  
100 JAP 6 SEP 1967



(2 of 2)

October 2014

## EXHIBIT B

## CITY IMPROVEMENT OBLIGATIONS

## KINGSLEY ELEMENTARY SCHOOL PARKING LOT

Scope of Work:

By the end of the second and seventh year of this agreement, one (1) asphalt crack repair and one (1) slurry seal coats shall be performed.

Crack Sealing

Clean out and prepare existing asphalt cracks  $\frac{3}{4}$ " and smaller throughout parking lot for new hot rubberized crack fill. Supply and install City-specified hot rubberized crack fill to same treated area to prevent further water damage to subgrade.

Slurry Seal Coat

Area is to be prepared for new seal coating by removing foreign objects and dirt by cleaning and preparing existing parking lot using broom and blower. Apply slurry seal coating with latex additive to parking lot. After providing adequate drying time, repaint and restripe all existing stalls and pavement markings, including red and yellow curbs on newly applied slurry coating.

Quantity estimates:

Crack sealing-up to 300 lineal feet

Slurry seal-13,300 square feet

Estimated value of work-\$3,000

Estimate prepared December 2012

Engineering News Record Construction Cost Index December 2012 = 9412.25

EXHIBIT C

EXCEPTIONS TAKEN TO LICENSED FACILITIES BEING IN GOOD ORDER AND  
CONDITION

No exceptions taken.

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 13-20 AMENDING AGREEMENT NO. 12-36 WITH THE SAN BERNARDINO COUNTY DEPARTMENT OF AGING AND ADULT SERVICES TO INCREASE FUNDING FOR THE SENIOR CITIZEN NUTRITION PROGRAM	<b>DATE:</b> March 4, 2013 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 3 <b>FILE I.D.:</b> HSV105 <b>DEPT.:</b> COMMUNITY DEV.
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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 13-20 amending Agreement No. 12-36 with the San Bernardino County Department of Aging and Adult Services (DAAS) to increase funding for the Senior Citizen Nutrition Program for Fiscal Year 2012-13.

A copy of proposed Agreement No. 13-20 is attached for the City Council's review and consideration.

**BACKGROUND:** The San Bernardino County Department of Aging and Adult Services has awarded the City additional one-time-only (OTO) funding to purchase additional meals and supplies for the City's Senior Citizen Nutrition Program for persons aged 60 and older. Proposed Agreement No. 13-20 would amend Agreement No. 12-36 by increasing funding by \$5,658 from the previous contract amount of \$96,741 for Fiscal Year 2012-13. Proposed Agreement No. 13-20 contains the proposed budget and OTO funding schedule.

The term of proposed Agreement No. 13-20 is July 1, 2012, through June 30, 2013.

**FISCAL IMPACT:** Should proposed Agreement No. 13-20 be approved, the Fiscal Year 2012-13 funding would be increased by \$5,658 for purchase of additional meals and supplies for the City's Senior Citizen Nutrition Program. These funds have been allocated to the City through the Older Americans Act Title III Fund.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 13-20 amending Agreement No. 12-36 with the San Bernardino County Department of Aging and Adult Services to increase funding for the Senior Citizen Nutrition Program.

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Prepared by:

*M. Richter*

Reviewed and  
Approved by:

Proofed by:

*Christine Smiduley*

Presented by:

*[Handwritten Signature]*

FOR COUNTY USE ONLY



County of San Bernardino

F A S

STANDARD CONTRACT

X	New	Vendor Code			Dept.	Contract Number	
	Change	CITYOFM731			SC	10-317 A-5	
	Cancel				OOA	A	
ePro Vendor Number 00003363					ePro Contract Number N/A		
County Department Aging and Adult Services				Dept.	Orgn.	Contractor's License No.	
				OOA	210		
County Department Contract Representative Wendy Everett					Telephone (909)387-2917		Total Contract Amount \$301,265
Contract Type: <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:							
If not encumbered or revenue contract type, provide reason:							
Commodity Code 95200		Contract Start Date July 1, 2010		Contract End Date June 30, 2013		Original Amount \$176,960	Amendment Amount \$5,658
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
AAF	OOA	210	300	3357		\$5,658	
Project Name Elderly Nutrition Services Program				Estimated Payment Total by Fiscal Year			
		FY	Amount	I/D	FY	Amount	I/D
		12-13	\$5,658	I			

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

Name  
City of Montclair

hereinafter called Contractor

Address  
5111 Benito Street

Montclair, CA 91763

Telephone  
(909) 626-8571

Federal ID No. or Social Security No.

IT IS HEREBY AGREED AS FOLLOWS:

**AMENDMENT NO. 5**

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

**V. FISCAL PROVISIONS**

Paragraph A is amended to read as follows:

- A. The maximum amount of funds available for payment under this Contract shall not exceed \$301,265 of which \$280,050 (\$95,191 for 2012-13) may be federally funded, and shall be subject to availability of funds to the County. The consideration to be paid to Contractor shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem. The amount is broken down as follows:

July 1, 2010 through June 30, 2011	\$ 94,010
July 1, 2010 through June 30, 2011 (One Time Only Funding)	\$ 1,401
July 1, 2011 through June 30, 2012	\$ 96,869

Auditor/Controller-Treasurer Tax Collector Use Only

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

July 1, 2011 through June 30, 2012 (One Time Only Funding)	\$ 6,586
July 1, 2012 through June 30, 2013	\$ 96,741
July 1, 2012 through June 30, 2013 (One Time Only Funding)	\$ 5,658

Paragraph B is amended to read as follows:

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

Congregate Site: \$5.53 per meal, up to 18,517 meals

Paragraph M is amended to read as follows:

M. Matching contributions

1. The Contractor shall provide in-kind matching contributions of a minimum of \$9,293 for 2012-13, which is the Title III portion of the Contract multiplied by 11.11%.
2. Matching contributions must be allowable costs as determined by CDA. Allowable costs may include but are not limited to rent, utilities, supplies and personnel (volunteers).
3. Uncompensated indirect expense or Contractor allocated overhead expenses may be claimed as an in-kind matching expense if such expenses were determined on the basis of an approved indirect cost rate plan.
4. Contractor shall provide a Budget Matching Funds Narrative (Attachment L) to DAAS with the submittal of the initial budget identifying the type, rates applied and if applicable, source/location of allowable costs to be used as matching contributions for the period of the Contract. The identified matching contributions shall be reported to DAAS by the Contractor on a monthly or quarterly basis as specified in Section V, Paragraph D.
  - a. Services of volunteers shall be valued at rates consistent with those ordinarily paid for similar work by the Contractor. If the Contractor does not have similar work, the rate shall be consistent with those in the labor market.
  - b. All other in-kind contributions shall be valued at current market value.

**ATTACHMENT A – SCOPE OF WORK: Fiscal Year 2012-13 dated March 26, 2013 is added to this Contract.**

**ATTACHMENT K – BUDGET SUMMARY– Fiscal Year 2012-13 dated March 26, 2013 is added to this Contract.**

**ATTACHMENT L – BUDGET MATCHING FUNDS NARRATIVE– Fiscal Year 2012-13 dated March 26, 2013 is added to this Contract.**

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

COUNTY OF SAN BERNARDINO

►  
Janice Rutherford, Chair, Board of Supervisors

Dated:

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

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

By:  
  
Deputy

City of Montclair

(Print or type name of corporation, company, contractor, etc.)

By ►  
(Authorized signature – sign in blue ink)

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

Title: Mayor  
(Print or Type)

Dated:

Address: 5111 Benito Street  
Montclair, CA 91763

Approved as to Legal Form  
►  
Jacqueline Carey-Wilson, County Counsel  
Date \_\_\_\_\_

Reviewed by Contract Compliance  
►  
Regina Dalton, Acting HS Contracts Manager  
Date \_\_\_\_\_

Presented to BOS for Signature  
►  
Director  
Date \_\_\_\_\_

San Bernardino County  
Elderly Nutrition Program  
Scope of Work  
2012-13  
March 26, 2013

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

Contractor: City of Montclair

Service Area: Montclair

**I. Program Description:**

- A. Purpose – The purpose of the ENP is to provide nutrition services as described in the Older Americans Act (OAA) of 1965, as amended, and to assist older individuals in California to live independently; by promoting better health through improved nutrition, and reduced isolation through programs coordinated with nutrition-related supportive services.
- B. Definition – Nutrition Services means the procurement, preparation, transport, and service of meals, nutrition education, nutrition screening, and nutrition counseling, to eligible individuals at congregate sites or in their homes.
- C. Goals – to maintain or improve the physical, psychological, and social well being of older individuals, by providing or securing appropriate nutrition services.
- D. Objectives:
  - 1. Give preference to older individuals in greatest economic or social need with particular attention to low-income minority individuals.
  - 2. Serve meals that provide one-third (1/3) of the Dietary Reference Intakes (DRI's) and are safe and of good quality.
  - 3. Promote and maintain high food safety and sanitation standards.
  - 4. Promote good health behaviors through nutrition education and nutrition screening of participants.
  - 5. Promote or maintain coordination with other nutrition-related supportive services for older individuals.
- E. Target Population – The ENP Provider shall target individuals who are sixty (60) years of age or older, minorities, low income and living in rural areas of the County of San Bernardino.

**II. Eligibility for Nutrition Services:**

- A. Congregate Meals – Individuals eligible to receive a meal at a congregate nutrition site are:
  - 1. Any older individual 60 or older.
  - 2. The spouse of any older individual 60 or older.
  - 3. A person with a disability, under age sixty (60) who resides in housing facilities occupied primarily by older individuals (60 or older) at which congregate nutrition services are provided.
  - 4. A disabled individual who resides at home with and accompanies an older individual who participates in the program.
- B. Volunteer Meals:
  - 1. A volunteer under age sixty (60) may be offered a meal if doing so will not deprive an older individual who is 60 or older of a meal.
- C. Home-Delivered Meals – Individuals eligible to receive a home-delivered meal are:
  - 1. Any older individual who is frail, as defined below, and homebound by reason of illness, disability, or isolation:

- a. "Frail" means that an older individual is determined to be functionally impaired because the individual either:
  - 1) Is unable to perform at least two (2) activities of daily living, including bathing, toileting, dressing, feeding, breathing, transferring and mobility and associated tasks, without substantial human assistance, including verbal reminding, physical cueing or supervision.
  - 2) Due to a cognitive or other mental impairment, requires substantial supervision because the older individual behaves in a manner that possess a serious health or safety hazard to the individual or to others.
2. A spouse of a person in sub-section (C)(1) above, regardless of age or condition, if an assessment concludes that it is in the best interest of the homebound older individual.
3. An individual with a disability who resides at home with older individuals if an assessment concludes that it is in the best interest of the homebound older individual who participates in the program.
4. Priority shall be given to older individuals in sub-section (C)(1) above.

### III. Requirements for Nutrition Services:

#### A. Congregate Meals:

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

#### B. Home-Delivered Meals:

1. Develop and implement criteria to assess the level of need for home-delivered nutrition services of each eligible participant.
  - a. An initial determination of eligibility may be accomplished by telephone. This initial contact with the participant shall include completion of sections I, II, III, and IV of the Client Intake Sheet (provided by DAAS).
  - b. A written assessment shall be done in the home within two (2) weeks of beginning meal service, and shall include an assessment of the type of meal appropriate for the participant in their living environment.
  - c. An older individual eligible for receiving home-delivered meals shall be assessed for need of nutrition-related supportive services, and referred as necessary.
  - d. Re-assessment of need shall be determined quarterly. Such re-assessment shall be done in the home of the participant at least every other quarter. Each quarter's re-assessment shall include completion of sections I, II, III, and IV of the Client Intake Sheet (provided by DAAS).
2. Provide written instructions, in the language of the majority of the participants, for handling and re-heating of the meals.

3. Establish a waiting list for home-delivered meals whenever the home-delivered meal providers are unable to provide meals to all eligible individuals. The decision to place eligible recipients of a home-delivered meal on a waiting list, and their position on such a list, shall be based on greatest need and-or in accordance with policy established by the home-delivered meal provider, in consultation with DAAS.
4. Provide home-delivered meals in pre-packaged divided trays (hot or frozen meals).
5. Maintain appropriate documentation on each client. Documentation shall be kept on file to be monitored by DAAS.

**IV. Program Outcomes:**

- A. Total Number of Meals to be Served: 18,517\*\*
  1. A minimum of 95% of the total number of meals is to be provided. The Director of DAAS must approve requests to serve less than 95% of the total number of meals to be provided. All such requests must be in writing.

Program: C-1 (Congregate Meals)	Program C-2 (Home-Delivered Meals)
# of Days of Service: 251	# of Days of Service:
Number of Meals: 18,517	Number of Meals
Sites to be Served: Montclair Community/ Senior Center	Areas to be Served:

**V. Staffing:**

- A. Manager or Director:
  1. The ENP provider shall have a manager on staff who shall conduct the day-to-day management and administrative functions of the ENP, and either have (1), (2), or (3):
    - a. Possess an associate degree in institutional food service management, or a closely related field, such as, but not limited to, restaurant management, plus two (2) years' experience as a food service supervisor, or,
    - b. Demonstrate experience in food service, such as, but not limited to, cooking at a restaurant, and within twelve (12) months of hire successfully complete a minimum of twenty (20) hours specifically related to food service management, business administration, or personnel management at a college level. Prior to completion of meeting the hours, this individual's performance shall be evaluated through quarterly monitoring by a registered dietitian, or,
    - c. Two years' experience managing food services. Such experience shall be verified and approved by a registered dietitian prior to hire.
  2. The ENP Provider shall maintain documentation on file of the qualifications of the Program Manager or staff.
  3. If the Provider has more than one site, the Manager/Director shall monitor the sites on a bi-monthly basis. The bi-monthly visit shall be for the purpose of monitoring the food service practices of the employees and the implementation of the program requirements at the site level. Documentation of each visit shall be maintained on file for DAAS review.
- B. Personnel – Paid Staff/Volunteers:
  1. There shall be sufficient qualified paid staff or volunteer staff with the appropriate education and experience to carry out the requirements of the ENP. The total number of staff should be based on the method and level of services provided and size of the service area.
  2. Contractor is encouraged to hire multi-lingual/multi-cultural staff to increase low-income and ethnic minority program participation in accordance with federal mandates.

3. Contractor shall recruit for vacant positions in an open and competitive application process free of discriminatory questions. Written job descriptions for all paid and volunteer staff shall be maintained.
4. Contractor shall complete a written work performance evaluation on all paid and volunteer staff at least annually.
5. All staff, paid and volunteer, that will be handling food must be in possession of a current Food Handlers Card.
6. Volunteers shall be recruited and used in any phase of the program operation where qualified.
7. Volunteers shall be screened and selected through a formal process that assesses their capabilities.
8. Volunteers shall receive the same training as paid staff.
9. Volunteers that are paid through other job training programs are not considered volunteers and must be paid the agreed upon rate charged for regular paid staff.
10. The ENP Provider shall maintain a written Volunteer Policy that describes how volunteers are recruited, screened, what topics they are taught at orientation, and how often their performance is evaluated.

**C. Registered Dietitian:**

1. Each ENP Provider shall establish and administer nutrition services with the advice of a Registered Dietitian in accordance with Section 339 of the OAA, and follow the general requirements in Title 22, Division 1.8, Section 7500.
2. The Registered Dietitian will provide the following activities to meet the mandated requirements:
  - a. At a minimum, quarterly monitor for safe food handling and sanitation practices of food facilities.
  - b. Review and approve the content of staff training prior to presentation.
  - c. Develop, or review and approve the cycle menus.
  - d. Provide input, review, and approve the Nutrition Education Plan prior to presentation.
  - e. Provide technical support and assistance as needed.

**VI. Staff Training Activities:**

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

**VII. Senior Participants:**

- A. Satisfaction Survey:
  - 1. The ENP Provider shall conduct a Client Satisfaction Survey at least annually. The Survey instrument must be approved by DAAS prior to its use, and all findings from the Survey must be used to improve services. The Provider must keep the completed Surveys and the tabulated results on file. A copy of the tabulated results must be submitted to DAAS by March 7<sup>th</sup> of the FY it is being conducted for.
- B. Complaint Procedures:
  - 1. Each Provider shall have a written Complaint Procedure.
  - 2. The Complaint Procedure will be available for the participants and will provide them the opportunity to provide positive as well as negative feedback to the Program Manager.
  - 3. The Provider shall have an assessment tool readily accessible for the seniors attending the congregate site or receiving a home-delivered meal.
- C. Nutrition Education Services for Participants:
  - 1. Nutrition Education shall be provided a minimum of four (4) times per year to participants in congregate and home-delivered meal programs.
    - a. Nutrition Education for congregate sites is defined as demonstrations, presentation, lectures or small group discussions, all of which may be augmented with printed materials.
    - b. Nutrition Education for home-delivered meal participants may consist solely of printed material that is in conjunction with a congregate meal Nutrition Education presentation.
  - 2. Nutrition Education shall be based on the particular need of congregate and home-delivered meal participants. An annual Needs Assessment shall be performed by the ENP Provider to make this determination.
  - 3. The Nutrition Education Plan and annual Needs Assessment must be submitted to DAAS by September 1<sup>st</sup> of the FY it is being provided in.
  - 4. Nutrition Education sessions must be reported monthly to DAAS using the Nutrition Education Monthly Service Unit Report.

**Nutrition Education Units of Service:**

Program: C-1 (Congregate Meals)	Program: C-2 (Home-Delivered Meals)
# of Units to be Provided: 295	# of Units to be Provided:
# of Sites to be Presented at: 1	# of Participants to be Presented to:

**VIII. Menu Planning Guidelines/Menu Requirements:**

- A. A minimum of a 3-month cycle shall be planned and submitted to DAAS.
- B. Menu cycles shall include the availability of seasonal foods.
- C. Health, cultural, ethnic and regional dietary practices shall be considered in menu planning, food selection, and meal preparation.
- D. The menu cycle shall be approved by the Provider's Registered Dietitian and upon approval forwarded to the DAAS Registered Dietitian for certification. Menus shall be submitted to the DAAS Registered Dietitian forty-five (45) days prior to the menu start date. Allow thirty (30) days for the menu certification process. Menus will be returned to the Provider at least fifteen (15) days prior to the menu start date. ENP Providers are required to have menus certified prior to the menu start date. All signatures on the menu shall be original signatures.
- E. A copy of the certified menu must be posted in a spot conspicuous to clients at each congregate site.
- F. Copies of the menus shall be made available to the participants upon request.
- G. When planning the menus, the California Daily Food Guide and the Dietary Guidelines for Americans (DGA) are to be considered. Menus shall conform to the following criteria referenced in the sources:
  - 1. Provide an average of 550-750 calories per meal.

2. Limit total fat to no more than 25-30% of the calories averaged for the week.
3. Choose and prepare foods with low amounts of salt, soy sauce and other high sodium items.
4. Include good sources of dietary fiber such as whole grains and cooked dry beans at least four times a week.
5. Include a variety of foods and preparation methods with consideration to color, combinations, texture, size, shape, taste, and preference of the participants served.
6. Dietary Reference Intake Values:
  - a. Table one (1) represents the most current Dietary Reference Intakes (DRI) values and daily compliance range for target nutrients. The values provided are based on the U.S. Department of Agriculture (USDA) Food Guide calculated for one (1) meal for a woman over seventy (70) years of age whose activity level is sedentary. This example represents a majority of the older adult population served by the ENP statewide.
    - 1) The nutrients selected for this Table are based on the target nutrients to:
      - i. Promote health and prevent disease
      - ii. Prevent deficiencies
      - iii. Indicate diet quality
      - iv. Manage disease

**Table 1**  
Target Nutrients

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

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

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

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

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

7. Component Meal Pattern Requirements:

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

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

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

Low-fat milk or milk alternate	1 serving	1 cup or equivalent measure
Fat	Optional	
Dessert	Optional - limit sweets use fruit	Select foods high in fiber and low in fat and sugar

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

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

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

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

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

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

**IX. Food Procurement:**

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

**X. Food Storage:**

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

**XI. Food Production:**

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

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

## **XII. Food Service Requirements:**

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

## **XIII. Program Requirements:**

- A. Client Intake Sheets:
  1. The ENP Provider will ensure that each participant completes the Client Intake Sheet form (provided by DAAS) to determine his or her level of nutritional risk. Forms shall be completed for:
    - a. Congregate Meal Participants – at the beginning of service and then annually thereafter for clients who remain on the program.
      - 1) Sections I and IV are required for congregate meals.
    - b. Home-Delivered Participants – at the beginning of service and then quarterly thereafter for clients who remain on the program.

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

3. Coordinate service with other County departments and local agencies by providing time for presentations or special activities that promote a community based system of care for the participants attending nutrition sites.

G. Reporting:

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

handouts presented to the participants as a component of the Nutrition Education shall be attached to the Nutrition Education Monthly Service Unit Report.

H. Disposal of Equipment:

1. If the Provider wishes to dispose of equipment purchased with Nutrition grant funding, they must submit a request, in writing, to DAAS. The request shall state the equipment description, the location of the equipment, and the reason for disposal.
2. Provider shall submit a list of equipment purchased with grant funding by location.

I. Quarterly Meetings

1. Provider is required to attend all Quarterly Nutrition Provider meetings hosted by DAAS.

COUNTY OF SAN BERNARDINO NUTRITION SERVICES  
PROGRAM BUDGET 2012-13

March 26, 2013

Provider: City of Montclair

Fiscal Year: FY12-13 ORIG \_\_\_ Amend \_X\_

CONGREGATE SITES C-1

HOME DELIVERED MEALS C-2

**Section I: Prepare this section based on annual estimated cost to serve the meals.**

		A	b	C=a+b
		Cost to Provider for the year		
Expenditure Category:		Cash	In-Kind	Annual Expense
1	Personnel	68,294	48,500	116,794
2	Staff Travel & Training	400		400
3	Equipment			
4	Non-Inventory Equipment			
5	Consultants	2,000		2,000
6	Catered Food	78,277		78,277
7	Raw Food			
8	Other Expenses:			
	a. Consumable Supplies	13,729		13,729
	b. Insurance	5,000		5,000
	c. Repair & Maintenance			
	d. Rent/Building Space			
	e. Utilities			
	f. Vehicle Operations	7,650		7,650
	g. Miscellaneous	2,090		2,090
9	Indirect Cost			
10	Nutrition Education	232		232
<b>Total Expenditures (add lines 1-10)</b>		<b>177,672</b>	<b>48,500</b>	<b>226,172</b>

Revenue Sources:			
State funds	7,208		7,208
Federal Funds	83,643		83,643
NSIP	11,548		11,548
County funds			
Program Income	27,656		27,656
Deferred Income			
Matching Cash	47,617		47,617
Matching In-Kind	48,500		48,500
Non-Match Cash			
Non-Match In-Kind			
<b>Total Revenue</b>	<b>226,172</b>		<b>226,172</b>

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

D	E	f=d*e
Estimated annual number of meals	Proposed meal cost per unit	Annual Budget
18,517	\$5.53	\$102,399

Submitted by:

DAAS Approval:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**COUNTY OF SAN BERNARDINO NUTRITION SERVICES**  
**Budget In Kind Narrative**  
**March 26, 2013**

Provide justification, rates, comments, descriptions, etc. for the required 11.11% of the total proposed contract amount in matching funds whether in cash or in-kind. Matching funds may not be fees for services, client donations or program income as defined by 45 CFR 74.41 match.

Line Item	Rate	Annual Amount	Description/Justification
Personnel	\$40.50/hr	\$16,848.00	Salary and Benefits- (1.5 hours per day worked as directly related to administrative tasks for the Senior Nutrition contract.) Asst. Director of Human Services, Marcia Richter
Personnel	\$20.05/hr	\$10,426.00	Salary and Benefits- (1.5 hours per day worked as directly related to administrative tasks for the Senior Nutrition Contract) Senior Programs Specialist Ester Vargas-Pipersky
Vehicle Operations	Mechanic:\$26.75 hourly fully-burdened rate  Parts/Maintenance: Varies, as needed.  Fuel Costs:\$2.25 per gallon	\$7,650.00	Montclair "Golden Express" Bus (transports seniors daily to the nutrition site free of charge)
Insurance	\$5,000.00 annual renewal	\$5,000.00	General Liability and Facilities Insurance
Volunteer Expenses	\$8.00 per hour, per volunteer	\$48,500.00 (matching in-kind)	(supervision/overhead costs)

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 13-21 AMENDING AGREEMENT NO. 12-21 WITH THE COUNTY OF SAN BERNARDINO FOR ACCESS TO THE SHERIFF'S AUTOMATED SYSTEMS	DATE: March 4, 2013 SECTION: AGREEMENTS ITEM NO.: 4 FILE I.D.: PDT200 DEPT.: POLICE
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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 13-21 to amend the fees established in Agreement No. 12-21 with the County of San Bernardino to access the Sheriff's Automated System for continued exchange of criminal justice information through various local, state, and national databases.

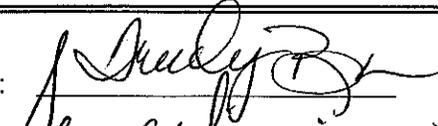
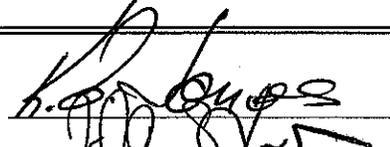
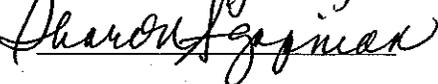
**BACKGROUND:** The County of San Bernardino, through the Sheriff's Department, has served as the administrator for the California Law Enforcement Telecommunications System (CLETS) for many years. As such, the Sheriff's Department has facilitated the exchange of criminal offender record information and other criminal justice information between the Montclair Police Department and criminal justice agencies statewide, as well as nationwide and Canada, via the National Law Enforcement Telecommunications System (NLETS). In addition to NLETS, CLETS has a direct interface with the Federal Bureau of Investigation, National Crime Information Center, Department of Motor Vehicles, and a host of county databases.

Access to the Sheriff's Automated Systems is provided via connection to the County's wide-area network, which is covered under a separate agreement.

**FISCAL IMPACT:** Annual maintenance and support costs for Fiscal Year 2013-14 would be \$1,884. Additionally, the City would be billed transaction fees for the Sheriff's Department Jail Management System, Sheriff's Central Name Index, Sheriff's Automated Warrants, and Property Evidence Tracking System. Transaction fees would be billed quarterly at a rate of \$.06 per transaction.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 13-21 amending Agreement No. 12-21 with the County of San Bernardino for access to the Sheriff's Automated Systems.

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

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County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

Agreement No. 13-21

<input type="checkbox"/> New	FAS Vendor Code		<b>SC</b>	Dept. SHR	<b>A</b>	Contract Number 12-414 A-2	
<input checked="" type="checkbox"/> Change							
<input type="checkbox"/> Cancel							
ePro Vendor Number					ePro Contract Number		
County Department SHERIFF			Dept. SHR	Orgn. SHR	Contractor's License No.		
County Department Contract Representative STEVE HIGGINS			Telephone (909)387-0640		Total Contract Amount \$6,152		
Contract Type <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other: If not encumbered or revenue contract type, provide reason:							
Commodity Code		Contract Start Date 07/01/11	Contract End Date 06/30/14	Original Amount \$4,268	Amendment Amount \$1,884		
Fund AAA	Dept. AAA	Organization SHR	Appr. 200	Obj/Rev Source 9530	GRC/PROJ/JOB No. COMMSVC	Amount \$1,884	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$	
Project Name Sheriff's Automated Systems 2011-14			Estimated Payment Total by Fiscal Year				
			FY	Amount	I/D	FY	Amount
			12	\$1,741			
			13	\$2,527			
Contract Type 1			14	\$1,884			

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, acting by and through the Sheriff's Department ("SHERIFF") and Information Services Department ("ISD"), collectively hereinafter referred to as the COUNTY, and

Name City of Montclair hereinafter called CONTRACTOR

Address Montclair Police Department  
4870 Arrow Highway

Montclair, CA 91763-1211

Telephone (909) 448-3600 Federal ID No. or Social Security No. \_\_\_\_\_

IT IS HEREBY AGREED AS FOLLOWS:

**SECOND AMENDMENT**

Contract No.12-414 with the City of Montclair is hereby amended, effective July 1, 2013, by replacing Schedule A, referred to in Article II, Paragraph B, with the attached Schedule A attached hereto and incorporated herein by reference.

Except as amended, all other terms and conditions of this contract remain as stated therein.

<b>Auditor/Controller-Recorder Use Only</b>	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

[This page is intentionally left blank.]

COUNTY OF SAN BERNARDINO

By \_\_\_\_\_  
▶ Janice Rutherford, Chair, Board of Supervisors

Dated: \_\_\_\_\_

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

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

By \_\_\_\_\_  
Deputy

City of Montclair

(Print or type name of corporation, company, contractor, etc.)

By \_\_\_\_\_  
▶ (Authorized signature - sign in blue ink)

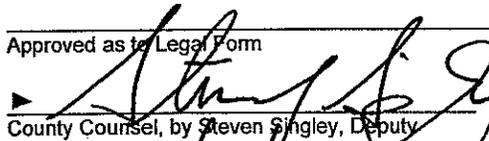
Name Paul M. Eaton  
(Print or type name of person signing contract)

Title Mayor  
(Print or Type)

Dated: \_\_\_\_\_

Address Montclair Police Department  
4870 Arrow Highway

Montclair, CA 91763-1211

Approved as to Legal Form  
▶   
County Counsel, by Steven Singley, Deputy  
Date 2/13/13

Reviewed by Contract Compliance  
\_\_\_\_\_  
Date \_\_\_\_\_

Presented to BOS for Signature  
▶ \_\_\_\_\_  
Department Head  
Date \_\_\_\_\_

**Auditor/Controller-Recorder Use Only**

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

**SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT**

**SCHEDULE 'A'**

**CITY OF MONTCLAIR, MONTCLAIR POLICE DEPARTMENT**

**FY 2013-14 \***

**COST SCHEDULE  
CHARGES FOR SHERIFF'S AUTOMATED SYSTEMS**

<b>CLETS ANNUAL MAINTENANCE &amp; SUPPORT COSTS:</b>	<u><b>Annual Cost</b></u>
<u>Service</u>	
CLETS Teleprocessing Support/Maintenance Costs (\$50 per Month)	\$600
CLETS Terminal Browser Access (\$10.50 per Month per Terminal) (MT01 - MT02)	\$252
CLETS Transactions Cost (2012 data)	<u>\$1,032</u>
<b>CLETS ANNUAL MAINTENANCE &amp; SUPPORT COSTS:</b>	<b>\$1,884</b>
 <b><u>QUARTERLY PAYMENT IN ARREARS FOR CLETS:</u></b>	 <b>\$471.00</b>

**ADDITIONALLY:**

The Contractor shall be billed Transaction Fees on a monthly basis by County ISD in arrears resulting from use of the following systems:

- Sheriff's Department Jail Management System (JIMS)
- Sheriff's Central Name Index (CNI)
- Sheriff's Automated Warrants (SAW)

Property Evidence Tracking System (PETS): The Contractor shall be billed for the system transaction fees at the rate of 6 cents per transaction, billing by SHERIFF on a quarterly basis for actual usage in arrears and included with their quarterly bills for CLETS.

\* The rates on this page are for the fiscal year 2013-14 only and will be adjusted each fiscal year.

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 13-2979 SUPPORTING THE RENEWAL, EXPANSION, AND RENAMING OF THE SAN BERNARDINO COUNTY RECYCLING MARKET DEVELOPMENT ZONE	<b>DATE:</b> March 4, 2013
	<b>SECTION:</b> RESOLUTIONS
	<b>ITEM NO.:</b> 1
	<b>FILE I.D.:</b> REF275
	<b>DEPT.:</b> ECON. DEV.

---

**REASON FOR CONSIDERATION:** The County of San Bernardino is requesting the involvement of cities interested in becoming part of a Recycling Market Development Zone (RMDZ) Program. The RMDZ Program is offered through the California Department of Resources, Recycling and Recovery (CalRecycle). The program provides loans, technical assistance, and free marketing to businesses that use materials from the waste stream to manufacture their products and are located in the zone.

The City Council is requested to consider adoption of proposed Resolution No. 13-2979 supporting the renewal and expansion of the RMDZ. This action would allow certain businesses within the City the opportunity to become involved in CalRecycle programs.

**BACKGROUND:** As indicated, the Recycling Market Development Zone (RMDZ) Program, through the California Department of Resources Recycling and Recovery (CalRecycle), was developed to combine recycling with economic development to fuel new businesses, expand existing business, create jobs, and divert waste from landfills. The program provides attractive loans, technical assistance, and free product marketing to businesses that use materials from the waste stream to manufacture their products and are located in a zone. The zones cover roughly 88,000 square miles of California from the Oregon border to San Diego.

Some of the benefits afforded to manufacturers in an RMDZ include:

- Locating manufacturing materials (feedstock)
- Permitting referral
- Siting
- Offering an attractive revolving loan program
- Finding markets for products
- Providing current market conditions/trends
- Evaluating technology and equipment
- Providing geographical data on demographics, waste streams, and economics
- Marketing products for free via the RecycleStore. The RecycleStore showcases innovative recycled-content products made from California recovered materials on the State CalRecycle website.

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Prepared by: M. STARRS  
Proofed by: Gloria Smith

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

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The County of Riverside Economic Development Agency created the Agua Mansa Recycling Market Development Zone in 1993 to attract businesses that process mixed waste paper, glass, tires and rubber, plastic, yard waste, and inert solids. The Agua Mansa Recycling Market Development Zone (AMRMDZ) is composed of a multijurisdictional team of Riverside and San Bernardino Counties and the cities of Colton, Rialto, and San Bernardino. This zone also serves as an Enterprise Zone, as designated by the State Department of Commerce. The zone is centrally located in the Western Riverside/San Bernardino County area and encompasses 26,422 acres.

The Agua Mansa RMDZ will expire March 2013. The County of Riverside has indicated to the County of San Bernardino Economic Development Agency its intention to not renew and to focus on an RMDZ solely serving the County of Riverside. To assist in business attraction, retention, and expansion efforts, the County of San Bernardino Economic Development Agency wishes to preserve the RMDZ status and assume the administrator role. Both CalRecycle and cities in the County of San Bernardino currently not part of an existing RMDZ were notified of the County of San Bernardino Economic Development Agency's intent to renew the RMDZ designation, assume the administrator role, expand its boundaries, and change the name to the San Bernardino County RMDZ.

The following cities have expressed interest in joining, along with the unincorporated areas, the San Bernardino County RMDZ: Big Bear Lake, Colton, Grand Terrace, Montclair, Needles, Ontario, Rancho Cucamonga, Rialto, San Bernardino, and Yucaipa. This list of cities may change pending approval from the respective city councils and/or renewed interest by eligible cities currently not listed.

The following cities already participate in the existing Chino Valley, Hesperia, and High Desert RMDZs: Apple Valley, Barstow, Chino, Chino Hills, Hesperia, Twentynine Palms, Victorville, and Yucca Valley.

In 2011, there were five existing businesses operating in the Agua Mansa RMDZ that process mixed waste paper, glass, tires and rubber, plastic, yard waste, and inert solids. From the start of the program, four loans were granted to these businesses, at least 13,750 tons of waste were diverted from landfills, and at least 25 jobs were created.

The RMDZ Program would provide an economic development resource to the City to attract or retain recycling-based manufacturing business. The program also assists the community in diverting waste from landfills. The program does not supersede local land use and zoning regulations. Staff is recommending that properties with the M-1, M-2, and MIP zoning designations become part of the RMDZ Program.

**FISCAL IMPACT:** There is no cost to the City to participate in the RMDZ Program. Likewise, no additional funding is provided to the City as a consequence of participation in the RMDZ Program. The County of San Bernardino Economic Development Agency would be the main point of contact for technical assistance, marketing, and reporting to CalRecycle. The City would be asked to provide the County with a list of potential recycling-based manufacturing businesses and would be asked to contact the recycling-based, manufacturing-based businesses to obtain data necessary to complete an annual report. It is not anticipated that the program will create an undue burden on City staff.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 13-2979 supporting the renewal, expansion, and renaming of the San Bernardino County Recycling Market Development Zone.

**RESOLUTION NO. 13-2979**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MONTCLAIR SUPPORTING THE  
RENEWAL, EXPANSION, AND RENAMING OF  
THE SAN BERNARDINO COUNTY RECYCLING  
MARKET DEVELOPMENT ZONE**

**WHEREAS**, the California Public Resources Code Section 42010 provides for the establishment of the Recycling Market Development Zone (RMDZ) program throughout the state to provide incentives to stimulate development of post-consumer and secondary materials markets for recyclables; and

**WHEREAS**, the Agua Mansa RMDZ currently includes portions of unincorporated San Bernardino and Riverside Counties and portions of the cities of Colton, Rialto, Riverside, and San Bernardino; and

**WHEREAS**, the current Agua Manza RMDZ shall be: (1) renamed as the San Bernardino County RMDZ; (2) administered by the County of San Bernardino Economic Development Agency; and (3) expanded to include all unincorporated and participating incorporated communities in the County of San Bernardino; and

**WHEREAS**, the reconstituted San Bernardino RMDZ shall exclude all communities and cities located in Riverside County; and

**WHEREAS**, the San Bernardino County RMDZ shall exclude communities currently participating in the Chino Valley, Hesperia, and High Desert RMDZs, which include the municipalities of Apple Valley, Barstow, Chino, Chino Hills, Hesperia, Twentynine Palms, Victorville, and Yucca Valley; and

**WHEREAS**, cities and counties must meet a 50 percent reduction in landfill waste disposal as mandated in the California Integrated Waste Management Act; and

**WHEREAS**, the San Bernardino County RMDZ is dedicated to establishing, sustaining, and expanding recycling-based manufacturing businesses, which is essential for market development and to assist local jurisdictions in meeting the established landfill reduction goals; and

**WHEREAS**, the San Bernardino County RMDZ designation will expire in March 2023 unless redesignated by CalRecycle; and

**WHEREAS**, the City of Montclair still desires existing and new recycling-based manufacturing businesses locating within the region to be eligible for the technical and financial incentives associated with the RMDZ program; and

**WHEREAS**, renewal of the San Bernardino County RMDZ is still necessary to facilitate local and regional planning, coordination, and support of existing recycling-based manufacturing businesses, as well as to attract private sector recycling business investments to the region; and

**WHEREAS**, the current and proposed waste management practices and conditions are favorable to the development of post-consumer and secondary waste materials markets; and

**WHEREAS**, the City of Montclair will assist the San Bernardino County RMDZ Administrator market and promote RMDZ benefits, contact prospective businesses, and provide data to complete annual and other reporting documents within its local jurisdiction; and

**WHEREAS**, the San Bernardino County RMDZ does not supersede nor attempt to change local land use, planning, and zoning regulations as enforced by the City of Montclair; and

**WHEREAS**, the City of Montclair shall inform economic development and solid waste professionals in their jurisdiction of the benefits of the San Bernardino County RMDZ; and

**WHEREAS**, the California Legislature has defined environmental justice as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies" (Government Code Section 65040.12(e)) and has directed the California Environmental Protection Agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels including minority populations and low-income populations of the Public Resources Code Section 71110(a); and

**WHEREAS**, CalRecycle has adopted a goal to continuously integrate environmental justice concerns into all of its programs and activities, and

**WHEREAS**, the County of San Bernardino as Lead Agency under the California Environmental Quality Act has prepared, or caused to be prepared, and adopted a Negative Declaration for the zone renewal project that finds that the project will not have a significant impact on the environment; and

**WHEREAS**, the City of Montclair intends to review and consider the information in the Negative Declaration adopted by the County of San Bernardino that finds that the zone renewal project will not have a significant impact on the environment.

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

**Section 1.** That it approves the submittal of a Recycling Market Development Zone renewal application to include the City of Montclair.

**Section 2.** That it agrees to participate in the RMDZ program in a manner that seeks to ensure the fair treatment of people of all races, cultures, and incomes but not limited to soliciting public participation in all communities within the RMDZ.

**APPROVED AND ADOPTED** this XX day of XX, 2013.

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Mayor

**ATTEST:**

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Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 13-2979 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2013, and that it was adopted by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

## AGENDA REPORT

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**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION  
NO. 13-2980 AUTHORIZING PLACEMENT  
OF LIENS ON CERTAIN PROPERTIES FOR  
DELINQUENT SEWER AND TRASH CHARGES

**DATE:** March 4, 2013

**SECTION:** RESOLUTIONS

**ITEM NO.:** 2

**FILE I.D.:** STB300-17

**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** Staff has identified 282 sewer and trash accounts in the odd-numbered-month billing cycle that are more than three billing periods delinquent. Pursuant to Montclair Municipal Code Chapter 1.12, these properties are subject to lien.

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

The 282 liens presented for approval are for accounts that are at least 90 days delinquent.

**FISCAL IMPACT:** Recoverable amount is \$62,231.49 plus \$14,100.00 in lien fees, for a total of \$76,331.49.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 13-2980 authorizing placement of liens on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

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Prepared by:

*Reginald B. [Signature]*  
*Gyonna R. Smith*

Reviewed and  
Approved by:

*Donald L. Parker*  
*[Signature]*

Proofed by:

Presented by:

**RESOLUTION NO. 13-2980**

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

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

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

**WHEREAS**, it has been determined that there are 282 sewer and/or trash accounts on which there are delinquencies in excess of 90 days; and

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

**WHEREAS**, the owners of these properties were notified on February 12, 2013, that their delinquent accounts are subject to causing a lien to be placed on their properties for settlement of such delinquencies; and

**WHEREAS**, the owners of these properties were again notified on February 21, 2013, and that such liens would be considered for approval by the Montclair City Council on Monday, March 4, 2013.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair approves the placement of liens on the properties and in the amounts specified in Exhibit A, entitled *Report of Delinquent Civil Debts - March 2013*, attached hereto.

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

**APPROVED AND ADOPTED** this XX day of XX, 2013.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 13-2980 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2013, and that it was adopted by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

Exhibit A to Resolution No. 13-2980  
Report of Delinquent Civil Debts - March 2013

Street Number	Street	Account Type	Delinquency	Lien Fee	Total Lien Amount
4334	Alamitos Street	Residential	291.54	50.00	341.54
4356	Alamitos Street	Residential	298.18	50.00	348.18
5356	Alamitos Street	Residential	206.01	50.00	256.01
5366	Alamitos Street	Senior	208.04	50.00	258.04
5371	Alamitos Street	Residential	204.64	50.00	254.64
4575	Allesandro Street	Residential	200.31	50.00	250.31
4667	Allesandro Street	Residential	214.87	50.00	264.87
9825	Amherst Avenue	Residential	182.46	50.00	232.46
9910	Amherst Avenue	Residential	196.86	50.00	246.86
9919	Amherst Avenue	Residential	184.04	50.00	234.04
10080	Amherst Avenue	Residential	184.04	50.00	234.04
5463	Armsley Street	Residential	194.38	50.00	244.38
5516	Armsley Street	Residential	283.13	50.00	333.13
5577	Armsley Street	Residential	206.01	50.00	256.01
5136	Aspen Drive	Residential	214.87	50.00	264.87
5189	Aspen Drive	Residential	287.73	50.00	337.73
9250	Bel Air Avenue	Residential	130.76	50.00	180.76
9680	Bel Air Avenue	Residential	287.73	50.00	337.73
9909	Bel Air Avenue	Residential	206.12	50.00	256.12
9982	Bel Air Avenue	Residential	206.01	50.00	256.01
10009	Bel Air Avenue	Senior	252.92	50.00	302.92
10024	Bel Air Avenue	Residential	272.35	50.00	322.35
10036	Bel Air Avenue	Residential	231.74	50.00	281.74
4357	Benito Street	Residential	296.73	50.00	346.73
4460	Benito Street	Residential	206.01	50.00	256.01
4814	Benito Street	Senior	162.75	50.00	212.75
5389	Benito Street	Senior	208.04	50.00	258.04
5428	Benito Street	Residential	186.49	50.00	236.49
5429	Benito Street	Residential	104.18	50.00	154.18
5590	Benito Street	Residential	122.14	50.00	172.14
9590	Benson Avenue	Residential	203.07	50.00	253.07
9656	Benson Avenue	Residential	206.01	50.00	256.01
9974	Benson Avenue	Residential	205.57	50.00	255.57
9986	Benson Avenue	Residential	184.04	50.00	234.04
4266	Berkeley Street	Residential	186.49	50.00	236.49
4797	Berkeley Street	Residential	286.49	50.00	336.49
4843	Berkeley Street	Residential	194.34	50.00	244.34
5382	Berkeley Street	Residential	206.01	50.00	256.01
9598	Bolton Avenue	Residential	214.87	50.00	264.87
9768	Bolton Avenue	Residential	171.76	50.00	221.76
4522	Bonnie Brae Street	Residential	211.91	50.00	261.91
4531	Bonnie Brae Street	Residential	206.01	50.00	256.01
4541	Bonnie Brae Street	Residential	216.85	50.00	266.85
5544	Bonnie Brae Street	Residential	205.58	50.00	255.58
5597	Bonnie Brae Street	Residential	286.49	50.00	336.49
9815	Camarena Avenue	Residential	200.64	50.00	250.64
9827	Camarena Avenue	Residential	105.72	50.00	155.72
9851	Camarena Avenue	Residential	206.01	50.00	256.01
4853	Cambridge Street	Residential	206.01	50.00	256.01
5438	Cambridge Street	Residential	206.01	50.00	256.01
5448	Cambridge Street	Residential	205.89	50.00	255.89
5470	Cambridge Street	Residential	209.18	50.00	259.18

Exhibit A to Resolution No. 13-2980  
Report of Delinquent Civil Debts - March 2013

Street Number	Street	Account Type	Delinquency	Lien Fee	Total Lien Amount
5471	Cambridge Street	Residential	206.01	50.00	256.01
5490	Cambridge Street	Residential	286.49	50.00	336.49
5518	Cambridge Street	Senior	159.15	50.00	209.15
5570	Cambridge Street	Residential	105.92	50.00	155.92
5606	Cambridge Street	Residential	206.01	50.00	256.01
5607	Cambridge Street	Residential	205.98	50.00	255.98
9112	Camulos Avenue	Residential	206.01	50.00	256.01
9151	Camulos Avenue	Residential	206.01	50.00	256.01
9243	Camulos Avenue	Residential	206.01	50.00	256.01
9252	Camulos Avenue	Residential	227.11	50.00	277.11
9426	Camulos Avenue	Residential	178.17	50.00	228.17
9511	Camulos Avenue	Residential	147.41	50.00	197.41
9530	Camulos Avenue	Residential	203.60	50.00	253.60
9547	Camulos Avenue	Residential	206.39	50.00	256.39
9606	Camulos Avenue	Residential	205.75	50.00	255.75
9737	Camulos Avenue	Residential	206.01	50.00	256.01
9757	Camulos Avenue	Residential	206.01	50.00	256.01
9859	Camulos Avenue	Residential	206.01	50.00	256.01
9877	Camulos Avenue	Residential	231.96	50.00	281.96
10060	Camulos Avenue	Residential	203.09	50.00	253.09
5666	Caroline Street	Residential	200.01	50.00	250.01
9454	Carrillo Avenue	Residential	286.49	50.00	336.49
9464	Carrillo Avenue	Residential	184.04	50.00	234.04
9601	Carrillo Avenue	Residential	206.01	50.00	256.01
9986	Central Avenue	Residential	231.96	50.00	281.96
10220	Central Avenue	Commercial	488.17	50.00	538.17
10330-34	Central Avenue	Commercial	162.19	50.00	212.19
9795	Coalinga Avenue	Residential	214.87	50.00	264.87
9815	Coalinga Avenue	Residential	199.19	50.00	249.19
9824	Coalinga Avenue	Senior	103.15	50.00	153.15
9827	Coalinga Avenue	Residential	182.10	50.00	232.10
9875	Coalinga Avenue	Residential	184.04	50.00	234.04
9380	Columbine Avenue	Residential	231.88	50.00	281.88
9440	Columbine Avenue	Residential	206.02	50.00	256.02
9815	Columbine Avenue	Residential	184.04	50.00	234.04
9824	Columbine Avenue	Residential	206.99	50.00	256.99
9995	Columbine Avenue	Residential	207.54	50.00	257.54
4294	Denver Street	Residential	250.12	50.00	300.12
4304	Denver Street	Residential	231.96	50.00	281.96
4324	Denver Street	Residential	206.01	50.00	256.01
4325	Denver Street	Residential	203.60	50.00	253.60
4416	Denver Street	Residential	180.95	50.00	230.95
5391	Denver Street	Residential	101.70	50.00	151.70
5579	Denver Street	Residential	186.49	50.00	236.49
5616	Denver Street	Residential	206.01	50.00	256.01
5675	Deodar Street	Residential	303.72	50.00	353.72
4461	El Morado Street	Residential	214.14	50.00	264.14
5168	El Morado Street	Residential	210.03	50.00	260.03
5416	El Morado Street	Residential	201.95	50.00	251.95
9463	Exeter Avenue	Residential	206.99	50.00	256.99
9310	Felipe Avenue	Residential	184.04	50.00	234.04
9020	Fremont Avenue	Senior	301.86	50.00	351.86

Exhibit A to Resolution No. 13-2980  
Report of Delinquent Civil Debts - March 2013

Street Number	Street	Account Type	Delinquency	Lien Fee	Total Lien Amount
9567	Fremont Avenue	Residential	231.96	50.00	281.96
9776	Fremont Avenue	Residential	203.60	50.00	253.60
9812	Fremont Avenue	Residential	164.91	50.00	214.91
9821	Fremont Avenue	Residential	184.44	50.00	234.44
9823	Fremont Avenue	Residential	206.01	50.00	256.01
9829	Fremont Avenue	Residential	184.04	50.00	234.04
9043	Geneva Avenue	Residential	203.60	50.00	253.60
9757	Geneva Avenue	Residential	287.73	50.00	337.73
9932	Geneva Avenue	Residential	205.48	50.00	255.48
9985	Geneva Avenue	Residential	205.75	50.00	255.75
4328	Granada Street	Residential	206.01	50.00	256.01
4435	Granada Street	Residential	177.17	50.00	227.17
4436	Granada Street	Residential	205.92	50.00	255.92
4947	Granada Street	Residential	130.71	50.00	180.71
4982	Granada Street	Residential	157.85	50.00	207.85
5422	Granada Street	Residential	204.34	50.00	254.34
5470	Granada Street	Residential	109.14	50.00	159.14
5627	Granada Street	Residential	127.15	50.00	177.15
5628	Granada Street	Residential	206.01	50.00	256.01
9783	Greenwood Avenue	Residential	205.75	50.00	255.75
10054	Greenwood Avenue	Residential	100.28	50.00	150.28
4418	Harvard Street	Residential	206.01	50.00	256.01
4430	Harvard Street	Residential	206.01	50.00	256.01
4785	Harvard Street	Residential	216.79	50.00	266.79
5494	Harvard Street	Residential	286.49	50.00	336.49
5141-43	Harvard Street	Multifamily	411.99	50.00	461.99
5553	Hawthorne Street	Residential	116.38	50.00	166.38
5596	Hawthorne Street	Residential	206.01	50.00	256.01
9055	Helena Avenue	Residential	103.28	50.00	153.28
9607	Helena Avenue	Residential	205.87	50.00	255.87
9628	Helena Avenue	Residential	281.44	50.00	331.44
9636	Helena Avenue	Residential	206.99	50.00	256.99
9638	Helena Avenue	Residential	291.36	50.00	341.36
9641	Helena Avenue	Residential	206.10	50.00	256.10
9802	Helena Avenue	Residential	205.15	50.00	255.15
4581	Highland Street	Residential	147.47	50.00	197.47
4864	Highland Street	Residential	231.96	50.00	281.96
4110	Holt Boulevard	Commercial	115.06	50.00	165.06
5110	Holt Boulevard	Commercial	158.61	50.00	208.61
5132	Holt Boulevard	Commercial	184.34	50.00	234.34
5630	Holt Boulevard	Commercial	133.42	50.00	183.42
5120	Howard Street	Multifamily	182.96	50.00	232.96
5190	Howard Street A & B	Multifamily	469.82	50.00	519.82
4585	James Street	Residential	206.01	50.00	256.01
9725	Kimberly Avenue	Residential	206.01	50.00	256.01
9735	Kimberly Avenue	Residential	136.99	50.00	186.99
9860	Kimberly Avenue	Residential	245.20	50.00	295.20
5430	La Denev Street	Residential	206.87	50.00	256.87
5564	La Denev Street	Residential	300.12	50.00	350.12
5594	La Denev Street	Residential	186.49	50.00	236.49
9773	Lehigh Avenue	Residential	214.87	50.00	264.87
9024	Lindero Avenue	Residential	255.19	50.00	305.19

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Street Number	Street	Account Type	Delinquency	Lien Fee	Total Lien Amount
9025	Lindero Avenue	Residential	166.23	50.00	216.23
9875	Lindero Avenue	Residential	322.90	50.00	372.90
9933	Lindero Avenue	Residential	286.49	50.00	336.49
9957	Lindero Avenue	Residential	206.01	50.00	256.01
10041	Lindero Avenue	Residential	206.01	50.00	256.01
10042	Lindero Avenue	Residential	229.49	50.00	279.49
9842	Mammoth Drive	Residential	116.10	50.00	166.10
9527	Marion Avenue	Residential	206.02	50.00	256.02
9537	Marion Avenue	Residential	195.39	50.00	245.39
9547	Marion Avenue	Residential	195.36	50.00	245.36
10049	Marion Avenue	Residential	186.17	50.00	236.17
5121	Merle Street	Multifamily	412.01	50.00	462.01
9595	Mills Avenue	Residential	291.34	50.00	341.34
9969	Mills Avenue	Residential	206.99	50.00	256.99
9066	Monte Vista Avenue	Residential	241.97	50.00	291.97
9685	Monte Vista Avenue	Multifamily	3860.80	50.00	3910.80
9775	Monte Vista Avenue	Residential	205.88	50.00	255.88
5082	Moreno Street	Residential	206.90	50.00	256.90
5608	Moreno Street	Residential	184.04	50.00	234.04
4644	Olive Street	Residential	183.51	50.00	233.51
4872	Olive Street	Residential	206.11	50.00	256.11
4873	Olive Street	Residential	136.49	50.00	186.49
4190	Orchard Street	Residential	164.49	50.00	214.49
4322	Orchard Street	Residential	231.96	50.00	281.96
4382	Orchard Street	Residential	212.84	50.00	262.84
5690	Orchard Street	Residential	206.01	50.00	256.01
5257	Palo Verde Street	Senior	182.02	50.00	232.02
5415	Palo Verde Street	Residential	206.02	50.00	256.02
5474	Palo Verde Street	Residential	194.38	50.00	244.38
5510	Palo Verde Street	Residential	109.56	50.00	159.56
9585	Poulsen Avenue	Residential	206.39	50.00	256.39
9610	Poulsen Avenue	Residential	101.86	50.00	151.86
9935	Poulsen Avenue	Residential	206.01	50.00	256.01
10043	Poulsen Avenue	Residential	206.01	50.00	256.01
9375	Pradera Avenue #1	Multifamily	817.99	50.00	867.99
9532	Pradera Avenue	Residential	186.36	50.00	236.36
9542	Pradera Avenue	Residential	156.01	50.00	206.01
10063	Pradera Avenue	Residential	207.02	50.00	257.02
10085	Pradera Avenue	Residential	216.35	50.00	266.35
9425	Pradera Avenue #1	Residential	298.87	50.00	348.87
4426	Princeton Street	Residential	206.01	50.00	256.01
4438	Princeton Street	Residential	195.50	50.00	245.50
5564	Princeton Street	Senior	175.60	50.00	225.60
9081	Ramona Avenue	Residential	206.01	50.00	256.01
9136	Ramona Avenue	Residential	206.01	50.00	256.01
9254	Ramona Avenue	Residential	206.01	50.00	256.01
9529	Ramona Avenue	Residential	286.49	50.00	336.49
9539	Ramona Avenue	Residential	206.11	50.00	256.11
10410	Ramona Avenue #C	Commercial	199.36	50.00	249.36
9324	Rose Avenue	Residential	171.85	50.00	221.85
9352	Rose Avenue	Residential	201.18	50.00	251.18
9414	Rose Avenue	Residential	206.01	50.00	256.01

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Street Number	Street	Account Type	Delinquency	Lien Fee	Total Lien Amount
9434	Rose Avenue	Residential	206.01	50.00	256.01
9441	Rose Avenue	Residential	216.00	50.00	266.00
9471	Rose Avenue	Residential	138.01	50.00	188.01
9720	Rose Avenue	Residential	231.96	50.00	281.96
9734	Rose Avenue	Residential	201.39	50.00	251.39
9812	Rose Avenue	Residential	226.51	50.00	276.51
9836	Rose Avenue	Residential	199.77	50.00	249.77
9866	Rose Avenue	Senior	182.09	50.00	232.09
9912	Rose Avenue	Residential	303.36	50.00	353.36
9944	Rose Avenue	Residential	204.63	50.00	254.63
9966	Rose Avenue	Residential	206.01	50.00	256.01
4560	Rosewood Street	Residential	206.01	50.00	256.01
4683	Rosewood Street	Residential	206.01	50.00	256.01
4800	Rosewood Street	Residential	130.98	50.00	180.98
4860	Rosewood Street	Residential	196.39	50.00	246.39
4903	Rosewood Street	Residential	287.73	50.00	337.73
4954	Rosewood Street	Residential	203.60	50.00	253.60
5381	Rosewood Street	Residential	197.75	50.00	247.75
5389	Rosewood Street	Residential	238.39	50.00	288.39
5444	Rosewood Street	Residential	198.99	50.00	248.99
11076	Roswell Avenue	Residential	187.25	50.00	237.25
4164	Rudisill Street	Residential	206.01	50.00	256.01
4186	Rudisill Street	Residential	184.04	50.00	234.04
5360	Rudisill Street	Residential	231.96	50.00	281.96
5409	Rudisill Street	Residential	107.36	50.00	157.36
5421	Rudisill Street	Residential	231.96	50.00	281.96
4372	San Bernardino Court	Residential	304.09	50.00	354.09
4375	San Bernardino Court	Residential	105.71	50.00	155.71
4711	San Bernardino Street	Residential	206.01	50.00	256.01
4844	San Bernardino Street	Residential	207.14	50.00	257.14
4874	San Bernardino Street	Residential	184.04	50.00	234.04
5133	San Bernardino Street	Residential	205.75	50.00	255.75
5137	San Bernardino Street	Residential	191.49	50.00	241.49
5445	San Bernardino Street	Senior	155.15	50.00	205.15
5471	San Bernardino Street	Residential	184.04	50.00	234.04
5474	San Bernardino Street	Residential	206.02	50.00	256.02
5489	San Bernardino Street	Residential	237.83	50.00	287.83
4485	San Jose Street	Residential	231.96	50.00	281.96
5446	San Jose Street	Residential	300.12	50.00	350.12
5533	San Jose Street	Residential	286.49	50.00	336.49
4424	San Jose Street #05	Residential	184.04	50.00	234.04
4424	San Jose Street #06	Residential	182.57	50.00	232.57
4424	San Jose Street #10	Residential	206.02	50.00	256.02
4424	San Jose Street #12	Residential	206.01	50.00	256.01
4424	San Jose Street #17	Residential	207.49	50.00	257.49
4424	San Jose Street #18	Residential	206.00	50.00	256.00
4424	San Jose Street #27	Residential	206.01	50.00	256.01
4622	San Jose Street G	Residential	119.31	50.00	169.31
9946	Santa Anita Avenue	Residential	230.57	50.00	280.57
10016	Santa Anita Avenue	Residential	260.55	50.00	310.55
9820	Saratoga Avenue	Residential	231.55	50.00	281.55
4599	State Street	Residential	106.51	50.00	156.51

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Street Number	Street	Account Type	Delinquency	Lien Fee	Total Lien Amount
4773	State Street	Residential	153.68	50.00	203.68
4787	State Street	Residential	176.05	50.00	226.05
4871	State Street	Commercial	163.77	50.00	213.77
9617	Surrey Avenue	Residential	206.01	50.00	256.01
9772	Surrey Avenue	Residential	128.23	50.00	178.23
9793	Surrey Avenue	Residential	207.06	50.00	257.06
9794	Surrey Avenue	Residential	146.73	50.00	196.73
9532	Tudor Avenue	Residential	189.10	50.00	239.10
9824	Tudor Avenue	Residential	206.01	50.00	256.01
9834	Tudor Avenue	Residential	130.72	50.00	180.72
9831	Vail Driveive	Residential	311.48	50.00	361.48
9222	Vernon Avenue	Residential	206.42	50.00	256.42
9231	Vernon Avenue	Residential	193.66	50.00	243.66
9440	Vernon Avenue	Residential	117.09	50.00	167.09
9784	Vernon Avenue	Residential	206.75	50.00	256.75
9806	Vernon Avenue	Residential	309.69	50.00	359.69
9863	Vernon Avenue	Residential	206.10	50.00	256.10
9912	Vernon Avenue	Residential	204.23	50.00	254.23
9942	Vernon Avenue	Residential	106.49	50.00	156.49
10015	Vernon Avenue	Residential	100.96	50.00	150.96
10027	Vernon Avenue	Senior	162.75	50.00	212.75
5164	Village Driveive	Residential	214.87	50.00	264.87
			<b>62231.49</b>	<b>14100.00</b>	<b>76331.49</b>

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON TUESDAY,  
FEBRUARY 19, 2013, AT 8:02 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Pro Tem Ruh called the meeting to order at 8:02 p.m.

**II. ROLL CALL**

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

**III. APPROVAL OF MINUTES**

**A. Minutes of the Regular Personnel Committee Meeting of  
February 4, 2013.**

Moved by City Manager Starr, seconded by Council Member Raft,  
and carried unanimously to approve the minutes of the Personnel  
Committee meeting of February 4, 2013.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**

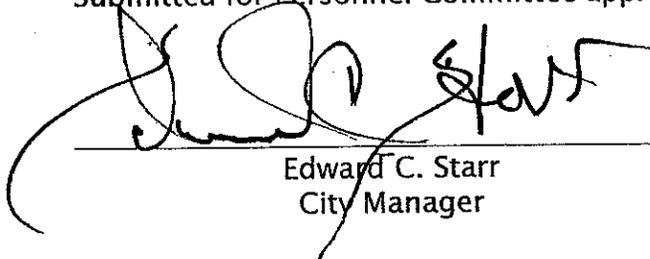
At 8:03 p.m., the Personnel Committee went into Closed Session  
regarding personnel matters related to appointments, resignations/  
terminations, and evaluations of employee performance.

At 8:15 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 8:15 p.m., Mayor Pro Tem Ruh adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr  
City Manager