

CITY OF MONTCLAIR

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

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

June 17, 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/MHA meetings are now available in audio format on the City's website at www.ci.montclair.ca.us and can be accessed the day following the meeting after 10:00 a.m.

Page No.

- I. **CALL TO ORDER** – City Council, 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** – None

VI. **PUBLIC COMMENT**

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

- A. Consider Approval of Sewer Rate Caps for the Five-Year Period Commencing July 1, 2013, and Terminating June 30, 2018 [CC] 6
- B. Second Reading - Consider Adoption of Ordinance No. 13-933 Amending Chapters 11.02, 11.42, and 11.78 of the Montclair Municipal Code Related to Definitions, Alcoholic Beverage Sales, and Conditional Use Permits [CC] 8

VIII. CONSENT CALENDAR

- A. Approval of Minutes
 - 1. Minutes of the Regular Joint Council/Successor Agency Board/MHC Board/MHA Commission Meeting of June 3, 2013 [CC/SA/MHC/MHA]
- B. Administrative Reports
 - 1. Consider Receiving and Filing of Treasurer's Report[CC] 31
 - 2. Consider Approval of Warrant Register and Payroll Documentation [CC] 32
 - 3. Consider Receiving and Filing of Treasurer's Report [SA] 33
 - 4. Consider Approval of Warrant Register [SA] 34
 - 5. Consider Receiving and Filing of Treasurer's Report [MHC] 35
 - 6. Consider Approval of Warrant Register [MHC] 36
 - 7. Consider Receiving and Filing of Treasurer's Report [MHA] 37
 - 8. Consider Approval of Warrant Register [MHA] 38
 - 9. Consider Approval of the City of Montclair Capital Improvement Program for Fiscal Years 2013-18 [CC]
 - Consider Appropriation of Funds as Indicated in the Attached Capital Improvement Program [CC] 39
 - 10. Consider Acceptance of Grant Funds From The Community Foundation to Support and Expand the Montclair Por La Vida Program [CC] 41
 - 11. Consider Authorizing the Use of H2 Environmental Consulting Services, Inc., for Testing of Lead Levels in the Firearms Shooting Range [CC] 44
 - 12. Consider Declaring Certain City Property in Police Custody as Unserviceable and Available for Destruction [CC] 46

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 Consider Montclair Housing Corporation Board of Directors' Approval of Agreement No. 13-34 With Fulmin Electrical Corporation for the 5444 Palo Verde Street Electrical Improvement Project [MHC]

 Consider Authorization of a \$5,192 Construction Contingency [MHC] 49
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3. Consider Approval of Agreement No. 13-38 With Ontario-Montclair School District to Provide After-School Programs [CC] 95
4. Consider Approval of Agreement No. 13-40 Amending Agreement No. 12-48 With West Coast Arborists for Tree-Maintenance Services [CC] 103
5. Consider Approval of Agreement No. 13-41 With Mariposa Landscapes, Inc., for Landscape and Maintenance of Median Islands, Parks, Parkways, Kids Station, and Turf Area Adjacent to the Kids Station Facility [CC]

 Consider Authorization of an \$11,940 Appropriation From the Fiscal Year 2013-14 Contingency Fund for Additional Landscape Maintenance Services [CC] 108
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7. Consider Approval of Agreement No. 13-43 With The Liquidation Company for the Public Sale of Surplus and Unclaimed Property [CC] 146
8. Consider Approval of Agreement No. 13-44 With the County of San Bernardino for Allocation and Expenditure of Justice Assistance Grant Program Funds to Purchase Mobile Command Trailer [CC]

 Consider Authorizing the City Manager to Sign the Agreement on Behalf of the Montclair City Council[CC] 149
9. Consider Approval of Agreement No. 13-45 With Liebert Cassidy Whitmore for Participation in the East Inland Empire Employment Relations Consortium [CC] 156
10. Consider Approval of Agreement No. 13-46 With Merchants Building Maintenance for Custodial Services [CC] 159

11.	Consider Approval of Agreement No. 13-47 With Catering Systems, Inc., to Provide Meals for the City's Senior Citizen Nutrition Program [CC]	193
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2.	Consider Adoption of Resolution No. 13-2987 Authorizing the Change in California Per Capita Personal Income During Calendar Year 2012 as the Change in the Cost-of-Living Factor for Fiscal Year 2012-13 for Use in Calculating the Gann Spending Limit for Fiscal Year 2013-14 [CC]	222
3.	Consider Adoption of Resolution No. 13-2988 Establishing an Appropriations Limit for Fiscal Year 2013-14 Pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code [CC]	226
4.	Consider Adoption of Resolution No. 13-2990 Adjusting the Equivalent Dwelling Unit Monthly Fee for Sewer Service [CC]	230
5.	Consider Adoption of Resolution No. 13-2991 Authorizing Submittal of Used Oil Payment Program Applications and Related Authorizations to the California Department of Resources Recycling and Recovery [CC]	
	Consider Designating City Manager or Designee as the Person Authorized to Execute All Necessary Documents for the Purpose of Securing Payment Funds [CC]	234
6.	Consider Adoption of Resolution No. 13-2992 Adopting the City of Montclair Fiscal Year 2013-14 Annual Budget [CC]	238
7.	Consider Montclair Housing Corporation Board of Directors' Adoption of Resolution No. 13-01 Adopting the Montclair Housing Corporation Fiscal Year 2013-14 Annual Budget [MHC]	241
IX. PULLED CONSENT CALENDAR ITEMS		
X. RESPONSE - None		
XI. COMMUNICATIONS		
A. City Attorney		
1.	Closed Session Pursuant to Government Code Section 54956.9(d)(4) Regarding Potential Litigation	
	3 potential cases	

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

Agency: City of Montclair

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

B. City Manager/Executive Director

C. Mayor/Chairman

1. Announcement of Planning Commission Appointments

D. Council/MHC Board

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

1. Minutes of the Code Enforcement Committee Meeting of April 15, 2013 243
2. Minutes of the Personnel Committee Meeting of June 3, 2013 246

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

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

XIII. CLOSED SESSION ANNOUNCEMENTS

XIV. ADJOURNMENT OF CITY COUNCIL

The next regularly scheduled City Council, Successor Agency Board, Montclair Housing Corporation Board, and Montclair Housing Authority Commission meetings will be held on Monday, July 1, 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 June 13, 2013.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF SEWER RATE CAPS FOR THE FIVE-YEAR PERIOD COMMENCING JULY 1, 2013, AND TERMINATING JUNE 30, 2018

DATE: June 17, 2013
SECTION: PUBLIC HEARINGS
ITEM NO.: A
FILE I.D.: SEW125
DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Both sewage treatment costs and sewer maintenance costs will increase over the next several years, so it is necessary to increase the rates charged to the City's customers. Sewer rate increases are subject to a public hearing process established under Proposition 218. On June 3, 2013, the City Council set a public hearing for June 17, 2013, to consider the proposed rate caps.

BACKGROUND: The City last conducted a public hearing to establish sewer rates in 2007. The maximum rates established at that time were for a ten-year period, terminating in June 2017. Assumptions were made in 2007 as to Inland Empire Utilities Agency's (IEUA) future treatment rates as well as the City's own future maintenance costs. While those assumptions were fairly accurate for the first five years, they are less accurate for the next five years. In addition, since 2007, the City Attorney has advised staff that these Proposition 218 hearings should not cover a period longer than five years.

Also in 2007, the City Council adopted Ordinance No. 07-780 establishing a three-part rate structure. Part 1 Fees are fees charged by IEUA for treatment. They are basically pass-through fees. Part 2 Fees are fees charged by the City for maintenance. Part 3 Fees are also City fees charged for future replacement of the City's aging sewer lines.

In 2012, IEUA adopted sewage treatment rates for a three-year period effective July 1, 2012, through June 30, 2015. Therefore, the IEUA rate is known for the current fiscal year, Fiscal Year 2013-14, and for Fiscal Year 2014-15. Based on the current rate and these two known future rates, staff has projected IEUA rates for an additional three years. Staff has also analyzed maintenance costs for the past few years and projected anticipated maintenance costs and required rates for the next five years as well.

The table on the following page shows current and proposed rates. The rates are expressed in equivalent dwelling units, or EDUs, per month. Boldface type indicates rates that have already been adopted. With the exception of Fiscal Year 2013-14, the proposed rate caps are not necessarily the actual rates that will be recommended for adoption in later fiscal years. Part 1 Fees will be set at the amounts eventually adopted by the IEUA Board of Directors. Part 2 Fees will be determined each year based on previous years' expenditures and projected needs. Part 3 Fees will likely remain constant.

Prepared by: M. S. Castle
Proofed by: Alle M.

Reviewed and Approved by: M. S. Castle
Presented by: Daniel J. Star

<i>Effective Date</i>	<i>Part 1 Fee</i>	<i>Part 2 Fee</i>	<i>Part 3 Fee</i>	<i>Total</i>
Current	\$12.39	\$4.57	\$1.50	\$18.46
July 1, 2013	\$13.39	\$5.53	\$1.50	\$20.42
July 1, 2014	\$14.39	\$5.80	\$1.50	\$21.69
July 1, 2015	\$15.89	\$6.09	\$1.50	\$23.48
July 1, 2016	\$17.39	\$6.40	\$1.50	\$25.29
July 1, 2017	\$18.89	\$6.72	\$1.50	\$27.11

The proposed rates are maximum caps that cannot be exceeded without an additional Proposition 218 hearing and approval by the City Council.

If the proposed rate caps are approved by the City Council at this evening's meeting, Resolution No. 13-2990 has also been prepared for further City Council action setting the sewer rates for Fiscal Year 2013-14, consistent with the table above.

For comparison purposes, the table below shows current rates for all agencies contracting with IEUA for sewage treatment. All agencies are expected to increase fees at least \$1.00 per EDU per month to reflect the increase from IEUA effective July 1, 2013.

Monthly EDU Rates Effective July 1, 2012

<i>Agency</i>	<i>IEUA Fee</i>	<i>City Fee</i>	<i>Total</i>
Ontario	\$12.39	\$12.60	\$24.99
Fontana	\$12.39	\$7.37	\$19.76
Chino Hills	\$12.39	\$7.20	\$19.59
Upland	\$12.39	\$6.31	\$18.70
Montclair	\$12.39	\$6.07	\$18.46
Chino	\$12.39	\$5.93	\$18.32
CVWD	\$12.39	\$5.53	\$17.92
Average	\$12.39	\$7.29	\$19.68

FISCAL IMPACT: Approval of the proposed rate caps will allow the City to adjust rates over the next five years as both maintenance and treatment costs change. IEUA rate increases are definite for the next two years and are likely to continue to increase, as are the City's sewer maintenance costs. Failure to approve new rate caps will inhibit the City's ability to increase rates as treatment and maintenance costs increase.

RECOMMENDATION: Staff recommends the City Council approve sewer rate caps for the five-year period commencing July 1, 2013, and terminating June 30, 2018.

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF ORDINANCE NO. 13-933 AMENDING CHAPTERS 11.02, 11.42, AND 11.78 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO DEFINITIONS, ALCOHOLIC BEVERAGE SALES, AND CONDITIONAL USE PERMITS <u>SECOND READING</u>	DATE: June 17, 2013 SECTION: PUBLIC HEARINGS ITEM NO.: B FILE I.D.: FLP025/LDU050 DEPT.: COMMUNITY DEV.
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REASON FOR CONSIDERATION: Amendments to the Montclair Municipal Code require public hearing review and approval by the City Council.

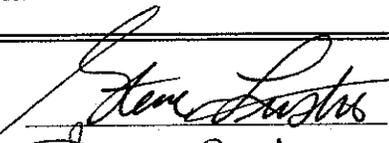
BACKGROUND: In late 2012, staff was contacted by a Montclair business owner who desired to offer bottles of wine in conjunction with flower and plant arrangements currently sold by the establishment. Planning staff explained that the off-premises sale of alcoholic beverages requires a Conditional Use Permit (CUP) pursuant to Chapter 11.42 of the Montclair Municipal Code (MMC). However, Section 11.42.050 MMC also states that staff shall not accept a CUP application for a new off-sale establishment unless it is located 500 feet or more from any other off-sale establishment, as measured from property line to property line. Since the property where the subject business is located is only 100 feet from a property where another off-sale establishment currently exists, it was communicated to the business owner that staff was prohibited by the Municipal Code from accepting a CUP application for the request.

The business owner subsequently contacted a member of the City Council regarding the request. At its December meeting, the Code Enforcement Committee discussed the proposal. Community Development staff was directed by the Committee to assemble information related to a possible code amendment, along with information from the Department of Alcoholic Beverage Control (ABC) regarding the type of license that would be required to allow the business owner to offer wine as an ancillary use to the business.

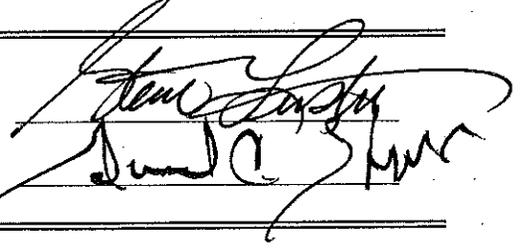
In January 2013, staff contacted ABC to discuss the proposed request. The following information was obtained:

- There is no "special" type of ABC license for the proposed use; the business would require a Type 20 ("off-sale beer and wine") license, the same as what would be required for a convenience store or other retail establishment desiring to sell beer and wine for off-premises consumption.
- The cost of a Type 20 license from ABC is \$354.
- The City cannot place conditions on an ABC Type 20 license that impinge upon the privileges of the license. For example, the City cannot mandate that the sale of alcoholic beverages only be in conjunction with the sale of a flower or plant arrangement

Prepared by:



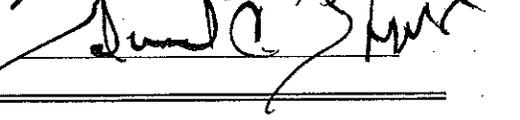
Reviewed and
Approved by:



Proofed by:



Presented by:



- The business is required to purchase alcoholic beverages from a licensed wholesale distributor and to maintain stock on hand at all times.

The information above was communicated to the business owner in January 2013, along with information on the base application fee for a CUP (\$2,215). The business owner expressed an objection to the CUP fee, saying that she "only wants to sell wine."

Since the February Code Enforcement Committee meeting was cancelled, discussion of this item resumed at the Committee meeting on March 18, 2013. In addition to the previous direction from the Committee to amend Chapter 11.42 MMC, specifically to relax the separation requirements between off-sale establishments, staff was given additional direction to investigate the implementation of a "Minor" or "Administrative" Conditional Use Permit process that could be applicable to the subject request and would be less costly for the applicant.

In late March, staff conducted a survey of other California jurisdictions through the League of California Cities' Planners Listserv to determine how many other cities have a "Minor CUP," "Administrative Conditional Use Permit," or other similar process, along with the types of applications to which such a process would apply and the related application fees. Of the 35 cities responding, 32 have such a process, although the types of uses vary greatly. With respect to application fees, "Minor" or "Administrative" CUPs in most cities were generally about 50 percent of the cost of a traditional CUP, although the fee difference between the two types of applications ranged from 20 percent to 71 percent.

In June 1994, the City Council adopted Ordinance No. 94-720, which instituted the requirement for businesses engaging in the sale of alcoholic beverages for on- or off-sale consumption to obtain a Conditional Use Permit. The subject Ordinance also instituted the 500-foot separation requirement between establishments selling alcoholic beverages and also a 500-foot separation requirement from schools, parks, playgrounds, houses of worship, and hospitals. In making its findings to adopt the Ordinance, the City Council "...found and determined that business establishments engaged in the sale of alcoholic beverages have the potential to "adversely affect the health, peace or safety of the City's residents, property owners, businesses, visitors, and workers."

Analysis: There are three components to the proposed code amendment. The following definition is proposed to be added to Chapter 11.02 MMC:

Off-sale beer and wine establishment as an incidental use means an establishment that is making application for or has obtained a retail liquor license (Type 20) from the California Department of Alcoholic Beverage Control (ABC) authorizing the sale of alcoholic beverages for consumption off the premises in original, sealed containers. Such establishments shall be limited to an aggregate display area for alcoholic beverages of four (4) square feet or less within the public area of the demised tenant space or building. Because of the strictly incidental nature of alcoholic beverage sales in such establishments, any business identification signs or temporary promotional signs for such establishments shall not include words, descriptions, inferences, logos, graphics or the like indicating that the business engages in the incidental off-premises sale of alcoholic beverages.

The second component involves the 500-foot separation requirement currently required between off-sale establishments as outlined in Section 11.42.050 MMC. Staff is proposing an exception to the above requirement that would allow off-sale beer and wine establishments as an incidental use to be located within 400 feet of another off-sale liquor establishment, measured as the shortest distance in a straight line between the public entrances of the subject establishments. Staff is not proposing any change to the current 500-foot separation requirement between off-sale establishments and schools, parks, playgrounds, houses of worship, and hospitals.

The final component of the code amendment is a comprehensive rework of Chapter 11.78 related to Conditional Use Permits. The addition of an "Administrative Conditional Use Permit" (ACUP) process necessitated at least some changes to virtually every section in the Chapter. In addition to calling out the specific types of uses where an ACUP or CUP would be required, staff also updated and clarified the types of land uses covered by Chapter 11.78. Further, the zoning districts where specific uses would be conditionally permitted are proposed to be designated for each use or types of uses. The absence of this level of detail in the past has caused consternation for staff and confusion for applicants, so staff saw this code amendment as an opportunity to include more specificity. It should be noted that the proposed amendments to Chapter 11.78 are viewed as interim, as staff has been working on a comprehensive code amendment for some time that would include a user-friendly land use matrix, eliminating the need for the narrative-type of land use lists currently contained in various chapters of the Municipal Code.

Administrative Conditional Use Permits would be reviewed at staff level and acted upon by the Community Development Director. The Director would be expected to make the same required findings the Planning Commission is required to make before granting a traditional CUP, and conditions can be included as part of an ACUP approval. Staff has included the following uses as qualifying for an ACUP in the zoning districts designated in the Ordinance:

- Caretaker quarters
- Residential care facilities for seven or more persons
- Off-sale beer and wine (ABC Type 20) as an incidental use to a retail business and where display of alcoholic beverages constitutes an aggregate of four (4) square feet or less of the public area of the demised tenant space and subject to the applicable requirements of Chapter 11.42 MMC
- Collocation of an additional carrier on an existing wireless telecommunications facility, provided the collocation would not result in any major visual changes to the facility or functional changes to the property
- Fruit, vegetable, and flower stands where the product is grown on-site
- Mobile recycling and reverse vending units
- Outdoor seating in conjunction with an approved restaurant/food use - 8 seats or more
- Temporary parking lots
- Temporary structures in conjunction with carnivals, farmers' markets, fairs, circuses, and religious gatherings
- Temporary use of storage and sea containers in conjunction with a legally established use
- Temporary use of structures, trailers, and facilities in conjunction with a legally established use

- Adult day care
- Adult vocational classes, trade schools, computer training, traffic and driving schools
- Children's tutorial classes
- Music, art, dance, gymnastics, martial arts instruction, Pilates, talent/acting studio, and yoga - greater than 2,000 square feet

On April 22, 2013, the Planning Commission conducted a noticed public hearing on Ordinance No. 13-933. While no members of the public were present to speak at the public hearing, the Commission discussed the proposed code amendment at length. An excerpt from the minutes of the Planning Commission meeting is enclosed in the Council packets for reference. The Commission recommended City Council approval of Ordinance No. 13-933 on a 3-1 vote.

FISCAL IMPACT: The cost to publish a Notice of Public Hearing in the *Inland Valley Daily Bulletin* for Planning Commission consideration of Ordinance No. 13-933 was \$362.28. The cost to publish a Notice of Public Hearing for consideration of the ordinance by City Council should be similar. The fee to file a Notice of Determination as noted in Section (A)(2) of the recommendation below is \$50. While it is recommended in the proposed fee schedule that the application fee for an Administrative Conditional Use Permit be approximately half that of a Conditional Use Permit, the limited number of the types of applications that would be reviewed under the ACUP process would not result in a discernible negative impact on revenues to the General Fund.

Environmental Determination: The Director has concluded that proposed Ordinance No. 13-933 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines, in that it will not have a significant effect on the environment as the code amendments, in and of themselves, do not approve any development activities, but instead establish standards and criteria for the establishment of specific types of businesses and uses.

RECOMMENDATION: The Code Enforcement Committee and Planning Commission recommend the City Council adopt Ordinance No. 13-933 amending Chapters 11.02, 11.42, and 11.78 of the Montclair Municipal Code related to definitions, alcoholic beverage sales and conditional use permits.

ORDINANCE NO. 13-933

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTER 11.02 ("DEFINITIONS") OF THE MONTCLAIR MUNICIPAL CODE, CHAPTER 11.42 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO THE REGULATION OF SALE OF ALCOHOLIC BEVERAGES, AND CHAPTER 11.78 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO CONDITIONAL USE PERMITS AND ADMINISTRATIVE CONDITIONAL USE PERMITS (CASE NO. 2013-8)

WHEREAS, in June 1994, the City Council amended the Montclair Municipal Code (MMC) through Ordinance No. 94-720, adding Article 9 to Chapter 6 of Title 9 (now MMC Chapter 11.42), regulating businesses engaged in the sale of alcoholic beverages for consumption on- or off-site; and

WHEREAS, the City Council found and determined that business establishments engaged in the sale of alcoholic beverages have the potential to "adversely affect the health, peace or safety of the City's residents, property owners, businesses, visitors and workers"; and

WHEREAS, said code amendment instituted the requirement that all business establishments desiring to engage in the sale of alcoholic beverages for on- or off-site consumption shall obtain a Conditional Use Permit; and

WHEREAS, the code amendment included minimum separation requirements for off-sale establishments to avoid an overconcentration of such establishments and also to ensure that off-sale establishments are located a minimum distance from schools, parks, playgrounds, houses of worship, and hospitals; and

WHEREAS, MMC Section 11.42.050(B) requires that off-sale establishments observe a minimum separation of 500 feet from one another, as measured from property line to property line, and that off-sale establishments be located at least 500 feet away from schools, parks, playgrounds, houses of worship, and hospitals; and

WHEREAS, in response to a request by a Montclair business owner, the Code Enforcement Committee of the City Council has directed staff to review MMC Section 11.42.050(B) and prepare a recommendation relaxing the minimum separation requirements and instituting an alternate review process for businesses desiring to sell alcoholic beverages as a minor incidental use; and

WHEREAS, staff conducted an electronic survey through the League of California Cities' Planning Listserve for the purpose of collecting information from jurisdictions that have provisions for Minor Conditional Use Permits, Administrative Conditional Use Permits, or like entitlements; and

WHEREAS, staff sees some benefit in instituting an administrative review process and reduced application fees for selected types of land uses; and

WHEREAS, implementation of an Administrative Conditional Use Permit (ACUP) process necessitates revisions to Chapter 11.78 of the Montclair Municipal Code, which governs Conditional Use Permits; and

WHEREAS, staff remains concerned about overconcentration of alcoholic beverage establishments in Montclair and believes that some separation guidelines should be retained in the Municipal Code.

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

Section I. Amendment of Code.

The following definition is hereby added to Section 11.02.010 ("Definitions") of the Montclair Municipal Code:

Off-sale beer and wine establishment as an incidental use means an establishment that is making application for or has obtained a retail liquor license (Type 20) from the California Department of Alcoholic Beverage Control (ABC) authorizing the sale of alcoholic beverages for consumption off the premises in original sealed containers. Such establishments shall be limited to an aggregate display area for alcoholic beverages of four (4) square feet or less and ten (10) cubic feet or less within the public area of the demised tenant space or building. Said display(s) shall be located a minimum of ten (10) feet from all storefront windows of the establishment. Because of the strictly incidental nature of alcoholic beverage sales in such establishments, any business identification signs or temporary promotional signs for such establishments shall not include words, descriptions, inferences, logos, graphics, or the like indicating that the business engages in the incidental off-premises sale of alcoholic beverages.

Section II. Amendment of Code.

Section 11.42.050 ("Conditional use permits for off-sale liquor establishments") of the Montclair Municipal Code is hereby repealed and replaced as follows:

Sec. 11.42.050 Conditional use permits for off-sale liquor establishments.

A. Conditional Use Permit (CUP) or Administrative Conditional Use Permit (ACUP) Required. Any land use that is identified in any Chapter of this Title as a permitted use, and which authorizes a business enterprise to engage in the retail sale of alcoholic beverages as an off-sale liquor establishment, shall be permitted only upon such conditions as the Director of Community Development, Planning Commission, or City Council deems necessary and appropriate, which shall include the mandatory conditions set forth in subsection (C) of this Section, as applicable.

B. Restrictions on Concentration of Off-Sale Liquor Establishments.

1. No CUP shall be issued to an off-sale liquor establishment of 8,000 square feet or less; and no application for such CUP shall be accepted, unless the proposed off-sale liquor establishment is located 500 feet or more from any other off-sale liquor establishment, measured from property line to property line of the parcels involved; provided, however, that businesses engaging in the off-sale of beer and wine as an incidental use as defined in this Title and subject to approval of an ACUP shall observe a minimum separation of 400 feet from any other off-sale liquor establishment or any other business engaging in off-sale beer and wine as an incidental use, measured as the shortest distance between the public entrances of the subject establishments.

2. No CUP shall be issued to an off-sale liquor establishment of 8,000 square feet or less; and no application for such CUP shall be accepted, unless the proposed off-sale liquor establishment is located 500 feet or more from any existing house of worship, public or private school, park, playground, or hospital measured from property line to property line of the parcels involved. The 500-foot separation requirement shall not be applicable if the proposed off-sale liquor establishment is located within a retail commercial center of two acres or more.

C. Mandatory Conditions of Approval. In addition to the applicable requirements of Section 25600 *et seq.* of the Business and Professions (B&P) Code, the following mandatory conditions of approval shall be imposed on any CUP or ACUP issued under this Section:

1. No inventory, materials, merchandise, or supplies shall be stored or displayed except within a wholly enclosed building.

2. The premises shall be maintained at all times in a neat and orderly manner.

3. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission (CUP) or Director of Community Development (ACUP).

4. No exterior security bars and rollup doors applied to windows and pedestrian building entrances shall be allowed.

5. Exterior lighting of the parking areas shall be modified as necessary to provide a minimum intensity of at least one foot-candle of light throughout the parking area at all times in compliance with the Montclair Security Ordinance.

6. Window signs or displays shall comply with the following requirements:

a. Temporary or permanent window signs, posters, banners, or other applied graphics shall not cover more than 25 percent of each window and shall not be placed in windows in a manner that will obstruct the view into the building by emergency personnel.

b. Window sign placement shall not obstruct the view of the sales transaction area from inside and outside the building.

c. Any window tinting shall allow for physical identification of all persons in the sales transaction area from outside the building.

d. Temporary or permanent window signs, interior or exterior banners, or other signs placed within the store that are visible from outside the store and advertise the availability of or offer for purchase alcoholic beverages of any kind at the site shall be prohibited.

7. No video or arcade games, pinball machines, pool tables, jukeboxes, or similar devices shall be allowed within the subject lease space with the exception of official State lottery machines.

8. No exterior public telephones, vending or other coin-operated machines, children's rides, collection boxes, and so forth shall be located on the exterior of the subject lease space or the remainder of the site.

9. No alcoholic beverages, including beer and wine, shall be consumed on the premises.

10. Employees selling alcoholic beverages shall be of such age, and subject to such supervision, as is specified in B&P Code §25663(b).

11. The exterior appearance of the permittee's premises shall be designed and maintained in a manner consistent with the exterior appearance of commercial premises existing or proposed in the immediate neighborhood so as not to cause blight or deterioration or to substantially diminish or impair property values in the neighborhood.

12. The permittee shall comply with all State statutes, rules, and regulations related to the sale, purchase, display, possession, and consumption of alcoholic beverages.

13. The permittee shall acknowledge and agree that the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit including adherence to State statutes, rules, and regulations as specified in subsection (C)(12) of this Section. The permittee shall further acknowledge and agree that any violation of a State statute, rule, or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:

a. The specific land use requested by the permittee and authorized by the City;

b. The compatibility of permittee's authorized land use with adjacent land uses; and

c. The welfare and safety of the general public within the City.

In view of such deleterious secondary effects, permittee shall acknowledge that the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP, as a consequence of one or more violations of a State statute, rule, or regulation concerning the sale to or consumption of alcoholic beverages by a minor.

14. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of additional conditions following its issuance, which additional conditions may be imposed by the Planning Commission or, upon appeal, by the City Council to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.

15. No alcoholic beverages shall be consumed on the site nor shall any person have an open alcoholic beverage container on the site or adjacent sidewalks, streets, or alleys. Signs stating, "NO LOITERING. POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINERS ON THESE PREMISES AND ADJACENT PUBLIC AREAS IS PROHIBITED PURSUANT TO MMC SECTION 7.08.010(A)" at each entrance and in the parking lot adjacent to the licensed premises.

Section III. Amendment of Code.

The Table of Contents for Chapter 11.78 ("CONDITIONAL USE PERMITS") of the Montclair Municipal Code is hereby repealed and replaced as follows:

Chapter 11.78

CONDITIONAL USE PERMITS

Sections:

- 11.78.010 Purpose and authorization.
- 11.78.020 Qualifications.
- 11.78.030 Permitted uses.
- 11.78.035 Permitted uses – administrative review.
- 11.78.040 Nonconforming structures and uses.
- 11.78.050 Buildings within planned rights-of-way.
- 11.78.060 Initiation of proceedings.
- 11.78.070 Hearing.
- 11.78.080 Findings, conditions, and time limits.
- 11.78.090 Appeals.
- 11.78.100 Revocation.

Section IV. Amendment of Code.

Sections 11.78.010 through 11.78.030 of the Montclair Municipal Code are hereby repealed and replaced as follows:

Sec. 11.78.010 Purpose and authorization.

This Chapter is intended to provide the flexibility and procedures necessary for certain uses and activities that are not allowed as a matter of right within a zoning district by reason of uniqueness, size, scope, or possible negative effect on public facilities or surrounding uses but may be permitted after special consideration and public review of each request in order to ensure conformity and compatibility with the goals and objectives of the adopted General Plan and zoning code, subject to a Conditional Use Permit (CUP) or Administrative Conditional Use Permit (ACUP). In granting such permits, the Planning Commission (CUP) or Director of Community Development (ACUP) may stipulate conditions, in addition to those required by the provisions of this Title, which would tend to safeguard the health, safety, and property value in the area.

Sec. 11.78.020 Qualifications.

A Conditional Use Permit may be granted by the Planning Commission or an Administrative Conditional Use Permit may be granted by the Director of Community Development, for those uses stated in Sections 11.78.030 through 11.78.050 of this Chapter and other uses identified in this Title requiring approval of a Conditional Use Permit or Administrative Conditional Use Permit.

Sec. 11.78.030 Permitted uses.

The Planning Commission may grant a Conditional Use Permit (CUP) for any use listed in this Section as a permitted use only in the zoning districts noted and subject to conditions related to the use, construction, implementation, operation, and automatic revocation as the Planning Commission may deem appropriate and necessary for the general welfare of the community:

- A. Residential Uses.
 - 1. Assisted living facilities (AP, C-2, C-3);
 - 2. Convalescent care (AP, C-2, C-3);
 - 3. Student housing, dormitories, group quarters (AP, C-2, C-3).
- B. Commercial Uses (Animal Services).
 - 1. Animal hospitals, boarding facilities, and kennels (MIP, M-1, M-2);
 - 2. Animal shelters (M-1, M-2);
 - 3. Feed and tackle supplies with outdoor storage (C-3, M-1, M-2);
 - 4. Pet sales and supplies - retail (MIP).
- C. Commercial Uses (Alcoholic Beverage Sales).

The uses identified in this subsection shall also be subject to the applicable requirements of Chapter 11.42 of this Title.

1. Off-sale alcoholic beverages within an overall floor area of less than 15,000 square feet, except those retail businesses specifically identified in Section 11.78.035(B)(1) of this Chapter as requiring an Administrative Conditional Use Permit (C-2, C-3);

2. Off-sale alcoholic beverages within an overall floor area of 15,000 square feet or greater (C-2);

3. On-sale alcoholic beverages in conjunction with a bona fide eating establishment (C-2, C-3, MIP);

4. Microbrewery with on-site tasting (C-3);

5. Microbrewery in conjunction with a bona fide eating establishment (C-2, C-3).

D. Commercial Uses (General Merchandise).

1. Antiques - retail (MIP);

2. Auction houses (MIP, M-1, M-2);

3. Carpet and floor covering stores - retail (MIP, M-1, M-2);

4. Cigar/cigarette/electronic cigarette/smoke shops (C-2, C-3),

subject to the following criteria:

a. Such establishments shall be located a minimum of 1,000 feet, measured property line to property line, from any public or private school serving students in grades Pre-K through 12; and

b. Such establishments shall be located a minimum of 1,000 feet, measured property line to property line, from one another;

5. Commercial plant nursery - wholesale (MIP, M-1, M-2);

6. Construction equipment sales with outdoor storage (C-3, MIP, M-1, M-2);

7. Construction equipment sales without outdoor storage (MIP);

8. Convenience stores (C-2, C-3);

9. Firearms, ammunition and related products as a stand-alone use - retail (C-3, MIP, M-1);

10. Furniture, office and home furnishings (MIP);

11. Garden supply, hardware/home improvement center, plant nursery with outdoor display area (C-2, C-3, MIP);

12. Hobby, toy and game shops with more than four (4) personal computers for customer use (C-2, C-3);
13. Newsstands - staffed (C-2, C-3);
14. Sporting goods and equipment with firearms and/or ammunition sales (C-2, C-3);
15. Swap meets, marketplaces, concession malls (C-3).
- E. Commercial Uses (Lodging Facilities).
 1. Bed and breakfast facilities (AP, C-2, C-3);
 2. Hotels and motels (AP, C-2, C-3).
- F. Commercial Uses (Medical/Health Services).
 1. Hospitals (AP).
- G. Commercial Uses (Motor Vehicle/Watercraft Sales and Service).
 1. Automobile/watercraft body and painting as a primary use (MIP, M-1, M-2);
 2. Automobile, motorcycle, RV and watercraft sales and service - new and/or used with outdoor display (C-3, MIP);
 3. Automobile rental agencies with on-site parking for rental vehicles (C-2, C-3, MIP);
 4. Car washes (C-2, C-3, MIP);
 5. Commercial parking lots, garages and structures as a primary use (AP, C-2, C-3);
 6. Fueling/service stations with or without ancillary uses, such as minimart, auto repairs, car wash, or quick-serve food establishment (C-2, C-3, MIP, M-1, M-2);
 7. Limousine, charter bus, shuttle or taxicab service with on-site fleet vehicle storage (AP, C-2, C-3, MIP, M-1, M-2);
 8. Quick lube facilities (C-3, MIP, M-1, M-2);
 9. Truck, trailer, moving van, and equipment rentals (C-2, C-3, MIP, M-1, M-2).
- H. Commercial Uses (Personal Services).
 1. Cemeteries, crematories, mausoleums, columbaria (M-1, M-2);
 2. Coin laundries (C-2, C-3);
 3. Fortune telling, palm or card reading (C-3);
 4. Funeral homes and mortuaries (C-3, MIP);
 5. Pawn shops (C-3);
 6. Tattoo, dermagraphics, or body piercing as a primary use (C-3, MIP).
- I. Commercial Uses (Recreation/Entertainment).
 1. Banquet halls as a stand-alone use (C-3, MIP, M-1);
 2. Billiards and pool halls (C-2, C-3);
 3. Cyber cafés, internet access, and electronic game arcades (C-2, C-3);
 4. Golf courses and driving ranges (C-3, MIP, M-1, M-2);
 5. Hookah establishments as a stand-alone use (C-3);
 6. Indoor amusement facilities, batting cages, bike/skate parks, bowling centers, go-kart facilities, karaoke establishments, recreation/sports/gyms/health clubs, roller/ice hockey facilities, and skating rinks (C-2, C-3, MIP)
 7. Outdoor amusement parks and facilities, bike/skate parks, go-kart facilities, miniature golf, recreation/sports/health clubs, skating rinks, batting

cages, roller/ice hockey facilities, miniature and remote control car tracks, and remote control hobby facilities (C-2, C-3, MIP, M-1, M-2);

8. Public assembly, auditoriums, and meeting halls (C-2, C-3, MIP);
9. Theaters (live stage and motion picture) and concert halls (C-3, MIP).

J. Commercial Uses (Religious Institutions).

1. Houses of worship (AP, C-2, C-3, MIP, M-1, M-2);
2. Monasteries and religious group quarters as a primary use (C-3, MIP).

K. Commercial Uses (Special Uses).

1. Wireless telecommunications facilities (AP, C-2, C-3, MIP, M-1, M-2).

L. Educational/Instructional/Day Care Uses.

1. Colleges (AP, C-3, MIP);
2. Elementary, middle and high schools - private (AP, MIP);
3. Preschools and children's day care facilities (AP, C-2, C-3).

M. Manufacturing and Industrial Uses.

1. Automobile wrecking yards, salvage and junkyards (M-2);
2. Chemical manufacturing and processing (M-2);
3. Concrete batch plants (M-2);
4. Detergent and soap manufacturing (M-2);
5. Explosives and fireworks manufacturing and storage (M-2);
6. Laundries and dry cleaners - commercial (M-1, M-2);
7. Lumber and wood products with outdoor storage (MIP, M-1, M-2);
8. Metal or iron work fabrication (M-1, M-2);
9. Outdoor business operations with permitted manufacturing/
industrial use (MIP, M-1, M-2);

10. Recycling/transfer facilities and material recovery facilities (M-2);

11. Research, development, and testing of products with outdoor operations (M-1, M-2);

12. Rock, sand, gravel, and mineral extraction and recycling (M-2);

13. Stone, clay, and glass manufacturing (M-2);

14. Tire retreading (M-2);

15. Vehicle battery manufacturing (M-2);

N. Warehouse and Storage Uses.

1. Building materials with outdoor storage (MIP, M-1, M-2);

2. Lumber/contractor storage yard as a primary use (MIP, M-1, M-2);

3. Outdoor storage as a primary use (M-1, M-2);

4. Outdoor storage as an ancillary use to a permitted use in a building (MIP, M-1, M-2);

5. Outdoor storage for gardening/landscape companies and contractors (MIP, M-1, M-2);

6. Self-storage, mini-storage warehouse facilities (C-3, MIP, M-1, M-2);

Section V. Amendment of Code.

Section 11.78.035 ("Permitted uses - administrative review") of the Montclair Municipal Code is hereby added as follows:

Sec. 11.78.035 Permitted uses - administrative review.

The Director of Community Development may grant an Administrative Conditional Use Permit (ACUP) for any use listed in this Section as a permitted use only in the zoning districts noted and subject to conditions related to the use, construction, implementation, operation, and automatic revocation as the Director may deem appropriate and necessary for the general welfare of the community, provided the use is deemed to be exempt from the provisions of the California Environmental Quality Act (CEQA):

- A. Residential Uses.
 - 1. Caretaker quarters (C-3, MIP, M-1, M-2);
 - 2. Residential care facilities - 7 or more persons (AP, C-2, C-3);
- B. Commercial Uses (Alcoholic Beverage Sales).
 - 1. Off-sale beer and wine (ABC Type 20) as an incidental use to a retail business and where display of alcoholic beverages constitutes an aggregate of four (4) square feet or less of the public area of the demised tenant space and subject to the applicable requirements of Chapter 11.42 of this Title (C-2, C-3).
- C. Commercial Uses (Temporary and Special Uses).
 - 1. Collocation of an additional carrier on an existing wireless telecommunications facility, provided the collocation would not result in any of the following (AP, C-2, C-3, MIP, M-1, M-2):
 - a. An increase in height of the existing facility;
 - b. A substantial change to the visual appearance of the existing facility;
 - c. An increase in the area of the ground lease space that results in a reduction of required landscape area or required parking.
 - 2. Fruit, vegetable, and flower stands - product grown on-site (MIP, M-1, M-2);
 - 3. Mobile recycling and reverse vending units (C-2, C-3, MIP, M-1, M-2);
 - 4. Outdoor seating in conjunction with an approved restaurant/food use - 8 seats or more (C-2, C-3, MIP);
 - 5. Temporary parking lots (AP, C-2, C-3, MIP, M-1, M-2);
 - 6. Temporary structures in conjunction with carnivals, farmers' markets, fairs, circuses, and religious gatherings (C-3, MIP, M-1, M-2);
 - 7. Temporary use of storage and sea containers in conjunction with a legally established use (MIP, M-1, M-2);
 - 8. Temporary use of structures, trailers, and facilities in conjunction with a legally established use (AP, C-2, C-3, MIP, M-1, M-2).
 - 9. Temporary use of undeveloped/vacant property by contractors performing public infrastructure work and/or repairs.
- D. Educational/Instructional/Day Care Uses.
 - 1. Adult day care (C-2, C-3; C-2, C-3 & MIP within NMSP; BP & C within HBSP);
 - 2. Adult vocational classes, trade schools, computer training, traffic and driving schools (AP, C-2, C-3; C-3 & MIP within NMSP; BP, C & CO within HBSP);
 - 3. Children's tutorial classes (AP, C-2, C-3; C-3 & MIP within NMSP; BP, C & CO within HBSP);

4. Music, art, dance, gymnastics, martial arts instruction, personal fitness, Pilates, talent/acting studio, and yoga – greater than 2,000 square feet (AP, C-2, C-3, MIP; C-3 & MIP within NMSP; BP, C & CO within HBSP).

Section VI. Amendment of Code.

Sections 11.78.040 through 11.78.120 of the Montclair Municipal Code are hereby repealed and replaced as follows:

Sec. 11.78.040 Nonconforming structures and uses.

A. Nonconforming structures.

All structures, including main buildings, accessory structures, walls, fences, signs, and other structures, that do not comply with height, setback, density, and/or lot coverage standards specified by this Title, or for which the number of parking spaces provided is less than required, or any residential structures within any Commercial or Industrial zone, except as may be permitted by this Title, are hereby deemed to be nonconforming structures; and the following provisions shall apply:

1. Enlargement and extension. No enlargement, extension, or expansion shall be made to a nonconforming structure unless otherwise permitted by this Title. Building additions to a single-family residence in the R-1 Zone shall be permitted, provided that the addition observes the setbacks currently required by this Title and that all other development standards of the underlying zone can be met.

2. Building additions to single-family residences without required covered parking. In the R-1 Zone, single-family residences without required covered parking pursuant to Chapter 11.66 of this Title may be expanded as follows:

a. The floor area of the main residential structure is not increased by more than 25 percent or 500 square feet, whichever is less, over a period of five years or less.

b. The new construction shall not occupy the only available area(s) suitable for required parking and access thereto.

3. Construction of accessory structures and second dwelling units on R-1 lots without required covered parking. The construction of a detached accessory structure pursuant to Chapter 11.19 of this Title, or an attached or detached second dwelling unit pursuant to Chapter 11.23 of this Title, on a lot in the R-1 Zone developed with a single-family residence upon which required covered parking is not provided shall be prohibited unless the required covered parking is constructed prior to, or concurrently with, said accessory structure or second dwelling unit. A certificate of occupancy for an accessory structure or second dwelling unit shall not be issued by the Building Official until a certificate of occupancy has been issued for the structure providing the required covered parking.

4. Maintenance and repairs. General maintenance and necessary repairs that are not structural in nature may be made to legal nonconforming structures in all zoning districts. Structural repairs to a legal nonconforming structure may be authorized by the Building Official if it is determined that said repairs are necessary to protect the health and safety of the occupants, public at-large, or adjacent property and the cost does not exceed 50 percent of the

replacement cost of the legal nonconforming structure. Improvements required to strengthen unreinforced masonry structures shall be permitted without replacement cost limitations, provided that such work is limited strictly to compliance with seismic safety standards.

5. Abandonment of nonconforming structures. Any nonconforming building, structure, sign, or improvement that has been vacated or not utilized for a continuous period of 180 days or more shall be deemed to have lost its nonconforming status and shall, at the discretion of the Director of Community Development, be demolished, removed, or modified to such extent that it would be in conformance with the current development standards for the zone in which the building, structure, sign, or improvement is located. Additionally, any sign that became nonconforming on March 21, 2001, pursuant to Ordinance No. 94-733 and the criteria set forth in Section 11.72.140 of this Title, or any sign that has been subsequently determined to be nonconforming, shall not be refaced or reestablished to identify a different business than was identified on the previously legal nonconforming sign.

6. Replacement of nonconforming structures. Any nonconforming single-family residential, commercial, industrial, or institutional structure that is involuntarily damaged by fire or other catastrophic event may be restored or reconstructed to its original condition provided that the cost of such restoration/reconstruction does not exceed 50 percent of the replacement value of the structure as determined by the Director of Community Development and that the restoration shall commence within one year from the date the damage occurred.

7. Replacement of nonconforming multifamily structures. Any nonconforming multifamily residential dwelling unit that is involuntarily damaged or destroyed by fire or other catastrophic event may be restored subject to the provisions set forth in California Government Code Section 65852.25.

8. Relocation of a nonconforming structure. A nonconforming structure shall not be moved to any other lot or to any other portion of the lot on which it is located unless, as a result of the move, the structure would then conform to the regulations of the zoning district.

9. Nonconforming historic structures. Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a nonconforming historic structure may be made when authorized by the Director of Community Development and Building Official or their designees, provided that:

a. The structure has been designated as having significant historical or architectural significance by the City Council, State of California, or federal government or was constructed in, or prior to, 1940;

b. Any unsafe conditions are corrected; and

c. The use(s) therein shall be in conformance with all applicable provisions of this Chapter.

B. Nonconforming uses.

Nonconforming uses are those that were legally established but that are not currently listed as permitted or conditionally permitted in the zoning district in which they are located or those that currently require a Conditional Use Permit but at the time of their initiation did not require a Conditional Use Permit. The following provisions shall apply to legal nonconforming uses:

1. No nonconforming use shall be expanded or moved in whole or part to any portion of the lot or parcel upon which it is located or other structure other than that occupied by such use at the time it was established.

2. No nonconforming use shall be changed to a different nonconforming use.

3. If a nonconforming use is discontinued or abandoned for a continuous period of 180 days or more, such use shall be deemed to have lost its nonconforming status and shall not be reestablished.

4. Adult-oriented businesses. The amortization of nonconforming adult-oriented businesses shall be subject to the provisions set forth in Section 11.40.060 of this Title.

C. Permits or certificates of occupancy prohibited. When any nonconforming structure or use is no longer permitted pursuant to the provisions of this Title, no building or sign permit or certificate of occupancy shall thereafter be issued for further continuance, alteration, or expansion. Any permit or certificate of occupancy issued in error shall not be construed as allowing the continuation of the nonconforming structure or use.

D. Removal of illegal nonconforming structures and uses. Nothing contained in this Section shall be construed or implied so as to allow for the continuation of illegal nonconforming structures and uses.

E. Burden of proof. The burden of proof regarding nonconforming structures and uses shall be with the property owner to the satisfaction of the Director of Community Development.

Sec. 11.78.050 Buildings within planned rights-of-way.

The Director of Community Development may grant an Administrative Conditional Use Permit as follows:

A. For temporary structures within planned rights-of-way when the property owner applying for such permit signs an agreement with the City to remove any such temporary building or structure at his/her expense whenever so requested by the City for street widening or opening; or

B. Upon evidence that the entire property of the owner, of which the area of the planned right-of-way forms a part, cannot reasonably be used for a permitted use and yield a reasonable return to the owner without a new or improved structure within such planned right-of-way.

Sec. 11.78.060 Initiation of proceedings.

A. Any property owner or his/her authorized representative desiring a Conditional Use Permit or Administrative Conditional Use Permit may file an application for such permit with the Planning Division on forms furnished by the City. Additional submittal requirements as designated by Planning Division staff shall accompany said application form in order to constitute a complete application. The additional submittal requirements may include, but not be limited to, the following:

1. A legal description of the subject property;
2. A site plan, floor plans, elevations, and other appropriate drawings illustrating existing and proposed buildings or facilities;
3. A narrative describing the nature of the proposed use, hours of operation, estimated occupancy, and other relevant information;

4. A reference to the specific provisions of this Title that are applicable to the Conditional Use Permit or Administrative Conditional Use Permit sought;

5. A filing fee, the amount of which is determined by Resolution of the City Council;

6. Conditional Use Permit justification form;

7. Environmental assessment form;

8. Names and mailing addresses, printed on mailing labels, of all owners of real property within 300 feet of the external boundaries of the subject property, as shown on the latest adopted, publicly available tax roll of the County of San Bernardino.

B. No application for the same general purpose concerning the same property, which application has been recommended for denial by the Planning Commission or denied by the Director of Community Development, Planning Commission, and/or City Council on appeal, shall be received or processed by the Planning Division within 12 months after such denial except by the consent of at least four members of the Planning Commission present at a regular meeting of the Planning Commission.

Sec. 11.78.070 Hearing.

A. Upon the acceptance of a completed application for a Conditional Use Permit (CUP) or Administrative Conditional Use Permit (ACUP), Planning Division staff shall forward the application to the Development Review Committee for review and comments and shall communicate to the applicant said recommendations and comments from the Development Review Committee. If no major changes are recommended, then the City Planner shall, in the case of a CUP, set a date for a public hearing before the Planning Commission. For an ACUP, the City Planner shall forward the application to the Director of Community Development for consideration and action. If major changes to the proposal are recommended or required, then the submitted plans shall be returned to the applicant for revision and resubmittal. When the necessary corrections have been made, the application shall be deemed complete. For CUPs, the City Planner shall set a date for a public hearing; for ACUPs, the application shall be forwarded to the Director for consideration and action.

B. For Conditional Use Permits, the Secretary of the Planning Commission shall give notice of such requested CUP and of the time and place of such public hearing as follows:

1. By one publication in a newspaper having a general circulation in the City at least 10 days, but no more than 15 days, prior to the date set for the public hearing; and

2. By mailed notice not less than ten days prior to the date set for the public hearing to all owners of real property within a radius of 300 feet of the external boundaries of the property described in the application, using the last known name and mailing address of such owners as shown on the most recent available tax roll for the County of San Bernardino. Notice may be given to property owners within a greater radius at the discretion of the Planning Commission or the Director of Community Development.

3. The Planning Commission shall cause to be made by its own members, or members of staff, such investigation of facts bearing upon such application set for hearing including an analysis of precedent cases as in the

opinion of the Planning Commission will serve to provide the necessary information to enable the Commission to act:

4. A copy of the staff report shall be made available to the applicant and to the general public upon request prior to the hearing.

5. At the time and place so fixed and noticed, the public hearing shall be conducted before the Planning Commission. The Commission shall consider all pertinent oral and written evidence and information prior to adoption of a formal and numbered Resolution granting or denying such Conditional Use Permit. A summary of all pertinent testimony offered at the hearing; the names and addresses of persons testifying; and copies of all notices, affidavits of newspaper publication(s), and records of action taken shall be a part of the permanent case file.

C. For Administrative Conditional Use Permits, the Director of Community Development shall give notice of such requested ACUP as follows:

1. By mailed notice not less than ten days prior to the date set for a final decision by the Director to all owners of real property within a radius of 300 feet of the external boundaries of the property described in the application, using the last known name and mailing address of such owners as shown on the most recent available tax roll for the County of San Bernardino. Notice may be given to property owners within a greater radius at the discretion of the Director of Community Development.

2. The Director of Community Development shall conduct an investigation of facts bearing upon such application including an analysis of precedent cases as, in the opinion of the Director, will serve to provide the necessary information to enable him/her to act.

3. The Director of Community Development shall consider all pertinent oral, written, and electronic communications received by Planning Division staff related to the subject application prior to granting or denying such Administrative Conditional Use Permit. A summary of all pertinent communication received by staff, copies of all notices, affidavits of newspaper publication(s), and records of action taken shall be a part of the permanent case file.

Sec. 11.78.080 Findings, conditions, and time limits.

A. Findings. The Planning Commission, prior to approval of a request for a Conditional Use Permit, shall adopt a Resolution stating that the evidence presented shows that each of the findings below have been made. In the case of an Administrative Conditional Use Permit, the Director of Community Development shall prepare an approval letter stating the evidence presented shows that each of the following findings have been made:

1. That the use is essential or desirable to the public convenience and public welfare;

2. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity;

3. That the use conforms to good zoning practices and development standards; and

4. That the use is not contrary to any of the objectives of the adopted General Plan.

B. Finding of Public Convenience and Necessity.

1. In the event that a CUP is granted for a business establishment engaged in the sale of alcoholic beverages for on- or off-site consumption and that establishment is located in a census tract where there is "undue concentration" pursuant to Section 23958.4 of the Business and Professions Code, then the Planning Commission shall also make a finding of Public Convenience and Necessity in addition to the findings in Subsection (A) of this Section.

2. In the event that an ACUP is granted for a business establishment engaged in the sale of beer and wine as an incidental use as defined in this Title and that establishment is located in a census tract where there is "undue concentration" pursuant to Section 23958.4 of the Business and Professions Code, then the Director of Community Development shall also make a finding of Public Convenience and Necessity in addition to the findings in Subsection (A) of this Section. In the alternative, the Director, at his/her sole discretion, may refer the application to the Planning Commission to make the required Finding of Public Convenience and Necessity.

C. Conditions.

1. The Planning Commission may grant the requested Conditional Use Permit, or the Director of Community Development an Administrative Conditional Use Permit, in whole or in part upon such items and conditions as he/she/it may deem necessary to safeguard and protect the public health, safety, and general welfare, the existing and possible future uses on adjoining land in the neighborhood, the proper handling and regulation of traffic, and to ensure the eventual development of the property with respect to which the permit is granted.

2. Prior to the issuance of any building or occupancy permit, the owner and anyone applying on his/her behalf shall agree, in writing, to meet and abide by all the conditions and requirements imposed on the Conditional Use Permit or Administrative Conditional Use Permit.

D. Time Limit.

1. Each determination of the Planning Commission or Director of Community Development granting a Conditional Use Permit or Administrative Conditional Use Permit shall be conditioned upon the privileges being utilized within six months after the effective date thereof unless a shorter or longer time period is established by the Planning Commission or Director; and if they are not utilized or preliminary construction work is not begun within such time and/or progressing adequately to the satisfaction of the Director of Community Development, this authorization shall become void and any privilege or permit granted shall be deemed to have lapsed. The Planning Commission, however, shall have the authority to extend the time limit required for a Conditional Use Permit for good cause and in the case of unavoidable delay upon submittal of a written request and the required time extension filing fees by the applicant at least ten days prior to the expiration date. Similarly, the Director shall have the authority to extend the time limit required for an Administrative Conditional Use Permit for good cause and in the case of unavoidable delay upon submittal of a written request and the required time extension filing fees by the applicant at least ten days prior to the expiration date.

2. As a condition for granting an extension of time, the Planning Commission (CUP) or Director of Community Development (ACUP) may revise existing conditions or impose additional conditions to ensure that the project

will be in compliance with City standards in effect at the time such extension is granted.

3. Once any portion of the Conditional Use Permit or Administrative Conditional Use Permit is utilized, the other portions thereof shall become immediately operative and shall be strictly complied with.

4. When a land use for which a Conditional Use Permit or Administrative Conditional Use Permit was granted is discontinued for a period of six continuous months, such use shall not be reestablished unless a new CUP or ACUP, as applicable, is approved for the subject use. Further, if any land use legally established without the benefit of a CUP or ACUP is discontinued for six continuous months but, under the current requirements of this Title, would require approval of a CUP or ACUP, said land use shall not be reestablished unless a CUP or ACUP, as applicable, is approved for the subject use.

Sec. 11.78.090 Appeals.

A. Conditional Use Permits.

1. The action of the Planning Commission shall become final on the date the Planning Commission makes its final determination on the application. However, within 15 days after the date of the Planning Commission's decision, a written appeal therefrom may be taken to the City Council by any person aggrieved by the determination of the Planning Commission in connection with the application. Such appeal shall be accompanied by the required appeal fee, which shall be one half of the initial Conditional Use Permit filing fee. The City Council, on its own motion, may appeal any determination of the Planning Commission within 15 days of the Planning Commission's decision or at the next regularly scheduled City Council meeting, whichever occurs later. An appeal fee shall not be required in the event of such City Council appeal.

2. The appeal request shall stay any proceedings associated with the action appealed from. Upon receipt of the request for the appeal, Planning Division staff shall transmit to the City Council the appeal request and copies of all other papers constituting the official record, together with a written report stating why the appeal should or should not be granted.

3. The City Council may, by Resolution, affirm, reverse, or modify in whole or in part any decision, determination, or requirement of the Planning Commission; but before conducting a public hearing on granting any appeal of a Planning Commission decision, the City Council shall set the matter for hearing and give the same notice as that provided in Section 11.78.070(B) of this Chapter.

4. The appeal hearing by the City Council shall be based upon the record of the Planning Commission. In the event any new information or evidence is produced for consideration, the City Council shall refer the matter back to the Planning Commission for review and recommendation.

B. Administrative Conditional Use Permits.

1. The action of the Director of Community Development shall become final on the date he/she makes a final decision on the application. However, within 15 days after the date of the Director's decision, a written appeal therefrom may be taken to the Planning Commission by any person aggrieved by the determination of the Director in connection with the application. Such appeal shall be accompanied by the required appeal fee, which shall be one half of the initial Administrative Conditional Use Permit filing

fee. The Planning Commission or City Council, on its own motion, may appeal any decision of the Director within 15 days of his/her decision or at the next regularly scheduled Planning Commission or City Council meeting, whichever occurs later. An appeal fee shall not be required in the event of such appeal by the Planning Commission or City Council.

2. The appeal request shall stay any proceedings associated with the action appealed from. Upon receipt of the request for the appeal, Planning Division staff shall transmit to the Planning Commission the appeal request and copies of all other papers constituting the official record, together with a written report stating why the appeal should or should not be granted.

3. The Planning Commission may, by Resolution, affirm, reverse, or modify in whole or in part any decision, determination, or requirement of the Director of Community Development; but before conducting a public hearing on granting any appeal of the Director's decision, the Planning Commission shall set the matter for hearing and give the same notice as that provided in Section 11.78.070(B) of this Chapter.

4. The appeal hearing by the Planning Commission shall be based upon the record of the administrative decision by the Director of Community Development. In the event any new information or evidence is produced for consideration, the Planning Commission shall refer the matter back to the Director for review and recommendation.

5. The action of the Planning Commission on an appeal of the Director's decision shall become final on the date the Planning Commission makes its determination on the appeal. Any person aggrieved by the determination of the Planning Commission in connection with the appeal, or the City Council on its own motion, may appeal the Planning Commission's decision, subject to the timeframe, fees, and criteria set forth in Section 11.78.090(A) of this Chapter.

Sec. 11.78.100 Revocation.

A. Conditional Use Permits.

1. The Planning Commission, on its own motion or upon the direction of the City Council, may conduct a hearing upon the question of the revocation of a Conditional Use Permit granted under or pursuant to the provisions of this Title.

2. Notification of such public hearing shall be given in accordance with Section 11.78.070(B) of this Chapter provided, however, the owner of the subject property shall have his/her notice mailed by certified mail, postage paid, return receipt requested.

3. A Conditional Use Permit granted pursuant to a hearing may be revoked and a nonconforming use may be terminated if the Planning Commission and City Council make any of the following findings:

- a. That any condition of a Conditional Use Permit or an amended Conditional Use Permit has not been complied with or has been violated;
- b. That the use is detrimental to the public health or safety or is a nuisance;
- c. That the Conditional Use Permit was obtained by fraud;
- d. That the use for which the permit was granted is not being exercised;

e. That the use for which the permit was granted has ceased or been suspended for six months or more; or

f. That the condition of the improvements, if any, involved in a legal nonconforming use is such that the property, with or without alteration of any existing improvements, can be used for a nonconforming use without impairing the constitutional rights of any person.

4. After a hearing upon the revocation of a Conditional Use Permit, the Planning Commission shall report its findings of fact and recommendations to the City Council by a formal and numbered Resolution; and upon receipt of such recommendations, the City Council shall determine the facts at a public hearing and may revoke, modify, or allow to remain unchanged the Conditional Use Permit in accordance with the City Council's final determination in such matters.

B. Administrative Conditional Use Permits.

1. The Planning Commission, on its own motion, upon the recommendation of the Director of Community Development or upon the direction of the City Council, may conduct a hearing upon the question of the revocation of an Administrative Conditional Use Permit granted under or pursuant to the provisions of this Title.

2. Notification of such public hearing shall be given in accordance with Section 11.78.070(B) of this Chapter provided, however, the owner of the subject property shall have his/her notice mailed by certified mail, postage paid, return receipt requested.

3. An Administrative Conditional Use Permit may be revoked and a nonconforming use may be terminated if the Planning Commission and City Council make any of the following findings:

a. That any condition of an Administrative Conditional Use Permit or an amended Administrative Conditional Use Permit has not been complied with or has been violated;

b. That the use is detrimental to the public health or safety or is a nuisance;

c. That the Administrative Conditional Use Permit was obtained by fraud;

d. That the use for which the permit was granted is not being exercised;

e. That the use for which the permit was granted has ceased or been suspended for six months or more; or

f. That the condition of the improvements, if any, involved in a legal nonconforming use is such that the property, with or without alteration of any existing improvements, can be used for a nonconforming use without impairing the constitutional rights of any person.

4. After a hearing upon the revocation of an Administrative Conditional Use Permit, the Planning Commission shall report its findings of fact and recommendations to the City Council by a formal and numbered Resolution, and upon receipt of such recommendations, the City Council shall determine the facts at a public hearing and may revoke, modify, or allow to remain unchanged the Administrative Conditional Use Permit in accordance with the City Council's final determination in such matters.

Section VII. Severability.

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

Section VIII. Effective Date.

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

Section IX. Posting.

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

APPROVED AND ADOPTED this XX day of XX, 2013.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 13-933 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2013, and finally passed not less than five (5) days thereafter on the XX day of XX, 2013, by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 17, 2013

SECTION: ADMIN. REPORTS

ITEM NO. 1

FILE I.D.: FIN520

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending May 31, 2013, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending May 31, 2013.

FISCAL IMPACT: Routine—report of City's cash and investments.

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending May 31, 2013.

Prepared by: *Jane Kelleck* Reviewed and Approved by: *Ronald Parker*

Proofed by: *Yvonne R. Smith* Presented by: *David A. Spurr*

AGENDA REPORT

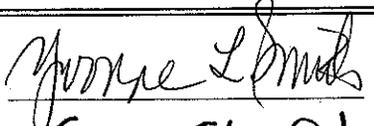
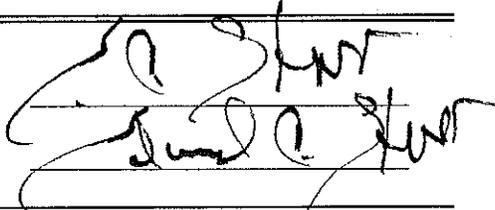
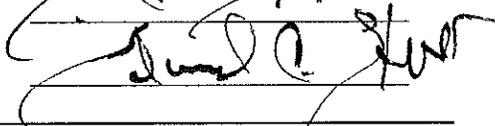
SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: June 17, 2013 SECTION: ADMIN. REPORTS ITEM NO.: 2 FILE I.D.: FIN540 DEPT.: ADMIN. SVCS.
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REASON FOR CONSIDERATION: The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

BACKGROUND: Mayor Pro Tem Ruh has examined the Warrant Register dated June 17, 2013, and Payroll Documentation dated May 5, 2013; finds them to be in order; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated June 17, 2013, totals \$1,021,124.70. The Payroll Documentation dated May 5, 2013, totals \$597,203.93, with \$418,130.03 being the total cash disbursement.

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

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 17, 2013

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: FIN510

DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending May 31, 2013, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending May 31, 2013.

FISCAL IMPACT: Routine—report of the Agency's cash and investments.

RECOMMENDATION: Staff recommends the City Council acting as successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending May 31, 2013.

Prepared by:

Michael Piotrowski

Reviewed and
Approved by:

Donald L. Parker

Proofed by:

D. Spurr

Presented by:

D. Spurr

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** June 17, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 4
FILE I.D.: FIN530
DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending May 31, 2013, pursuant to state law.

BACKGROUND: Vice Chairman Ruh has examined the Successor to the Redevelopment Agency Warrant Register dated 05.01.13–05.31.13 in the amounts of \$67.76 for Project I; \$0.00 for Project II; \$813.02 for Project III; \$564.60 for Project IV; \$1,313.02 for Project V; \$0.00 for the Mission Boulevard Joint Redevelopment Project; \$0.00 for the Redevelopment Obligation Retirement Funds; \$0.00 from the Tax Exempt Bond Proceeds and \$0.00 from the Taxable Bond Proceeds and finds it to be in order.

FISCAL IMPACT: Routine—report of Agency's obligations.

RECOMMENDATION: Vice Chairman Ruh recommends the City Council as successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending May 31, 2013.

Prepared by:

Michael Pistrouski

Reviewed and
Approved by:

Donald L. Parker

Proofed by:

S.O. Stur

Presented by:

S.O. Stur

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 17, 2013

SECTION: ADMIN. REPORTS

ITEM NO.: 5

FILE I.D.: FIN525

DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending May 31, 2013, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending May 31, 2013.

FISCAL IMPACT: Routine—report of the Montclair Housing Corporation's cash and investments.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2013.

Prepared by:

Michael Pistynski

Reviewed and
Approved by:

Ronald J. Pinsky

Proofed by:

S. C. Sturm

Presented by:

S. C. Sturm

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** June 17, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 6
FILE I.D.: FIN545
DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending May 31, 2013, pursuant to state law.

BACKGROUND: Vice Chairman Ruh has examined the Warrant Register dated 05.01.13–05.31.13 in the amount of \$87,264.57 for the Montclair Housing Corporation and finds it to be in order.

FISCAL IMPACT: Routine—report of Montclair Housing Corporation's obligations.

RECOMMENDATION: Vice Chairman Ruh recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending May 31, 2013.

Prepared by:

Michael Piotrowski

Proofed by:

[Signature]

Reviewed and
Approved by:

Donald L. Parker

Presented by:

[Signature]

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 17, 2013

SECTION: ADMIN. REPORTS

ITEM NO.: 7

FILE I.D.: FIN525

DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending May 31, 2013, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending May 31, 2013.

FISCAL IMPACT: Routine—report of the Montclair Housing Authority's cash and investments.

RECOMMENDATION: Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2013.

Prepared by:

Michael Piotrowski

Reviewed and
Approved by:

Ronald L. Parker

Proofed by:

SA Stewart

Presented by:

James Stewart

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** June 17, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 8
FILE I.D.: FIN545
DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending May 31, 2013, pursuant to state law.

BACKGROUND: Vice Chairman Ruh has examined the Warrant Register dated 05.01.13-05.31.13 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

FISCAL IMPACT: Routine—report of Montclair Housing Authority's obligations.

RECOMMENDATION: Vice Chairman Ruh recommends the Montclair Housing Authority Board of Directors approve the Warrant Register for the period ending May 31, 2013.

Prepared by:

Michael Pistone

Reviewed and
Approved by:

Ronald L. Parker

Proofed by:

James A. Stewart

Presented by:

James A. Stewart

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF THE CITY OF MONTCLAIR CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEARS 2013-2018	DATE: June 17, 2013
CONSIDER APPROPRIATION OF FUNDS AS INDICATED IN THE ATTACHED CAPITAL IMPROVEMENT PROGRAM	SECTION: ADMIN. REPORTS
	ITEM NO.: 9
	FILE I.D.: FIN285
	DEPT.: PUBLIC WORKS

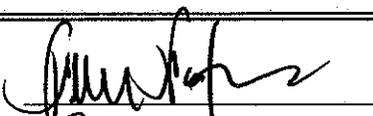
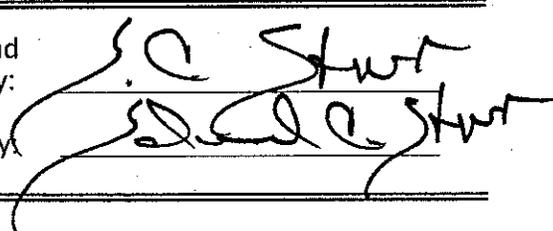
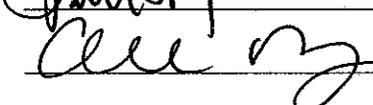
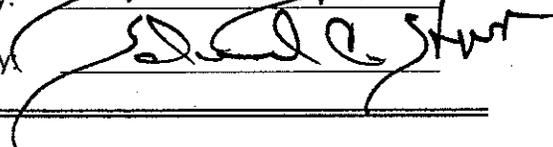
REASON FOR CONSIDERATION: The City Council is asked to consider approval of the City of Montclair Capital Improvement Program for Fiscal Years 2013-14 through 2017-18 and funding for Fiscal Year 2013-14. Adopting a Capital Improvement Program provides assurance that long-range capital project objectives would receive proper consideration and that financing would be available as authorized.

BACKGROUND: In the past, the City has adopted five-year Capital Improvement Programs (CIPs) on an annual basis with appropriations made for the first year of the program. The last CIP adopted by the City was for Fiscal Years 2008-09 through 2012-13. Although no CIPs have been adopted since Fiscal Year 2008-09, new projects, as they were developed, were added to that CIP and the necessary funds appropriated.

The proposed Capital Improvement Program attached to this agenda report returns the City to a five-year plan with proposed capital improvement expenditures and related financing sources for the first year. It includes some projects currently under design or construction as staff was able to advance the project prior to next fiscal year.

The CIP has been reviewed by the Planning Commission for consistency with the General Plan and by the Public Works Committee with a recommendation for approval. Since presentation to the Planning Commission and Public Works Committee, two projects have been added. The first project is called the Northeast Montclair Pavement Rehabilitation Project. The project limits are residential streets between Benson Avenue, San José Street, Central Avenue, and San Bernardino Street. This project was found necessary after Monte Vista Water District began construction on replacement water mains and services in this area. The streets were in fair to poor condition prior to the start of that project; but with construction activities and trench repairs, the street conditions became worse. This project will grind and overlay streets affected by the water line construction. No additional right-of-way is necessary for this work nor are any capacity enhancements being considered. As such, it is consistent with the General Plan.

The second project is the Sunrise Park Block Wall Project and involves the replacement of approximately 250 feet of block wall along the north property line of Sunrise Park. The existing wall is leaning in a few places and has completely failed in others. Along one

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

section of the wall, the only thing holding the wall together is the vine attached to the wall. Staff originally considered doing minor repairs to the failed portion of the wall; but on further review of the work required and the estimated cost, staff determined the work should be done as a capital improvement project. This work is maintenance-related and as such is consistent with the General Plan.

The attached CIP includes a status summary of projects from prior years. In general, projects are listed as being complete, ongoing, or recommended for removal from the CIP. Those recommended for removal are either no longer necessary or lack sufficient funds to proceed at this time. When funds become available for design and/or construction, they will be added to a future CIP.

FISCAL IMPACT: The City Council's approval of the Capital Improvement Program for Fiscal Years 2013-14 through 2017-18 would have no fiscal impact on the General Fund. The CIP worksheets include project cost estimates and funding sources.

The following table lists the appropriations required as part of the CIP, along with the funds from which the appropriations would come.

<i>Project</i>	<i>Total Appropriation</i>	<i>Appropriation by Fund</i>	
Monte Vista Avenue Grade Separation Project	\$600,000	Measure I	\$ 600,000
Monte Vista Avenue Widening Project	\$445,700	Local DIF	265,700
		SLPP Prop. 1B	180,000
Recreation Building Facility Upgrades	\$400,000	CDBG	400,000
Sunrise Park Block Wall	\$100,000	Park Dev.	100,000
City Hall Break Room Patio Cover	\$10,000	Infrastructure	10,000
Central Avenue Rule 20 Undergrounding	\$115,000	Suc. Agency	115,000
<u>Northeast Montclair Street Rehab. Project</u>	<u>\$480,000</u>	Gas Tax	<u>480,000</u>
Total			\$2,150,700

SLPP Prop. 1B: State/Local Partnership Program Proposition 1B-Fund 1751
 Local DIF-Local Development Impact Fee-Fund 1740
 Measure I-Fund 1104
 Gas Tax-Fund 1102

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

1. Approve the City of Montclair Capital Improvement Program for Fiscal Years 2013-2018.
2. Appropriate funds as indicated in the attached Capital Improvement Program and in the Fiscal Impact section of this report.

AGENDA REPORT

SUBJECT: CONSIDER ACCEPTANCE OF GRANT FUNDS FROM THE COMMUNITY FOUNDATION TO SUPPORT AND EXPAND THE MONTCLAIR POR LA VIDA PROGRAM

DATE: June 17, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 10
FILE I.D.: HSV044
DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The City Council is requested to consider accepting grant funds from The Community Foundation in the amount of \$10,000 to reduce and prevent local obesity and overweight health issues by supporting and expanding the Montclair Por La Vida Program.

BACKGROUND: The City was successful in obtaining a one-year competitive grant from The Community Foundation's Community Impact Fund. The Community Foundation is a nonprofit public charity serving the people of Riverside and San Bernardino counties.

The Community Impact Fund would provide funding for the following:

- At least ten promotoras would be recruited and trained using bilingual and culturally relevant health curriculum series.
- At least 500 targeted individuals would participate in a 16-week series of beginning nutrition education classes.
- At least 200 targeted individuals would participate in advanced nutrition activities including completing a five-week advanced nutrition class series and attending two half-day specialized nutrition workshops.
- Promotion of other community health activities.

The grant period is from June 1, 2013, through May 31, 2014.

FISCAL IMPACT: The Community Impact Fund would provide grant funding in the amount of \$10,000 to the City to pay for Por La Vida Program costs.

RECOMMENDATION: Staff recommends the City Council accept \$10,000 in grant funds from The Community Foundation to support and expand the Montclair Por La Vida Program.

Prepared by:

M. Richter

Proofed by:

Christine Snyderly

Reviewed and Approved by:

J.C. Starr

Presented by:

J.C. Starr

The Community Foundation expects publicity for the grant in two ways and will require documentation in your grant evaluation form that you will file at the end of the grant period.

1. *Organizational*: Acknowledge The Community Foundation in internal communication to staff and board, in brochures as appropriate, newsletters, annual reports and email blasts or e-newsletters.
2. *Press*: Publicity for The Community Foundation grant via press releases to local media.

The credit line of "Made possible in part by a grant from **"The Community Foundation Serving the Counties of Riverside and San Bernardino"** is suggested. When your donors are listed in printed materials, include The Community Foundation in the appropriate contribution size category.

When publishing our name, please note the "The" at the beginning of our name is a legal part of our name. It should always be used and capitalized. Attaching a logo is also appreciated. Our logo can be downloaded on our website at www.thecommunityfoundation.net.

Email our Communications Officer at shunke@thecommunityfoundation.net with copies of any printed or publicity materials that highlight the grant.

7. Indemnification

In the event that a claim of any kind is asserted against the Grantee or the Foundation related to or arising from the project funded by the Grant and a proceeding is brought against the Foundation by reason of such claim, the Grantee, upon written notice from the Foundation, shall, at the Grantee's expense, resist or defend such action or proceeding, at no cost to the Foundation, by counsel approved by the Foundation in writing.

Grantee hereby agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless the Foundation, its offices, directors, employees, and agents, from and against any and all claims, liabilities, losses, and expenses (including reasonable attorneys' fees) directly, indirectly, wholly, or partially arising from or in connection with any act or omission by Grantee, its employees, or agents in applying for or accepting the Grant, in expending or applying the Grant funds or in carrying out any project or program supported by the Grant, except to the extent that such claims, liabilities, losses, and expenses arise from or in connection with any bad faith act or omission by the Foundation, its officers, directors, employees, or agent.

8. Termination

The Community Foundation may terminate this agreement, withhold payments, or both at any time, if, in the Community Foundation's judgment: a) The Community Foundation is not satisfied with the quality of the Grantee's progress toward achieving the project goals and objectives; b) the Grantee dissolves or fails to operate; c) the Grantee fails to comply with the terms and conditions of this agreement.

9. Limitation of Support

This Agreement contains the entire agreement between the parties with respect to the Grant and supersedes any previous oral or written understandings or agreements.

I have read and agree to the terms and conditions of the Grant Agreement.

Signature

Date

Edward C. Starr

City Manager

Printed Name

Title

Grant Number: 20130100
Organization: Montclair Medical ClinicCompetitive

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING THE USE OF H2 ENVIRONMENTAL CONSULTING SERVICES, INC., FOR TESTING OF LEAD LEVELS IN THE FIREARMS SHOOTING RANGE

DATE: June 17, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 11
FILE I.D.: PDT725
DEPT.: POLICE

REASON FOR CONSIDERATION: The Police Department's firearms shooting range is used collectively by Department personnel and members of outside agencies an estimated seven to ten times per month. The City Council is requested to consider authorizing testing of lead levels in the facility and development of an indoor firing range lead safety program to ensure a healthy environment is maintained for users.

BACKGROUND: The Police Department schedules monthly range training sessions for sworn personnel in the firearms shooting range. In addition to in-house range training, the City contracts with six outside agencies for use of the firearms shooting range. It is anticipated the range will be utilized seven to ten times per month through the remainder of the calendar year.

Aside from annual range training in June and occasional rifle training, in-house range training is conducted with Winchester WinClean ammunition to mitigate lead buildup in the facility. WinClean ammunition is made with lead- and heavy-metal-free primers and brass-enclosed bases that prevent lead vaporization from the bullet's base. The result is less smoke, less barrel residue, and cleaner guns and shell casings. California Highway Patrol agencies that contract for use of the facility use lead-free frangible ammunition that is designed to disintegrate into tiny particles upon impact. Frangible ammunition is typically made of nontoxic metals and is frequently used at ranges where lead abatement is a concern. The Department requires that personnel from contract agencies use only "clean fire" ammunition to prevent lead buildup in the range backstop and air filtration system. Agencies may only use duty ammo with prior authorization of the Support Services Lieutenant.

Three vendors were contacted to provide bid quotations for lead testing. One vendor did not respond; and of the two remaining, only H2 Environmental Consulting Services, Inc., has extensive experience in range maintenance and safety. The bid quotation from H2 Environmental Consulting Services, Inc., includes a baseline lead sampling to be used as a gauge for future samplings; training for the Support Services Lieutenant and Facilities and Grounds Superintendent on methods to properly maintain cleanliness of the firearms shooting range, maintenance of bullet traps and filters, and proper procedures when

Prepared by:

[Signature]
[Signature]

Reviewed and
Approved by:

[Signature]
[Signature]

Proofed by:

Presented by:

performing routine and extraordinary maintenance and repairs; and quarterly lead sampling and reporting.

FISCAL IMPACT: Should the City Council approve this item, expenditures in the amounts of \$3,310 would be made from the Police Department Fiscal Year 2012-13 Budget and \$2,430 from the Police Department Fiscal Year 2013-14 Budget.

RECOMMENDATION: Staff recommends the City Council authorize the use of H2 Environmental Consulting Services, Inc. for testing of lead levels in the firearms shooting range.

AGENDA REPORT

SUBJECT: CONSIDER DECLARING CERTAIN CITY
PROPERTY IN POLICE CUSTODY AS
UNSERVICEABLE AND AVAILABLE FOR
DESTRUCTION

DATE: June 17, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 12
FILE I.D.: EQS052
DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to declare certain City property in Police custody as unserviceable and available for destruction.

BACKGROUND: The items included on the attached list are considered as unserviceable property in Police custody. Upon being declared as unserviceable by the City Council, the items would be available for destruction.

FISCAL IMPACT: Destruction of the subject items would result in no fiscal impact to the City's General Fund.

RECOMMENDATION: Staff recommends the City Council declare certain City property in Police custody as unserviceable and available for destruction.

Prepared by:

Sharon Cappiano
Judy B...

Reviewed and
Approved by:

M. deMaet
Edna C. St...

Proofed by:

Presented by:

CITY OF MONTCLAIR PROPERTY AUCTION LOG

TAG #	ID #	ESTIMATED VALUE	QUANTITY	DESCRIPTION OF ITEM TO BE DESTROYED	SERIAL #	CR #	PRICE SOLD FOR
	31	N/A	1	X26 Taser	X00-059434		
	1	N/A	1	X26 Taser	X00-055989		
	68	N/A	1	X26 Taser	X00-129010		
	43	N/A	1	X26 Taser	X00-058306		
	67	N/A	1	X26 Taser	X00-069167		
	44	N/A	1	Taser Cam	V06-012546		
47	48	N/A	1	Taser Cam	V06-012554		
	53	N/A	1	Taser Cam	V06-012636		
	55	N/A	1	Taser Cam	V06-012638		
	66	N/A	1	Taser Cam	V06-012660		
	33	N/A	1	Taser Cam	V06-012515		
	7	N/A	1	Taser Cam	V06-012488		
	3	N/A	1	X26 Taser	X00-045440		
	5	N/A	1	X26 Taser	X00-043045		
	63	N/A	1	X26 Taser	X00-063593		

AGENDA REPORT

SUBJECT: CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' AWARD OF CONTRACT TO FULMIN ELECTRICAL CORPORATION IN THE AMOUNT OF \$51,927

CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 13-34 WITH FULMIN ELECTRICAL CORPORATION FOR THE 5444 PALO VERDE STREET ELECTRICAL IMPROVEMENT PROJECT

CONSIDER AUTHORIZATION OF A \$5,192 CONSTRUCTION CONTINGENCY

DATE: June 19, 2013

SECTION: AGREEMENTS

ITEM NO.: 1

FILE I.D.: MHC025

DEPT.: Montclair Housing Corporation

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider awarding a contract to and approving an agreement with Fulmin Electrical Corporation for the 5444 Palo Verde Street Electrical Improvement Project. A copy of proposed Agreement No. 13-34 is attached for the Montclair Housing Corporation Board's review and consideration.

BACKGROUND: The Montclair Housing Corporation Fiscal Year 2012-13 Budget includes funding for the electrical improvements and upgrade to the 5444 Palo Verde Street property and accompanying design studio owned and managed by the Montclair Housing Corporation. The electrical upgrade to the existing residence and studio is one of the major components to the property's rehabilitation. Following the electrical upgrade to the structures, staff will begin the careful restoration of the residence and studio. A comprehensive landscape planting design incorporating much of the original planting model, with updated and low maintenance design elements, has been developed, and will be the final step in restoring the property. The unique adobe-constructed residence was once owned by renowned sculptor John Svenson who began construction of the home and design studio in the late 1940s.

The Montclair Housing Corporation solicited proposals from five contractors in May, and staff conducted an onsite walkthrough with the contractors. On Thursday, May 16, 2013, Montclair Housing Corporation staff received and opened two bid proposals for the 5444 Palo Verde Street Improvement Project. The bid results are as follows:

<i>Contractor</i>	<i>Bid Amount</i>
Engineer's Estimate	\$55,000.00
Fulmin Electrical Corporation	\$51,927.00
Riley Electric, Inc.	\$53,879.00

Prepared by: Christine J. Caldwell Reviewed and Approved by: M. STARTS

Proofed by: George L. Smith Presented by: D. J. STAN

Following the bid opening, all proposals were reviewed for completeness and accuracy. The apparent low bidder, Fulmin Electrical Corporation, provided all of the required documents and was deemed the lowest responsible, responsive bidder for the project.

After a reference check of Fulmin Electrical Corporation, it appears the company has the personnel, equipment, and job experience necessary to complete this contract in accordance with the plans and specifications.

FISCAL IMPACT: Funding for the 5444 Palo Verde Street Electrical Improvement Project is included in the Montclair Housing Corporation Fiscal Year 2012-13 Budget.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors take the following actions related to the 5444 Palo Verde Street Electrical Improvement Project:

1. Award a contract to Fulmin Electrical Corporation in the amount of \$51,927.
2. Approve Agreement No. 13-34 with Fulmin Electrical Corporation for the 5444 Palo Verde Street Electrical Improvement Project.
3. Authorize a \$5,192 construction contingency.

MONTCLAIR HOUSING CORPORATION

CONSTRUCTION CONTRACT

5444 PALO VERDE STREET ELECTRICAL IMPROVEMENT PROJECT

THIS CONTRACT is made and effective as of June 17, 2013, between the Montclair Housing Corporation (MHC), a non-profit housing corporation ("Corporation") and Fulmin Electrical Corporation, a California corporation ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Contract shall commence on June 18, 2013, and shall remain and continue in effect for a period of thirty (30) working days until tasks described herein are completed, but in no event later than August 7, 2013, unless sooner terminated pursuant to the provisions of this Contract.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

The Assistant Director of Housing or her designee shall represent the Corporation in all matters pertaining to the administration of this Contract, review and approval of all products submitted by Contractor, but not including the authority to enlarge the Tasks to be Performed or change the compensation due to Contractor. The Assistant Director shall be authorized to act on Corporation's behalf and to execute all necessary documents which enlarge the Tasks to be Performed or change Contractor's compensation, subject to Section 5 hereof.

5. **PAYMENT**

(a) The Corporation agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit "A", attached hereto and incorporated herein by this reference as though set forth in full,

based upon actual time spent on the above tasks. This amount shall not exceed \$51,927 for the total term of the Contract unless additional payment is approved as provided in this Contract.

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

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

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

6. SUSPENSION OR TERMINATION OF CONTRACT WITHOUT CAUSE

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

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

7. DEFAULT OF CONTRACTOR

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

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

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

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

10. INSURANCE

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

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

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

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

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

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

(c) Contractor covenants that neither he/she nor any office or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder.

Contractor further covenants that in the performance of this Contract, no person having such interest shall be employed by them as an officer, employee, agent or subcontractor. Contractor further covenants that Contractor has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Contractor and/or its subcontractors shall provide no service or enter into any Contract or Contracts with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Contract.

16. NOTICES

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

To MHC:

Christine S. Caldwell
Assistant Director of Housing
City of Montclair
5111 Benito St.
Montclair, CA 91763

To Contractor:

Fulmin Electrical Corporation
945 W. Berkely Court
Ontario, CA 91762

17. ASSIGNMENT

The Contractor shall not assign the performance of this Contract, nor any part thereof, nor any monies due hereunder, without prior written consent of the MHC. Because of the personal nature of the services to be rendered pursuant to this Contract, only Fulmin Electrical Corporation. (responsible employee) shall perform the services described in this Contract.

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE CONTRACT

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

21. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

Contractor is bound by the contents of MHC's Request for Proposal, Exhibit "A" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Contractor, Exhibit "B" hereto. In the event of conflict, the requirements of the MHC's Request for Proposals and this Contract shall take precedence over those contained in the Contractor's proposals.

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS CONTRACT

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

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

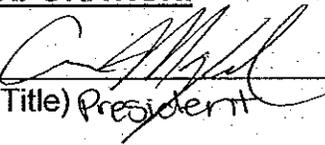
MONTCLAIR HOUSING CORPORATION

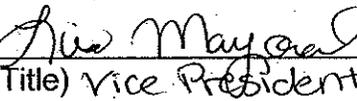
By: _____
Chair

Attest:

By: _____
Secretary

FULMIN ELECTRICAL CORPORATION

By:  _____
(Title) President

By:  _____
(Title) Vice President



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/24/13

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Socals Choice Insurance Svcs Inc 9500 7th Street, Suite R Rancho Cucamonga, CA 91730 Phone (909) 941-4100 Fax (909) 941-4104		CONTACT NAME: Darla Griswold PHONE (A/C, No, Ext): (909) 941-4100 E-MAIL ADDRESS: socalschoiceins@gmail.com FAX (A/C, No): (909) 941-4104	
INSURED Fulmin Electrical Corp. 945 W Berkeley Ct Ontario, CA 91762		INSURER(S) AFFORDING COVERAGE INSURER A: Atain Specialty Insurance Company INSURER B: Tower Insurance Company Of New York INSURER C: Infinity Insurance Company INSURER D: INSURER E: INSURER F:	

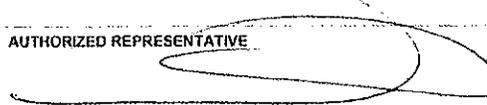
COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDSUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	Y Y	CIP134500	02/03/2013	02/03/2014	EACH OCCURRENCE \$ 1,000,000.00 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000.00 MED EXP (Any one person) \$ 5,000.00 PERSONAL & ADV INJURY \$ 1,000,000.00 GENERAL AGGREGATE \$ 2,000,000.00 PRODUCTS - COM/POP AGG \$ 2,000,000.00 COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 50,000.00 BODILY INJURY (Per accident) \$ 100,000.00 PROPERTY DAMAGE (Per accident) \$ 50,000.00 EACH OCCURRENCE \$ AGGREGATE \$
C	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	Y	104600711003001	02/04/2013	02/04/2013	BODILY INJURY (Per person) \$ 50,000.00 BODILY INJURY (Per accident) \$ 100,000.00 PROPERTY DAMAGE (Per accident) \$ 50,000.00 EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N y	WCC 0035828	02/08/2013	02/08/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E L EACH ACCIDENT \$ 1,000,000.00 E L DISEASE - EA EMPLOYEE \$ 1,000,000.00 E L DISEASE - POLICY LIMIT \$ 1,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Montclair Housing Corporation is named as additional insured

CERTIFICATE HOLDER Montclair Housing Corporation 5111 Benito St Montclair Ca 91763	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	--

Countersigned by
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTING INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance, and all subparts thereof, as contained in the policy is deleted in its entirety and replaced with the following condition:

4. Other Insurance

If all of the other insurance permits contribution by equal shares, we will follow this method unless the insured is required by written contract signed by both parties, to provide insurance that is primary and noncontributory, and the "insured contract" is executed prior to any loss. Where required by a written contract signed by both parties, this insurance will be primary & non-contributing only when and to the extent as required by that contract.

However, under the contributory approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY
COVERAGE PART

SCHEDULE

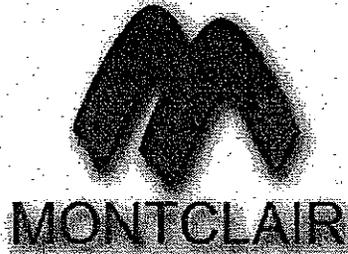
Name Of Person Or Organization: Montclair Housing Corporation

The following is added to Paragraph 8,
**Transfer Of Rights Of Recovery
Against Others To Us** of Section IV —
Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

Exhibit A

EXHIBIT A



REQUEST FOR PROPOSAL

**ELECTRICAL SERVICES FOR THE PROPERTY LOCATED
AT 5444 PALO VERDE STREET**

Proposal Due Date: May 16, 2013

INTRODUCTION

The Montclair Housing Corporation is seeking an electrical professional/contractor for electrical improvements at 5444 Palo Verde St. This is a non-prevailing wage project.

STATEMENT OF PURPOSE

The purpose of this document is to solicit proposals for electrical services using the plans and the general electrical requirements provided. We have selected your organization to receive this formal Request for Proposal (RFP), and we are asking that you submit a formal proposal that addresses the **scope of services addressed in both the Electrical Improvement Plans and the general electrical requirements**. We have specifically defined certain items within this RFP.

PROVIDER REQUIREMENTS & INSTRUCTIONS

Information is to be provided for all sections within this document as defined within each section. Please provide your responses in a presentable format. You may include additional supplemental information as part of your proposal.

1.1 RFP Questions

Our objective is to ensure that we provide you with all of the information you need in order for you to provide the most complete response to this RFP as possible. As such, we welcome any and all questions which you might have. Questions or requests for clarification must be emailed to: flizaola@cityofmontclair.org by **May 9, 2013**.

1.2 Response Format, Deadline, and Delivery

Please submit three copies of your proposal and any supplemental information to the address listed below. All RFP responses must be submitted no later than **May 16, 2013 at 5:00 PM**.

Please submit to:

Montclair Housing Corporation
Attn: Fabiola Lizaola
5111 Benito Street
Montclair, Ca. 91763

E-mail address: flizaola@cityofmontclair.org

**Please note that there is a Mandatory Job Walk at the location on
Thursday, May 2, 2013 at 9:00 AM.**

1.2.1 Important Due Dates

Date to be Received	Items to be Returned
9:00 AM, May 2, 2013	Mandatory Job Walk
5:00 PM, May 9, 2013	Questions and Clarification Requests Due
5:00 PM, May 16, 2013	Completed RFP Response Due

TERMS AND CONDITIONS

Firms/Professionals/Contractors are required to adhere to the below terms and conditions.

1.3 Information Access

The information provided within this, or any other document supplied by the Montclair Housing Corporation, is to be considered strictly confidential and shall be considered proprietary to the Montclair Housing Corporation. This information is not to be shared with individuals outside of your organization unless the Montclair Housing Corporation has specifically provided either written or verbal consent allowing said individuals access to this information.

1.4 GENERAL CONDITIONS

1.4.1 Contract Duration

For purposes of this RFP, services to be provided by your organization, or contracted through your organization, are to be valid for a minimum period of six (6) months.

1.4.2 Expenses

Any costs incurred by you in preparing and providing a response to this RFP are solely the responsibility of your organization. The proposal shall be prepared as a **non-prevailing** wage project.

1.5 PROPOSAL EVALUATION

1.5.1 Evaluation Criteria

This request for proposal is designed to provide the Montclair Housing Corporation with the ability to make a determination of which potential provider will best satisfy the requirements of the Montclair Housing Corporation. Each provider will be evaluated against exactly the same set of criteria.

1.6 Bid Effectiveness

Your formal response to this RFP shall constitute your official "proposal" regarding the defined opportunity presented within this document. The formal bid submitted by provider must in no way be contingent upon any review or approval by provider.

1.7 Acceptance or Rejection

The Montclair Housing Corporation, at its sole discretion, reserves the right to either accept or reject any and all proposals. The existence of this request for proposal shall not, in any way, obligate the Montclair Housing Corporation to take any action regarding any response submitted by a supplier to this request.

1.8 Contract Provisions

In the event that a proposal is accepted by the Montclair Housing Corporation, it is the intent to incorporate the proposal, as well as any other supplemental material provided as part of this RFP response, in their entirety, into the final contract with the consultant.

1.9 Responsibilities as Independent Contractor

Any personnel provided by provider shall be considered to be personnel or agents of the provider. Under no circumstances will said personnel be considered to be agents or personnel of the Montclair Housing Corporation. However, the Montclair Housing Corporation reserves the right to demand the removal and potential replacement of any one or group of individuals provided by provider to work on the project.

If your organization intends to utilize a third party organization to perform any of the tasks associated with any aspect of the proposal, this intent must be disclosed as part of the proposal. For example, if it is your intent to have an organization other than your own perform implementation and project management services as part of the proposed engagement, you must indicate this as part of the proposal. In addition, responsibility for any items or activities provided by any subcontracting or third party entity must be assumed by your organization. For purposes of this engagement, the Montclair Housing Corporation intends to contract exclusively with your organization for the support functions required to insure a successful implementation. This means that your organization will be the sole contact concerning contractual matters, invoicing and associated payments.

1.10 Staffing

As part of this engagement, it is assumed that your organization will assign project personnel that possess the necessary skills to make significant contributions to the completion of the project. With the exception of the Project Manager, which personnel are assigned to the project shall be completely at the discretion of your organization. However, the Montclair Housing Corporation reserves the right to require the provider to remove and possibly replace personnel who are not meeting expectations or who do not interact in a positive manner with other project personnel.

1.11 Building Permit Fees

The company will be responsible for acquiring all the required permits after the contract has been awarded and prior to the pre-construction meeting.

The permit fees are **\$226.22** and shall be included in the proposal price. In order to acquire the permits, the company's license holder needs to be present or can also have a company representative apply but representative needs to have a notarized letter allowing them to pull a permit on the license's holder behalf. They must also provide license information and workers compensation information in order to apply for a permit.

1.12 Schedule

Submit the project schedule your organization intends to utilize to complete each task to its fullest potential and completeness. Project schedule shall be submitted at the pre-construction meeting.

1.13 Minimum Scope of Services

- Obtain building permits
- Determined on plans created by A & E Engineering
- Exhibit A – General Electrical Requirements

1.14 Optional Services

In addition to the items listed above, the MHC may need assistance in a variety of other areas. These may include, but will not necessarily be limited to, the following:

- Technical support throughout the construction RFP process including the review of shop drawings and responses to RFIs.
- Field visits during the construction phase.

1.15 Financials/General Information

Supplier should provide the following information regarding your organization:

- a. Provide bonds and insurance information prior to award of contract.
- b. Provide company name and headquarters location. Provide length of time in the electrical business.
- c. Provide the names, telephone, and fax numbers of persons authorized by your company to conduct negotiations with the Montclair Housing Corporation.
- d. Disclose fully all your relationships with any and all subcontractors and other related companies.
- e. If you are a current supplier to the Montclair Housing Corporation, please include current and past relations.
- f. Indicate whether your company is currently being investigated by any governmental agency.
- g. Indicate whether your company is currently in litigation with any organization regarding fulfillment of contractual obligations, performance, or copyright and patent infringement.
- h. Conflict of Interest Certification: Certify that your firm has no real or potential conflicts of interest which would prevent the provider from acting in the best interests of the Montclair Housing Corporation.
- i. Relative size of this project in comparison to current customer base (revenue, processing, etc.).
- j. Any additional information the supplier deems useful for the Montclair Housing Corporation.

INSURANCE AND BONDS: The contractor shall not commence work under this contract until he has secured all insurance and bonds required under this section, nor shall he allow any subcontractor to commence work on this subcontract until

all similar insurance and bonds required of the subcontractor have been obtained. All insurance issued in compliance with this section shall be issued in the form, and by an insurer or insurers, satisfactory to, and first approved by the City in writing. Certificates of insurance in the amounts required shall be furnished by the contractor to the City prior to the commencement of work.

The contractor shall maintain adequate workers compensation insurance under the laws of the State of California for all labor employed by him or by any subcontractor under him who may come within the protection of such workers compensation insurance laws.

The contractor shall maintain public liability insurance with the City as additional named insured to protect said contractor and the city against loss from liability imposed by law, for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to have been suffered by any person or persons, other than employees, resulting directly or indirectly from the performance or execution of this contract or any subcontract thereunder, and also to protect said contractor and the city against loss from liability imposed by law, for damage to any property, caused directly or indirectly by the performance and execution of this contract or of any subcontract thereunder. Said public liability and property damage insurance shall be maintained by the contractor in full force and effect during the entire period of performance under this contract, in the amount of not less than:

- **Public Liability--Bodily Injury (non-auto) \$1,000,000 each person; \$1,000,000 each accident.**
- **Public Liability--Property Damage (non-auto) \$500,000 each accident; \$1,000,000 aggregate.**
- **Contractor's Protective--Bodily Injury \$1,000,000 each person; \$1,000,000 each accident.**
- **Contractor's Protective--Property Damage \$500,000 each accident; \$1,000,000 aggregate.**
- **Automobile--Bodily Injury \$1,000,000 each person; \$1,000,000 each accident.**
- **Automobile--Property Damage \$500,000 each accident.**

The contractor shall secure with a responsible corporate surety or corporate sureties, licensed to do business in California, satisfactory bonds conditioned upon faithful performance by the contractor of all requirements under the contract and upon the payment of claims of material, personnel and laborers thereunder. The faithful performance bond shall be in the sum of not less than **one hundred percent (100%)** of the estimated aggregate amount of the payments to be made under the contract computed on the basis of the prices stated in the proposal. The

payment bond shall be in the sum of not less than **one hundred (100%) (except as otherwise modified by the General Provisions)** of the estimated aggregate amount of the payments to be made under the contract computed on the basis of the prices stated in the proposal.

All insurance companies affording coverage to the Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State Department of Insurance to transact business of insurance in the State of California.

1.16 Customer Base and References

Provide a list of three references that your organization has contracted for the same or similar services. The Montclair Housing Corporation will contact these references **only** at the end of the consultant selection process as part of the due diligence phase of provider selection. In addition, the Montclair Housing Corporation will only contact these references after the provider has specifically been asked to arrange for such contact to occur.

Include for each reference:

- Company name
- Contact name
- Company Address
- Contact telephone number and FAX number
- Contact e-mail address

The identified customers should be willing to answer questions concerning your company's performance and services.

1.17 IMPLEMENTATION SERVICES

1.17.1 Project Management

The Montclair Housing Corporation will assign an internal project manager who will be responsible for the overall project management of this process. The Montclair Housing Corporation designated individual, in concert with the selected provider Project Manager(s) will provide the oversight to ensure the successful implementation of the design.

Montclair Housing Corporation
Fabiola Lizaola
5111 Benito St.
Montclair, CA 91763

(909)625-9449
flizaola@cityofmontclair.org

1.17.2 Montclair Housing Corporation Resources

Within this section, we ask that you identify the recommended resources required of the Montclair Housing Corporation for the successful completion of this project.

NOTE TO PROVIDER

It is expected that all proposals submitted would be in accordance with what has been clearly outlined in the Electrical Improvement Plans, General Electrical Requirements and this RFP. Once a bid proposal has been submitted it is final. The time for questions will be from the date you receive the RFP to the date stipulated at the beginning of this request.

Once you have completed your proposal, your signature or that of a duly authorized individual of your company must be affixed, in order for us to acknowledge the fact that you have read the Electrical Improvement Plans, General Requirements and RFP thoroughly and have completed the proposal within the stipulated guidelines.

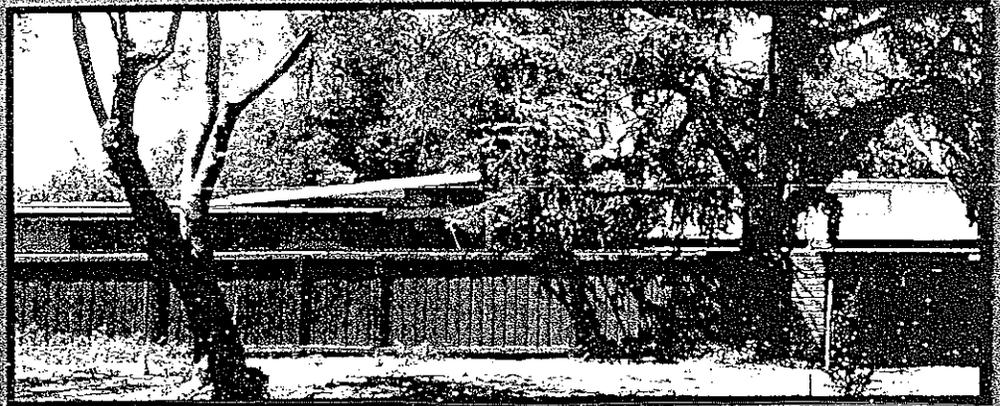
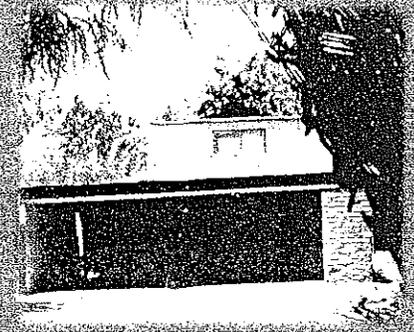
Exhibit B

5/15/2013

EXHIBIT B

CITY OF MONTCLAIR

MONTCLAIR HOUSING CORPORATION



Prepared by
Aaron Mayoral

FULMIN ELECTRICAL CO

5/15/2013
Microsoft
511 Benito St.
909-625-9449
Fabiola Lizaola
Administrative Aide
Montclair Housing Corporation
flizaola@cityofmontclair.org

Dear: Fabiola Lizaola

Thank you for the opportunity to evaluate 5444 Palo Verde Street and to provide you with our recommendations.

We are **Fulmin Electrical Company** and are interested in an opportunity to work with you. Our team has over 25 years of qualified experience in the electrical field specializing in residential and commercial projects. With our focus on integrity and quality, our main goal is to build a lasting relationship with you.

At Fulmin Electric, our competitive bids are coupled with the highest standards of customer service and quality workmanship. Our electricians are clean, honest, and respectful professionals who take pride in their work.

Please take a moment to browse our website at www.fulminelectricco.com for more information about our services. We are fully insured and licensed and we guarantee your satisfaction with us. We look forward to doing business with you in the near future.

Thanks for your time and we look forward to doing business with you and your company. If you have any questions, please do not hesitate to contact me any time at (909) 218-4528.

Sincerely,

Aaron Mayoral
Owner

FULMIN ELECTRICAL COMPANY

945 W Berkeley Court Ontario, CA 91762
O: 909-218-4528 License# - 955471

Code of Ethics

- ❖ We will always provide a detailed cost breakdown before beginning work
- ❖ We will always provide a written schedule for the progress of the work
- ❖ We will always secure a building permit if one is required
- ❖ We will always sign a written contract that includes our cost breakdown, the schedule, and the plans
- ❖ We will always provide sufficient labor to accomplish the work according to the project schedule
- ❖ We will always leave the job site in a clean and orderly condition
- ❖ We will provide you with a list of the subcontractors that we intend to hire
- ❖ We will provide a detailed invoice that incorporates a Current report of the project budget
- ❖ We will compile a booklet of all manufactures' warranties for, any new equipment we install.
- ❖ We will conduct a "walk-through" inspection with you and correct any deficient work prior to final payment

FULMIN ELECTRICAL COMPANY

945 W Berkeley Court Ontario, CA 91762
O: 909-218-4528 License# - 955471

TO ALL PROSPECTIVE BIDDERS
CITY OF MONTCLAIR
MONTCLAIR HOUSING CORPORATION

ADDENDUM NO. 1

May 9, 2013

This ADDENDUM NO. 1 Specifications for the construction of the 5444 Palo Verde Street Electrical Improvement Project is issued in accordance with the project specifications and is made a part of the contract documents.

Bidder shall execute the Bidder Certificate at the end of this Addendum and shall attach the Addendum to the specifications submitted with the bid.

The bid documents for the subject project include a requirement for mandatory attendance at a pre bid site visit on May 2, 2013. This requirement is hereby deleted from the bid documents.

Date: May 9, 2013


Christine Caldwell, Assistant Housing Director

BIDDERS CERTIFICATION

This Addendum No. 1 shall be signed by the bidder and returned together with Bidder's sealed bid proposal. If Addendum is not attached within the sealed bid proposal, the bid may be rejected.

I acknowledge receipt of the foregoing Addendum no. 1 and accept all conditions therein.

The remaining bid document is unchanged

Date: 5/16/2013


Bidder's Signature

TO ALL PROSPECTIVE BIDDERS
MONTCLAIR HOUSING CORPORATION
5444 PALO VERDE STREET ELECTRICAL IMPRVEMENT PROJECT

ADDENDUM NO. 2

May 13, 2013

This ADDENDUM NO. 2 Specifications for the construction of the 5444 Palo Verde St. Electrical Improvement Project is issued in accordance with the project specifications and is made a part of the contract documents.

Bidder shall execute the Bidder Certificate at the end of this Addendum and shall attach the Addendum to the specifications submitted with the bid.

The bid documents for the subject project include a requirement for an infra red scan to determine grounding rating. This requirement is hereby deleted from the bid documents. Instead, per code, the placement of two ground rods installed six feet apart from each other is now required.

Date: May 13, 2013

Christine Caldwell, Assistant Housing Director

BIDDERS CERTIFICATION

This Addendum No. 2 shall be signed by the bidder and returned together with Bidder's sealed bid proposal. If Addendum is not attached within the sealed bid proposal, the bid may be rejected.

I acknowledge receipt of the foregoing Addendum No. 2 and accept all conditions therein.

The remaining bid document is unchanged.

Date: 5/16/2013


Bidder's Signature

QUALITY IS OUR STANDARD



BID PROPSAL

PROJECT: Montclair Residence

We are pleased to submit our proposal to furnish labor and materials for the electrical work regarding the above referenced project for the sum: \$ 51,927.00

Description
<p>Qualifications:</p> <ul style="list-style-type: none">✓ Drawings: E0.1, E0.2, E1.1, E1.2, E2.1, E2.2 undated as prepared by A&F Engineering, Inc.✓ This proposal is based on insurance limits presently in effect at Fulmin Electrical Co. Any additional insurance requirements may add additional cost to this proposal.✓ 3,485sf +/- renovation to existing structures consisting of 2-buildings with no site lighting.✓ This project has been bid per plans and current NEC requirements unless otherwise noted and will remain valid for 30 days.✓ Proposal based on an acceptable construction schedule coordinated with Fulmin Electrical Co. based on normal working hours, Monday thru Friday.✓ General Contractor shall expose all flooring, walls, ceilings, etc. to accommodate this scope of work, including all finish restoration necessary.
<p>Scope of Work Includes:</p> <ol style="list-style-type: none">1. Permit allowance of \$ 226.22.2. Temporary construction power per OSHA minimums derived from energized equipment located on site.3. Light fixtures with quantities as shown. Remove existing lamps, clean fixtures, lenses and re-lamp as depicted on referenced drawings.4. New load centers as shown.5. Installing new service risers as shown.6. EMT, PVC, IMC, and Surface Mount Raceway AC wiring systems, 1/2" minimum with steel setscrew fittings7. Backfill materials same as excavated materials.8. Residential grade wiring devices with plastic plates.9. Demolition as depicted on referenced drawings.10. Grounding per NEC.
<p>Exclusions:</p> <ol style="list-style-type: none">1. Utility Company's wiring, transformer, current transformers, pull-box, terminations and consumption fees for temporary power.2. Concrete, forming, and related materials for equipment pads.3. Waste disposal fees and containers.4. H.V.A.C starters, safety switches per Mechanical Schedule, relays, controls, or control conduit, and wiring regardless of voltage, Building Management System (BMS), Energy Management System (EMS) and Variable Frequency Drive unit(s)5. Locating or surveying services6. Concrete x-ray and imaging to accommodate this scope of work.7. All coring, cutting, notching and exposing of asphalt, curbing, flooring, walls/ceilings, cabinetry/furniture, weather proofing, pitch pans and sealing of roof penetrations, including finish restoration to accommodate this scope of work.8. Engineering errors or omissions9. Data Security and Public Address-Audio/Visual systems.10. Additional manpower for composite clean-up11. Davis Bacon, Prevailing Wage, Union, or structured wage requirements12. Telephone service conduits and wiring13. Sealing of Electrical Boxes14. Existing conditions deemed non-code complaint by local authority having jurisdiction.

Thank you for the opportunity to provide pricing for this project. If you have any questions, please do not hesitate to call.

We propose hereby to furnish material and labor-complete in accordance with above specifications for the sum of: FIFTY-ONE THOUSAND, NINE HUNDRED TWENTY-SEVEN dollars (\$51,927.00)

Payment as follows: WILL BE NEGOTIATED

All Material is guaranteed to be as specified. All work to be completed in a substantial work manlike manner according to specifications submitted per standard practices. Any alteration or deviation from above specifications involving extra cost will be executed only upon written orders, and will become an extra charge over and above the estimate.

Authorized Signature Aaron Mayoral

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance _____

FULMIN ELECTRICAL COMPANY

QUALITY IS OUR STANDARD

945 W Berkeley Crt Ontario CA 91762 Phone: 909-218-4528 Fax: 909-295-6419

\$ 51,927.00



DEPARTMENT OF CONSUMER AFFAIRS

Contractors State License Board

Contractor's License Detail - License # 955471

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.
Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.
Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.
Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

License Number 955471 Extract Date 5/23/2013

FULMIN ELECTRICAL CORPORATION
DBA FULMIN LAMB CONSTRUCTION

Business Information Business Phone Number: (909) 218-4528

945 W BERKELEY CT
ONTARIO, CA 91762

Entity Corporation

Issue Date 12/09/2010

Expire Date 12/31/2014

License Status ACTIVE

This license is current and active. All information below should be reviewed.

Classifications CLASS DESCRIPTION

C10 ELECTRICAL

B GENERAL BUILDING CONTRACTOR

Bonding CONTRACTOR'S BOND

This license filed a Contractor's Bond with
SURETEC INSURANCE COMPANY.

Bond Number: 5124824

Bond Amount: \$12,500

Effective Date: 10/12/2011

Contractor's Bond History

BOND OF QUALIFYING INDIVIDUAL

- 1. The Responsible Managing Officer (RMO) MAYORAL AARON ANTON certified that he/she owns 10 percent or more of the voting stock/equity of the corporation. A bond of qualifying individual is not required.

Effective Date: 01/27/2011

[BQ's Bond History](#)

WORKERS' COMPENSATION

This license has workers compensation insurance with
[TOWER INSURANCE CO OF NEW YORK DBA TOWER SELECT INSURANCE CO](#)

Workers' Compensation

Policy Number: WCC0035828

Effective Date: 02/08/2013

Expire Date: 02/08/2014

[Workers' Compensation History](#)

[Personnel List](#)

[Conditions of Use](#) | [Privacy Policy](#)
Copyright © 2010 State of California

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 13-37 WITH ONTARIO-MONTCLAIR
SCHOOL DISTRICT FOR RECIPROCAL
FACILITIES USE OF VERNON MIDDLE
SCHOOL AND THE MONTCLAIR
COMMUNITY CENTER

DATE: June 17, 2013

SECTION: AGREEMENTS

ITEM NO.: 2

FILE I.D.: HSV105

DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The Ontario-Montclair School District (OMSD) has presented the City with a Reciprocal Facilities Use Agreement for Vernon Middle School and the Montclair Community Center.

A copy of proposed Agreement No. 13-37 is attached for the City Council's review and consideration.

BACKGROUND: For many years, OMSD, specifically Vernon Middle School, has utilized the Montclair Community Center for various school functions including musical performances and banquets. The City has also used Vernon Middle School to operate its Summer Day Camp annually.

OMSD and the City would agree to a schedule of dates for use of their respective Facilities by September 1 of each year.

The term of proposed Agreement No. 13-37 is May 28, 2013, through June 30, 2017.

FISCAL IMPACT: Should Agreement No. 13-37 be approved, both OMSD and the City agree to waive compensation or fees in connection with the use of their respective facilities.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-37 with OMSD to utilize each other's facilities for their respective programs and activities.

Prepared by:

M. Richter

Proofed by:

Christine Smedley

Reviewed and
Approved by:

J. G. Star

Presented by:

J. G. Star

RECIPROCAL FACILITIES USE AGREEMENT

This AGREEMENT is made and entered into this 28th day of May, 2013, by and between the ONTARIO-MONTCLAIR SCHOOL DISTRICT, hereinafter referred to as "DISTRICT," and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

WHEREAS, DISTRICT desires to utilize the certain facilities at the CITY, located at 5111 Benito Street, Montclair, California, as designated in Exhibit "A" ("CITY FACILITIES"), for various DISTRICT functions, including musical performances and banquets, hereinafter referred to as "DISTRICT PROGRAM(S)"; and

WHEREAS, CITY desires to utilize certain facilities at Vernon Middle School, located at 9775 Vernon Avenue, Montclair, California, as designated in Exhibit "B" ("DISTRICT FACILITIES"), for various community programs, including its Summer Day Camp, hereinafter referred to as "CITY PROGRAM(S)"; and

WHEREAS, the CITY PROGRAM and DISTRICT PROGRAM are sometimes referred to collectively as the "PROGRAMS" and the CITY FACILITIES and DISTRICT FACILITIES are sometimes referred to collectively as the "FACILITIES"; and

WHEREAS, DISTRICT and CITY, hereinafter referred to as "PARTIES," wish to enter into this AGREEMENT to utilize each other's FACILITIES, to operate such PROGRAMS; and

WHEREAS, this AGREEMENT shall supersede the Facilities Use Application executed on May 22, 2012 between the District and City.

NOW, THEREFORE, the PARTIES hereto agree as follows:

ARTICLE I – TERM

This AGREEMENT shall commence on May 28, 2013 and continue until June 30, 2017, unless sooner terminated as provided hereinafter.

ARTICLE II – USE OF FACILITIES

1. **Maintenance and Clean-Up.** Each PARTY shall be responsible for maintaining their respective FACILITIES. Each PARTY shall notify the other PARTY immediately of any damage caused to the FACILITIES during that PARTY's use. Each PARTY shall be responsible for the cost of repairs necessitated by that PARTY's use of the FACILITIES. Each PARTY shall be responsible for the cleanup of the FACILITIES after using such FACILITIES. As used herein, the term "cleanup" shall include, but not be limited to, removing equipment and supplies brought to the FACILITIES, picking up trash and similar related activities, and, if

authorized to use the FACILITIES outside of normal operating hours, cleaning of classrooms, meeting rooms, and restrooms.

2. Conduct of PARTIES, Employees and Invitees. Each PARTY shall insure that all employees, invitees, and all others in attendance during the PARTY's use of the other PARTY's FACILITIES 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 DISTRICT OR CITY FACILITIES.

3. Scheduling. By September 1st of each year, the PARTIES will provide each other with a Master Facilities Use Schedule ("Schedule") of the requested dates for use of the other PARTY's FACILITIES for the upcoming fiscal year. The PARTIES shall meet and agree on a final Schedule on or before June 1st of each year. Changes to the Schedule must be submitted to the other PARTY for approval in writing no less than thirty (30) days before the requested change is to take effect. The PARTY receiving the request must approve or deny the requested dates of use within ten (10) of receipt. A PARTY may only use the other PARTY's FACILITIES for their respective PROGRAM, as defined above. Any other use is at the discretion of the owner of the FACILITIES and may be subject to additional fees or consideration.

4. Kitchen Access. This AGREEMENT excludes any access to or use of the kitchen areas at the FACILITIES unless a PARTY obtains written approval from the PARTY that owns the FACILITIES.

5. Policies and Regulations. The PARTIES agree to follow and enforce the policies and regulations established for the FACILITIES by the respective PARTIES, as more particularly set forth in Exhibit "C." Any discrepancies or inconsistencies between this AGREEMENT and Exhibit "C" shall be interpreted and governed by the terms and conditions of this AGREEMENT. Additionally, each PARTY shall comply with all laws, ordinances, zoning, rules, and regulations applicable to the FACILITIES being used.

6. Safety and Security. CITY shall comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees, volunteers or invitees who may have contact with the DISTRICT'S pupils while utilizing the DISTRICT FACILITIES. If at any time during the term of this AGREEMENT, CITY is either notified by the Department of Justice or otherwise becomes aware that any employee, volunteer or invitee of CITY who may have contact with the DISTRICT'S pupils while utilizing the DISTRICT FACILITIES has been arrested or convicted of a crime, including but not limited to, sex and controlled substance offenses and serious and violent felonies, CITY agrees to immediately notify the DISTRICT and remove said employee, volunteer or invitee from accessing the DISTRICT FACILITIES pursuant to this AGREEMENT.

ARTICLE III - TERMINATION

1. This AGREEMENT may be terminated by either party upon ten (10) days written notice, in the event a PARTY determines, that the other PARTY's use of the terminating PARTY's FACILITIES is in violation of any provision of this AGREEMENT. Either PARTY may terminate this AGREEMENT immediately if there is an imminent threat to persons or property.

2. This AGREEMENT may be terminated without cause by either of the PARTIES upon thirty (30) days' written notice. In the event of such termination, the PARTIES agree they will not stop the progress of any PROGRAM scheduled to occur within thirty (30) days from the date of termination.

ARTICLE IV - PROGRAM SUPERVISION AND EQUIPMENT

Each PARTY shall restore all furniture and equipment in the other PARTY'S FACILITIES to its original location at the conclusion of the PROGRAM. Each PARTY shall provide all materials and equipment to be used for its respective PROGRAM. Each PARTY shall be responsible for the adequate supervision of its respective PROGRAM.

ARTICLE V - COMPENSATION AND FEES

The PARTIES agree to waive compensation or fees in connection with the use of their respective FACILITIES by the other PARTY, including direct costs for cleaning, supplies, and utilities. Use of the other PARTY'S FACILITIES shall be the consideration for this AGREEMENT.

ARTICLE VI - INDEMNIFICATION AND INSURANCE

1. **Mutual Indemnification.**

a. DISTRICT shall defend, indemnify, and hold CITY and its Council Members, officers, employees, agents, and staff harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), claims for injury or damages arising out of the performance of or in connection with this agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the improper conduct and/or negligence or intentional acts or omissions of DISTRICT, its officers, employees, agents, or staff.

b. CITY shall defend, indemnify and hold DISTRICT and its Board Members, officers, employees, agents and staff harmless from and against any and all liability, loss, expenses (including reasonable attorney's fees), claims for injury or damages arising out of the performance of or in connection with this agreement, but only in proportion to and to the extent such liability, loss, expense, or attorney's fees, or claims for injury or damages are caused

by or result from the improper conduct and/or negligence or intentional acts or omissions of the CITY, its officers, employees, agents, or staff.

c. The provision of indemnity set forth in this Section shall not be construed to obligate a PARTY to pay any liability, including but not limited to punitive damages, which by law would be contrary to public policy or otherwise unlawful.

2. Insurance. During the term of this AGREEMENT, DISTRICT and CITY shall maintain a comprehensive liability insurance policy providing coverage for public liability, automobile liability, bodily injury and property damage, and provide evidence thereof to the other PARTY. The PARTIES may self-insure.

ARTICLE VII - MISCELLANEOUS

1. Attorney's Fees. If any legal action is necessary to enforce any of the terms or conditions of this AGREEMENT, each PARTY shall bear their own attorneys' fees.

2. No Assignment. Neither this AGREEMENT nor any duties or obligations under this AGREEMENT may be assigned by either party without the prior written consent of opposing party.

3. Independent Contractors. The PARTIES, in the performance of this AGREEMENT, shall be and act as an independent contractor. The PARTIES understand and agree that their employees shall not be considered officers, employees or agents of the other PARTY, and are not entitled to benefits of any kind or nature normally provided employees of the other PARTY and/or to which other PARTY's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. The PARTIES assumes the full responsibility for the acts and/or omissions of its employees or agents under this AGREEMENT. The PARTIES shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes for the respective employees.

4. No Third Party Beneficiaries. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either of the PARTIES.

5. Governing Law and Interpretation. The PARTIES expressly understand and agree that this AGREEMENT constitutes a non-exclusive license for use of the 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.

6. Amendment. This AGREEMENT represents the entire AGREEMENT between the PARTIES and supersedes all prior negotiations, representations or agreements, either written or oral regarding the use of the FACILITIES described herein. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the PARTIES.

7. Notice. Any notice, request, information or other document to be given hereunder to any of the PARTIES by any other PARTY 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 DISTRICT: Ontario-Montclair School District
950 W. "D" Street
Ontario, California 91762
Attn: Director, Facilities Planning and Operations

If to CITY: City of Montclair
5111 Benito Street
Montclair, CA 91763
Attn: Assistant Director of Human Services

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 PARTY in the manner provided for giving notice.

This AGREEMENT entered into as of the day and year first written above.

DISTRICT

CITY

Kim Stallings
Deputy Superintendent
Ontario-Montclair School District

Paul M. Eaton
Mayor
City of Montclair

ATTEST:

Yvonne L. Smith
Deputy City Clerk
City of Montclair

EXHIBIT "A"

CITY FACILITIES

City of Montclair
5111 Benito Street
Montclair, CA 91763

EXHIBIT "B"

DISTRICT FACILITIES

Vernon Middle School
9775 Vernon Ave.
Montclair, CA 91763

EXHIBIT "C"
USE POLICIES

Terms and Conditions Use of District Facilities

- A. Facility Use Agreement**
- This application, when approved, becomes the permit to use District facilities.
 - The application must be submitted by a representative of the requesting organization who is at least 18 years of age.
 - The application is first reviewed by the Site Principal who determines if the facilities are available.
 - No use shall be granted in such a manner as to constitute a monopoly for the benefit of any person or organization.
 - Permit to use District facilities are on a first come first serve basis.
 - All applications must be received at the school site at least three weeks in advance of the requested date. After the school site approves the request, it will be routed for final approval to the Facilities Planning Department prior to the requested date. You must have final approval five business days prior to the scheduled event.
- B. INSURANCE & INDEMNIFICATION**
- Certificate of General Liability Insurance (\$1,000,000.00 per occurrence) naming the Ontario Montclair School District as Additional Insured must be faxed from the insurance company directly to the Facilities Planning Department prior to final approval of the application. Fax number is (909) 459-2572.
 - A separate Insured Endorsement may be required for certain activities.
 - Applicant will indemnify, defend and hold harmless the District, its officers, employees, agents and volunteers for any and all claims and expenses (including reasonable attorney's fees) arising out of the use of the facility.
- C. DISTRICT PERSONNEL REQUIREMENTS**
- Custodial or grounds service is required the entire time the building facilities are in use. The assigned custodian/grounds staff member shall be responsible for verifying the group's authority to use the facility; for making necessary arrangements to accommodate the meeting; for cleaning and returning facilities to a proper condition for school use and for reporting custodian/grounds staff member shall not open any facilities until the sponsor or director has arrived.
 - Use of a school kitchen requires the presence of a Food & Nutrition Services employee during the entire use of the kitchen or for a minimum of three hours.
 - Security staff to be assigned as determined by the District.
 - The District shall determine the need for additional personnel such as custodians, nutrition services workers, security officers, grounds keepers, audiovisual technicians, etc. depending on the nature of the activity. The cost of services provided by District personnel is the responsibility of the user group.
 - No group, organization, or individual may donate a gift to anyone as a consideration for services performed while on duty as an employee of Ontario-Montclair School District. Only the Board of Education may pay District employees for service rendered on behalf of an organization using a District facility.
- D. FEES**
- The Board shall charge at least direct costs to all groups granted facility use under the Civic Center Act. "Direct Costs" are defined as the cost of supplies, equipment, utilities, custodial and other personnel services provided by District employees necessitated by the organization's use of school facilities and grounds of the Ontario-Montclair School District.
 - Fees will be based on the current fee schedule.
 - Request for future use will not be approved pending payment of past due invoices. Pre-payment may be required for future requests.
- E. RULES FOR USE**
- Use is limited to the specific facilities, dates, times and equipment as requested and approved. Use of the facility is not guaranteed and is subject to the demands of the Ontario-Montclair School District.
 - All facilities MUST be vacated by 10:00 pm.
 - No intoxicants, narcotics or tobacco products are permitted on school property. Profane language, quarreling, fighting and gambling is prohibited. Violation of this rule by any organization during occupancy shall be sufficient cause for denying use of school facilities to the organization. (Board Policy 1330)
 - All vehicles must park in designated parking spaces. Vehicles are not allowed beyond access gates. Vehicles blocking access gate areas may be cited.
 - User is responsible to remove all graffiti from user-owned property within 24 hours. Removal of graffiti by District personnel will result in charges to user group.
 - Applicant is fully responsible for damage which occurs to the school during usage by the applicant. The cost for repair shall be paid by the applicant. Such damage shall be grounds for cancellation of use permit. This condition is in accordance with Education Code 38134.
 - The school property, for use of which application is hereby made, will not be used for the commission of any crime, or any act intended to further any program or movement; the purposes of which is to accomplish the overthrow of the government of the United States.
 - All individuals, groups or organizations in their use or occupancy of school property, shall comply with all applicable laws, rules and regulations. Any use contrary to or in violation of any law, rules or regulation, shall be grounds for cancellation of the permit and for removing the users from the property, and may bar such individual, group or organization from further use thereof. (Education Code 381135)
 - No lottery shall be conducted on school grounds or in any way be connected with the permit to use District facilities.
 - Users wishing to cancel their scheduled use must do so no later than 72 hours prior to the date of the event to avoid being charged.
 - The use of smoke/fog machines is prohibited.
- F. FIELD USE**
- In order to ensure that our fields are kept properly for instructional use by the students, the fields are subject to periodic closure for restoration, maintenance, and conservation.
 - Outside Facilities may be used only with an approved District Facility Use Agreement.
 - Restrooms are not available for field use. Portable restrooms are the responsibility of the user group. Location and placement of the portable restroom is to be determined by site administrator and District staff.
 - Fields shall be left in the same condition in which they were found. Users shall clean up the area after each use. Damaged beyond normal wear or failure to leave grounds in a clean condition after use can result in terminating the applicant's use. Costs incurred by the District to affect repairs or to clean up after a user must be paid by the user. Users will be billed for costs when the organization's use has resulted in expense for the District.
 - Vehicles are prohibited on fields because of the risk of field damage.
 - "Peppering" (hitting balls against the fence) is PROHIBITED.
- When fields or runways are flooded, use is PROHIBITED.
 - Mowing of the grass is the responsibility of Ontario Montclair School District Operations Department.
 - Applicant shall inspect the facilities and grounds for existing hazards prior to use and agree accept the facility and grounds in an "as is" condition. Hazards or other problems are to be reported District during operating hours at (909) 418-6482 and after-hours at (909) 398-0256.
 - Athletic field users may use pylons of delineators to delineate the field, use of weed oil, paint or any other substance, toxic or otherwise, is prohibited by law and may result in a penalty imposed by the South Coast Air Quality Management District as well as a loss of facility/ground use privileges.
 - Fields may be closed due to renovation and restoration. Licensees will be notified.
- G. BOARD POLICY**
- User groups shall comply with current Board Policy 1330 as well as other policies established by the Board of Education as may be amended or revised.
 - Civic Center Act
 - There is a civic center at each and every public school facility and grounds within the state where the citizens, parent teachers associations, Camp Fire girls, Boy Scout troops, veterans' organizations, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school district may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions that in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside. For purposes of this section, "veterans' organization" are those groups included within the definition of that term as specified in subdivision (a) of Section 1800 of the Military and Veterans Code.
 - The governing board of any school district may grant the use of school facilities or ground as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article, for any of the following purposes:
 - Public, literary, scientific, recreational, education or public agency meetings.
 - The discussion of matters of general or public interest.
 - The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization that has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee as specified in subdivision (d) of Section 38134.
 - Child care or day care programs to provide supervision and activities for children of preschool and elementary school age.
 - The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.
 - Supervised recreational activities including, but no limited to, sports league activities for youths that are arranged for an supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious or denomination.
 - A community youth center.
 - A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization.
 - Other purposes deemed appropriate by the governing board.
- (Amended by Stats. 2006, Ch. 205, and Sec.2.)
- H. STATEMENT OF INFORMATION**
- Legal authorization for use of school property for public purposes shall be determined by the Education Code, State of California-Division 12, Chapter 4- PUBLIC USE OF SCHOOL PROPERTY FOR PUBLIC PURPOSES, Section 40040 through 40058, inclusive.
- I. INDEMNIFICATION**
- The applicant agrees to and does hereby indemnify and hold harmless the Ontario-Montclair School District, its officers, agents, and employees from every claim or demand made, from every liability, loss, damage, or expense, of any nature whatsoever, which may be incurred by reason of:
- Death or bodily injury to persons, loss of or injury to property, or any loss, damage or expense which may have been sustained by the district or any persons, firms or corporations employed by the district upon or in connection with the activity called for in this agreement.
 - Any injury to or death of persons or damages to property, any loss or theft sustained by person, firms or corporations including the applicant arising from any act of neglect, default, omission, negligence or willful misconduct of the applicant or any person, firm or corporation employed by the applicant, either directly or by independent contract and attributable in connection with the activity covered by this agreement, on or off district property.
- The applicant, at his/her own expense, cost and risk, shall defend any and all actions, suits or other proceedings that may be brought or instituted against the district, its officers, agents or employees and shall pay or satisfy any such claim, demand, liability or judgment rendered against the district, its officers, agents, or employees in any action, suit or other proceedings as a result of the activity called for in this agreement.
- The undersigned, states that to the best of his/her knowledge, the school property for use of which application is hereby made will not be used for the commission of any crime or any act which is prohibited by law.
- The undersigned further declares that the organization on whose behalf he/she is applying for the use of school property upholds and defends the Constitutions of the United States and the State of California.
- The organization agrees to abide by all rules and regulations governing the use of school facilities.
- Liabilities and Damages**
- Organization agrees to pay for damages and injuries due to an unsafe use or misuse of school facilities, including the permitting of access to the District's property by third parties, and agrees not to hold the District liable for injuries, damages as a result of misuse or equipment or failure to follow procedures and safety rules. The Ontario Montclair School District reserves the right to refuse the use of District facilities if the request is more than the District will be able to handle. The following list includes examples of prohibited activities:
- * Activities forbidden by law or Education Code
 - * Consumption of alcoholic beverages/Smoking
 - * Air rifles or pistols, BB guns, flow guns, dart guns
 - * Animals of any kind
 - * Bows and arrows
 - * Guns *Fires or any type
 - * Golfing/Skate Boards/ Model airplanes or cars
 - * Moving equip., such as picnic tables/benches/site trash cans

SMOKING IS PROHIBITED ON ALL DISTRICT PROPERTY

Terms and Conditions

Use of City of Montclair (City) Facilities

A. FACILITY USE AGREEMENT

1. This application, when approved, becomes the permit to use City facilities.
2. The application must be submitted by a representative of the requesting organization who is at least 18 years of age.
3. The application is first reviewed by the Assistant Director of Human Services who determines if the facilities are available.
4. No use shall be granted in such a manner as to constitute a monopoly for the benefit of any person or organization.
5. Permit to use City facilities are on a first come first serve basis.
6. All applications must be received in the Human Services Division at least three weeks in advance of the requested date. Final approval of the application will be granted by the Assistant Director of Human Services. You must have final approval five business days prior to the scheduled event.

B. INSURANCE & INDEMNIFICATION

1. Certificate of General Liability Insurance (\$1,000,000.00 per occurrence) naming the City of Montclair as Additional Insured must be faxed from the insurance company directly to the Human Services Division prior to final approval of the application. Fax number is (909) 399-9751.
2. A separate Insured Endorsement may be required for certain activities.
3. Applicant will indemnify, defend and hold harmless the City, its officers, employees, agents and volunteers for any and all claims and expenses (including reasonable attorney's fees) arising out of the use of the facility.

C. CITY PERSONNEL REQUIREMENTS

1. Human Services Division supervision is required the entire time the building facilities are in use. The assigned Human Services staff member shall be responsible for verifying the group's authority to use the facility; for making necessary arrangements to accommodate the meeting; for cleaning and returning facilities to proper condition for City use and for reporting. Human Services staff members shall not open any facilities until the sponsor or director has arrived.
2. Security staff to be assigned as determined by the City.
3. The City shall determine the need for additional personnel such as custodians, Human Services staff, security officers, audiovisual technicians, etc. depending on the nature of the activity. The cost of services provided by City personnel is the responsibility of the user group.
4. No group, organization, or individual may donate a gift to anyone as a consideration for services performed while on duty as an employee of City.

D. FEES

1. Fees will be based on the current fee schedule.
2. **Request for future use will not be approved pending payment of past due invoices.** Pre-payment may be required for future requests.

E. RULES FOR USE

1. Use is limited to the specific facilities, dates, times and equipment as requested and approved. **Use of the facility is not guaranteed and is subject to the demands of the City.**
2. All facilities MUST be vacated by 11:00 pm.
3. No intoxicants, narcotics or tobacco products are permitted on City property. Profane language, quarreling, fighting and gambling is prohibited. Violation of this rule by any organization during occupancy shall be sufficient cause for denying use of City facilities to the organization.
4. All vehicles must park in designated parking spaces. Vehicles are not allowed beyond access gates. Vehicles blocking access gate areas may be cited.
5. User is responsible to remove all graffiti from user-owned property within 24 hours. Removal of graffiti by City personnel will result in charges to user group.
6. Applicant is fully responsible for damage which occurs to the City during usage by the applicant. The cost for repair shall be paid by the applicant. Such damage shall be grounds for cancellation of use permit.
7. City property, for use of which application is hereby made, will not be used for the commission of any crime, or any act intended to

8. further any program or movement; the purposes of which is to accomplish the overthrow of the government of the United States.
9. All individuals, groups or organizations in their use or occupancy of City property, shall comply with all applicable laws, rules and regulations. Any use contrary to or in violation of any law, rules or regulation, shall be grounds for cancellation of the permit and for removing the users from the property, and may bar such individual, group or organization from further use thereof.
10. No lottery shall be conducted on City grounds or in any way be connected with the permit to use City facilities.
11. Users wishing to cancel their scheduled use must do so no later than 72 hours prior to the date of the event to avoid being charged.
12. The use of lit candles, smoke/fog machines is prohibited.

F. INDEMNIFICATION

The applicant agrees to and does hereby indemnify and hold harmless the City of Montclair, its officers, agents, and employees from every claim or demand made, from every liability, loss, damage, or expense, of any nature whatsoever, which may be incurred by reason of:

- (a) Death or bodily injury to persons, loss of or injury to property, or any loss, damage or expense which may have been sustained by the district or any persons, firms or corporations employed by the City upon or in connection with the activity called for in this agreement.
- (b) Any injury to or death of persons or damages to property, any loss or theft sustained by person, firms or corporations including the applicant arising from any act of neglect, default, omission, negligence or willful misconduct of the applicant or any person, firm or corporation employed by the applicant, either directly or by independent contract and attributable in connection with the activity covered by this agreement, on or off City property.

The applicant, at his/her own expense, cost and risk, shall defend any and all actions, suits or other proceedings that may be brought or instituted against the City, its officers, agents or employees and shall pay or satisfy any such claim, demand, liability or judgment rendered against the City, its officers, agents, or employees in any action, suit or other proceedings as a result of the activity called for in this agreement.

The undersigned, states that to the best of his/her knowledge, City property for use of which application is hereby made will not be used for the commission of any crime or any act which is prohibited by law. The undersigned further declares that the organization on whose behalf he/she is applying for the use of City property upholds and defends the Constitutions of the United States and the State of California. The organization agrees to abide by all rules and regulations governing the use of City facilities.

LIABILITIES AND DAMAGES

Organization agrees to pay for damages and injuries due to an unsafe use or misuse of City facilities, including the permitting of access to the City's property by third parties, and agrees not to hold the City liable for injuries, damages as a result of misuse of equipment or failure to follow procedures and safety rules. The City of Montclair reserves the right to refuse the use of City facilities if the request is more than the City will be able to handle. The following list includes examples of prohibited activities:

- * Activities forbidden by law
- * Consumption of alcoholic beverages/Smoking
- * Air rifles or pistols, BB guns, flow guns, dart guns
- * Animals of any kind
- * Bows and arrows
- * Guns *Fires or any type
- * Golfing/Skate Boards/ Model airplanes or cars
- * Moving equip., such as tables/benches/site trash cans

SMOKING IS PROHIBITED ON ALL CITY PROPERTY

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 13-38 WITH ONTARIO-MONTCLAIR
SCHOOL DISTRICT TO PROVIDE AFTER-
SCHOOL PROGRAMS

DATE: June 17, 2013

SECTION: AGREEMENTS

ITEM NO.: 3

FILE I.D.: HSV030

DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-38 with the Ontario-Montclair School District (OMSD) to provide after-school programs funded by the After-School Education and Safety Program (ASES) grant.

A copy of proposed Agreement No. 13-38 with OMSD is attached for the City Council's review and consideration.

BACKGROUND: The Montclair Community Collaborative (MCC), organized in 1996, is a partnership between the City, OMSD, and community organizations having the core objective of improving quality-of-life outcomes for children and youth. Through the ongoing strategic planning process, MCC identifies resources and develops services for children, youth, and adults.

The goal of the ASES grant is to promote after-school learning modules to enhance children's educational and learning capabilities. Such grants made available to local education authorities such as OMSD provide communities with enhanced community-based school services in an effort to strengthen healthy child development.

Proposed Agreement No. 13-38 would provide funding through the ASES grant for after-school programs at the following eleven school sites: El Camino, Howard, Kingsley, Lehigh, Mission, Monte Vista, Montera, Moreno, Ramona, Serrano, and Vernon.

The total amount of funding for these eleven school sites is \$1,303,293.25 and would be used to support academic, recreational, and enrichment activities for children in after-school programs.

The term of the Agreement is July 1, 2013, through June 30, 2014.

FISCAL IMPACT: Should the City Council approve Agreement No. 13-38, OMSD would pay the City of Montclair \$1,303,293.25 to fund personnel, supplies, training, and grant oversight.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-38 with the Ontario-Montclair School District to provide after-school programs.

Prepared by:

M. Richter

Proofed by:

Christine Smudaly

Reviewed and
Approved by:

Presented by:

[Signature]
[Signature]

Contract No. C-134-065

**ONTARIO-MONTCLAIR SCHOOL DISTRICT
950 WEST "D" STREET
ONTARIO, CALIFORNIA 91762
(909) 459-2500**

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into this 20 day of June, by and between the Ontario-Montclair School District, hereinafter referred to as the "**DISTRICT**", and **City of Montclair**, hereinafter referred to as the "**CONSULTANT**".

1. Services To Be Performed By Consultant.

- (a) **CONSULTANT** agrees to perform the following services on the dates and times herein stated in accordance with directions stipulated to by **DISTRICT**.

Consultant will provide staff and materials to operate the after school program services at the following sites: El Camino, Howard, Kingsley, Lehigh, Mission, Monte Vista, Moreno, Montera and Ramona elementary schools and Serrano and Vernon middle schools. Services rendered beginning July 1, 2013 and ending June 30, 2014. Funding source is the After School Education and Safety Program (ASES) Core (Mgmt. 0834; Resource 6010). Administrative costs may not exceed the 15% of the annual total grant award amount (OMSD – 7.5% and **City of Montclair** – 7.5%). **City of Montclair** will be paid 92.5% of the grant award from CDE for services rendered at contracted school sites.

(b) **CONSULTANT** may, at **CONSULTANT's** own expense, employ such assistants as **CONSULTANT** deems necessary to perform the services required of **CONSULTANT** by this Agreement. **DISTRICT** will not train, control, direct, or supervise **CONSULTANT's** assistants or employees in the performance of those services.

CONSULTANT will have the following responsibilities in support of the ASES programs:

- (1) Coordinate the academic assistance, homework support, and enrichment portions of the ASES program at each School Site.
- (2) Hire, train, and supervise site staff, including the Learning Coordinators and Learning Leaders.
- (3) Seek regular input from principals regarding performance evaluations, including recommendations for retraining and terminating a site coordinator and/or other site staff.
- (4) Participate in all trainings for Learning Coordinators and Learning Leaders.
- (5) Maintain ongoing communication between City of Montclair staff and school staff regarding student needs and progress, including but not limited to attendance at school-day meetings and/or one-on-one meetings with teachers.

- (6) Coordinate ASES activities with school staff to assure program supports current academic goals of teachers and administrators.
- (7) Provide academic assistance and other activities specifically supporting (but not duplicating) daytime curriculum and academic goals.
- (8) Foster communication with and involvement of parent through parent orientations, parent handbook, development and distribution of periodic newsletters, and hosting, at a minimum, one parent night.
- (9) Regularly attend and participate in regular scheduled governance and operation meetings.
- (10) Provide the District, in a timely manner, with any required documentation such as, but not limited to monthly program evaluations, attendance, and snack counts.

(c) **CONSULTANT** is, and shall at all times be deemed to be an independent contractor, and shall be responsible for determining the sequence, method, details and manner in which it performs those services required under the terms of this Agreement. Nothing herein contained shall be construed as creating a relationship of employer and employee, or principal and agent, between **DISTRICT** and **CONSULTANT** or any of **CONSULTANT's** agents or employees. **CONSULTANT** assumes exclusively the responsibility for the acts of its employees or agents as they relate to services to be provided during the course and scope of their employment. **CONSULTANT**, its agents and employees, shall not be entitled to any rights and/or privileges of **DISTRICT's** employees and shall not be considered in any manner to be **DISTRICT's** employees.

(d) If **CONSULTANT** is a regular employee of a public entity, all services which **CONSULTANT** renders under this Agreement will be performed at times other than **CONSULTANT's** regular assigned work day for said entity, or during periods of vacation or leave of absence from said entity.

2. Compensation.

(a) Except as otherwise provided in this Agreement, **DISTRICT** agrees to compensate **CONSULTANT** for services rendered under this Agreement.

- (1) **CONSULTANT** will be paid 92.5% of grant award for operated sites from CDE according to schedule A, attached hereto.
- (2) If **DISTRICT** fails to receive 2013-2014 ASES grant funding, **CONSULTANT** will hold **DISTRICT** harmless for any financial liabilities or obligations it has incurred.
- (3) Timing and amounts of payment will be made according to Schedule A, attached hereto. If the funds received from CDE change, a pro rate adjustment to the maximum amount available for payment to **CONSULTANT** will be made.
- (4) **CONSULTANT** fee will only be paid out of funds received by the **DISTRICT** from the State and only up to the limits of this agreement.

(5) **CONSULTANT** is to provide documentation necessary for annual independent audits, in accordance with CDE requirements. Any additional audit cost billed to **DISTRICT** due to lack of documentation will be billed to **CONSULTANT** for payment.

(b) **DISTRICT** will pay no additional amount for travel or other expenses of **CONSULTANT** under this Agreement unless specified below. Should travel or other expenses be specified below, **CONSULTANT** shall be entitled to the lesser amount of (1) the not to exceed amount stated, or (2) the actual amount expended. Supporting documentation for the authorized travel or other expenses shall be attached to the Request for Payment form when submitted. N/A

c) **CONSULTANT** will send 10 monthly itemized invoices to **DISTRICT** for payment under this agreement.

(d) If this Agreement is with an individual consultant, **CONSULTANT** will complete the certification block on the "Request For Payment" form which shows whether or not **CONSULTANT** is a retired member of the California State Teachers' Retirement System (STRS) or the California Public Employees Retirement System (PERS).

(e) **DISTRICT** will not withhold any federal or state income tax for payment made pursuant to this Agreement, but will provide **CONSULTANT** with a statement of earnings at the end of each calendar year. **CONSULTANT** is hereby advised that such statement of earnings shall, if required, be provided to the Internal Revenue Service and the State Franchise Tax Board.

3. Term of Agreement.

The term of this Agreement is from July 1, 2013, through June 30, 2014, unless sooner terminated pursuant to the provisions of Section 6 of this Agreement. **DISTRICT** and **CONSULTANT** may mutually agree in writing to extend the term of this Agreement provided, however, **DISTRICT** shall not be obligated to pay **CONSULTANT** any additional consideration unless **CONSULTANT** undertakes additional services, in which instance the consideration shall be increased as **DISTRICT** and **CONSULTANT** shall agree in writing.

4. Obligations of Consultant.

(a) During the term of this Agreement, **CONSULTANT** agrees to diligently prosecute the work specified in the "Description of Services" to completion. **CONSULTANT** may represent, perform services for, and be employed by such additional clients, persons, or companies as **CONSULTANT**, in **CONSULTANT's** sole discretion, sees fit.

(b) **CONSULTANT** will provide all materials, tools, and instrumentalities required to perform the services under this Agreement.

(c) At all times during the term of this Agreement, **CONSULTANT** agrees to provide workers' compensation insurance for **CONSULTANT's** employees and agents as required by law. **CONSULTANT** shall comply with all federal, state and local laws and

ordinances applicable to the work to be performed under this Agreement.

(d) **CONSULTANT** shall comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the **DISTRICT'S** pupils. If at any time during the term of this Agreement **CONSULTANT** is either notified by the Department of Justice or otherwise becomes aware that any employee of **CONSULTANT** performing services under this Agreement has been arrested or convicted of a violent or serious felony listed in Penal Code section 667.5(c) or Penal Code section 1192.7, respectively, **CONSULTANT** agrees to immediately notify the **DISTRICT** and remove said employee from performing services on this Agreement.

(e) **CONSULTANT** shall defend, indemnify and hold **DISTRICT** and its Board Members, officers, employees, agents and staff harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), claims for injury or damages arising out of the performance of or in connection with this agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the improper conduct and/or negligence or intentional acts or omissions of **CONSULTANT**, its officers, employees, agents or staff.

(f) Neither this Agreement nor any duties or obligations under this Agreement may be assigned by **CONSULTANT** without the prior written consent of **DISTRICT**.

5. Obligations of District.

(a) **DISTRICT** agrees to comply with all reasonable requests by **CONSULTANT** and to provide access to all documents reasonably necessary for the performance of **CONSULTANT'S** duties under this Agreement.

(b) **DISTRICT** shall defend, indemnify and hold **CONSULTANT** and its Council Members, officers, employees, agents and staff harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), claims for injury or damages arising out of the performance of or in connection with this agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the improper conduct and/or negligence or intentional acts or omissions of **CONSULTANT**, its officers, employees, agents or staff.

6. Termination of Agreement.

(a) Unless otherwise terminated as provided below, this Agreement shall continue in force during the term of the Agreement, or until the services provided for herein have been fully and completely performed, whichever shall occur first, and shall thereupon terminate.

(b) Should **CONSULTANT** default in the performance of this Agreement or breach any of its provisions, **DISTRICT** may terminate this Agreement by giving written notification to **CONSULTANT**.

(c) If at any time during the performance of this Agreement **DISTRICT** determines, at its sole discretion, to suspend indefinitely or abandon the work under this Agreement, **DISTRICT** shall have the right to terminate the performance of **CONSULTANT'S** services hereunder by giving written notification to **CONSULTANT** of its intention to terminate.

(d) In the event that **DISTRICT** terminates this Agreement under paragraph (b) or (c) of this Section, **CONSULTANT** shall only be paid for those services rendered to the date of termination. All cash deposits made by **DISTRICT** to **CONSULTANT**, if any, shall be refundable to **DISTRICT** in full upon termination of this Agreement unless specified to the contrary below.

N/A

7. General Provisions.

(a) Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices shall be deemed given and served upon delivery personally, or three (3) days after depositing in the United States Mail. Mailed notices shall be addressed to the parties at the addresses set forth in this Agreement for **DISTRICT** and **CONSULTANT**. The foregoing addresses may be changed by written notice to the other party as provided herein.

(b) This Agreement supersedes any and all agreements either oral or written, between the parties hereto with respect to the rendering of services by **CONSULTANT** and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed by both parties, except **DISTRICT** may unilaterally amend the Agreement to accomplish the changes listed below:

1. Increase or decrease dollar amounts based on final CDE award;
2. Administrative changes; and
3. Changes as required by law / ASES grant provisions

(c) If any provision of 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.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(e) Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records and files of **DISTRICT**, **CONSULTANT**, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and

audit of the State Auditor General of the State of California, at the request of **DISTRICT** or as a part of any audit of **DISTRICT**, for a period of three (3) years after final payment is made under this Agreement. **CONSULTANT** shall preserve and cause to be preserved such books, records and files for the audit period.

(f) Each person executing this Agreement warrants that he or she has the authority to so execute this Agreement and that no further approval of any kind is necessary to bind the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written.

"DISTRICT"

"CONSULTANT"

By: _____
Signature

By: _____
Signatures

Kim Stallings
Printed Name

Paul Eaton
Printed Name

Deputy Superintendent
Title

Mayor, City of Montclair
Title
City of Montclair

5111 Benito Street
Address
Montclair, CA 91763
City State Zip

(909) 626-8571
Telephone Number

By: _____
Signatures

Yvonne Smith, Deputy City Clerk
Title

Date: _____

Date: _____

Date of Governing Board's Approval: June 20, 2013

END OF AGREEMENT FOR CONSULTANT SERVICES

Schedule A
City of Montclair ASES Payment Schedule 2013-2014

School	Program	Allocation	ADMIN	Balance	10 Monthly Payments
El Camino Elementary	ASES Afterschool Base	\$112,500.00	\$8,437.50	\$104,062.50	\$10,406.25
Howard Elementary	ASES Afterschool Base	112,500.00	\$8,437.50	\$104,062.50	\$10,406.25
Kingsley Elementary	ASES Afterschool Base	120,060.00	\$9,004.50	\$111,055.50	\$11,105.55
Kingsley Elementary	ASES Supplemental	27,635.00	\$2,072.63	\$25,562.38	\$2,556.24
Lehigh Elementary	ASES Afterschool Base	122,850.00	\$9,213.75	\$113,636.25	\$11,363.63
Lehigh Elementary	ASES Supplemental	36,855.00	\$2,764.13	\$34,090.88	\$3,409.09
Mission Elementary	ASES Afterschool Base	131,694.75	\$9,877.11	\$121,817.64	\$12,181.76
Mission Elementary	ASES Supplemental	39,508.43	\$2,963.13	\$36,545.30	\$3,654.53
Monte Vista Elementary	ASES Afterschool Base	160,080.00	\$12,006.00	\$148,074.00	\$14,807.40
Monte Vista Elementary	ASES Supplemental	30,636.00	\$2,297.70	\$28,338.30	\$2,833.83
Moreno Elementary	ASES Afterschool Base	112,500.00	\$8,437.50	\$104,062.50	\$10,406.25
Montera Elementary	ASES Afterschool Base	98,550.00	\$7,391.25	\$91,158.75	\$9,115.88
Ramona Elementary	ASES Afterschool Base	112,500.00	\$8,437.50	\$104,062.50	\$10,406.25
Serrano Middle School	ASES Afterschool Base	82,351.50	\$6,176.36	\$76,175.14	\$7,617.51
Serrano Middle School	ASES Supplemental	24,706.00	\$1,852.95	\$22,853.05	\$2,285.31
Serrano Middle School	ASES After School Base	20,250.00	\$1,518.75	\$18,731.25	\$1,873.13
Vernon Middle School	ASES Afterschool Base	63,789.00	\$4,784.18	\$59,004.83	\$5,900.48
		\$1,408,965.68	\$105,672.43	\$1,303,293.25	\$130,329.33

OMSD 7.5%	
3.91% of \$25,000.00	977.50
Balance	104,694.93
3.91% of Total Indirect	3,939.54
OMSD 7.5% to Spend 0834	100,755.39

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-40 AMENDING AGREEMENT NO. 12-48 WITH WEST COAST ARBORISTS FOR TREE-MAINTENANCE SERVICES	DATE: June 17, 2013 SECTION: AGREEMENTS ITEM NO.: 4 FILE I.D.: STA700 DEPT.: PUBLIC WORKS
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REASON FOR CONSIDERATION: Agreement No. 12-48 with West Coast Arborists (WCA) for tree maintenance services expires on June 30, 2015. WCA is requesting an increase in tree maintenance services of 2 percent. The City Council is requested to consider approval of Agreement No. 13-40 with WCA to continue tree maintenance services by amending Agreement No. 12-48. Proposed Agreement No. 13-40 is attached for review and consideration by the Council.

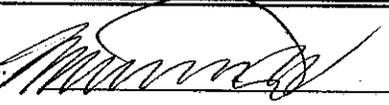
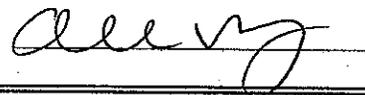
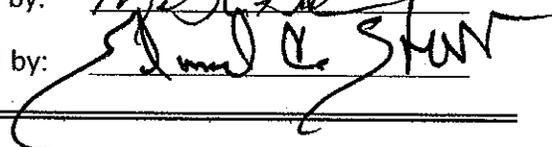
BACKGROUND: At its meeting of July 2, 2012, the City Council approved Agreement No. 12-48 with WCA for tree maintenance services. Agreement No. 12-48 was the first year of a three-year agreement expiring on June 30, 2015.

In consideration of the City's ongoing financial challenges, WCA has not requested a rate increase for the past five years; however, due to rising costs of doing business, WCA is now requesting a rate increase for fiscal year 2013-14 of 2 percent.

A description of items and costs contained in proposed Agreement No. 13-40 is as follows:

<i>Item</i>	<i>Description</i>	<i>Unit</i>	<i>Cost</i>
1	Tree trimming	Each	\$ 45.90
2	Tree and stump removal	Inch	\$ 16.30
3	Stump-only removal	Inch	\$ 5.00
4	Tree planting, 15-gallon	Each	\$120.35
5	Tree planting, 24-inch box	Each	\$248.90
6	Root pruning	Foot	\$ 7.65
7	Three-man crew rental	Hour	\$120.90
8	Emergency crew rental	Hour	\$255.00
9	Palm Tree Trimming	Each	\$ 45.90

WCA continues to provide the City with high-quality tree-trimming and other tree-related services. WCA has been under contract with the City to trim trees since October 2000. The company is responsive to staff's requests and has established an Internet-based

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

inventory of all City trees at no additional cost. Public Works staff uses the inventory in its annual tree-trimming program. The inventory provides information related to tree location, tree species, work history, and the value of each tree. This year, WCA completed a full inventory of all City-owned, privately-owned, and vacant locations of trees on public, residential, and commercial properties and has incorporated them into GIS form.

FISCAL IMPACT: The cost to provide tree-maintenance services is not expected to exceed \$85,000 during Fiscal Year 2013-14. Funds for this purpose are included in the Fiscal Year 2013-14 City Budget under Public Works/Tree Maintenance.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-40 amending Agreement No. 12-48 with West Coast Arborists for tree-maintenance services.

AMENDMENT TO AGREEMENT NO. 12-48

WITH

WEST COAST ARBORISTS

FOR

TREE MAINTENANCE SERVICES

This agreement is made and entered into this 1st day of July 2013, by and between the CITY OF MONTCLAIR, a municipal corporation hereinafter designated as "City," and WEST COAST ARBORISTS, hereinafter designated as "Contractor," and collectively designated as the "Parties."

RECITALS

WHEREAS, Parties have previously entered into Agreement No. 12-48 on July 1, 2012, for tree maintenance services, hereinafter called "Project;" and

WHEREAS, Agreement No. 12-48 included SECTION III which includes a rate schedule; and

WHEREAS, Parties desire to amend the rate schedule.

AGREEMENT

NOW, THEREFORE, IT IS AGREED by and between City and Contractor to amend the rate schedule of SECTION III of Agreement No. 12-48.

BE IT FURTHER AGREED by and between City and Contractor that compensation for the new rate schedule in SECTION III shall be provided for in accordance with the attached "EXHIBIT A1-NEW RATE SCHEDULE."

BE IT FURTHER AGREED by and between City and Contractor that SECTION III referencing A RATE SCHEDULE shall become null and void and that that all other terms of Agreement 12-48 shall remain as set forth therein.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

CITY:

CITY OF MONTCLAIR, CALIFORNIA

CONTRACTOR:

WEST COAST ARBORISTS

Paul M. Eaton
Mayor

Name

Title

ATTEST:

Yvonne L. Smith
Deputy City Clerk

Name

Title

Date

Date

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney

EXHIBIT A-1

NEW RATE SCHEDULE

SECTION III

All of the work and services to be performed pursuant to this Agreement shall be performed in a good and workmanlike manner. Contractor shall pay prevailing wages in accordance with the laws of the State of California. Payment for work completed will be based on the following schedule:

<i>Description</i>	<i>Unit Prices</i>	<i>Unit Description</i>
Tree trimming	\$45.90	Each
Complete tree and stump removal	\$16.30	Diameter inch
Stump removal	\$5.00	Diameter inch
Tree planting 15-gallon	\$120.35	Each
Tree planting 24-inch box	\$248.90	Each
Root pruning	\$7.65	Each (foot)
Three-man crew rental, aerial unit, dump truck, and chipper	\$120.90	Hour
Emergency work call out	\$255.00	Hour
Palm tree trimming	\$45.90	Each

Payment will be made on the 15th day of each and every calendar month during the term of this Agreement, which will be paid to the Contractor for all work and services to be performed pursuant to the Agreement.

Payment of additional services requested, in writing, by City and not included in the Scope of Services as set forth in this Agreement, shall be negotiated on an item-by-item basis. Any additional services cost will include labor, equipment, overhead, and profit.

Any and all work done under this Section of this Agreement will be with prior written approval from the CITY. If prior written approval is not obtained by the CONTRACTOR, no payment will be approved. Charges for additional services shall be invoiced on a monthly basis and shall be paid by the CITY within a reasonable time after said invoices are received by the CITY.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-41 WITH MARIPOSA LANDSCAPES, INC., FOR LANDSCAPE AND MAINTENANCE OF MEDIAN ISLANDS, PARKS, PARKWAYS, KIDS STATION, AND TURF AREA ADJACENT TO THE KIDS STATION FACILITY	DATE: June 17, 2013
	SECTION: AGREEMENTS
	ITEM NO.: 5
	FILE I.D.: STA500
CONSIDER AUTHORIZATION OF AN \$11,940 APPROPRIATION FROM THE FISCAL YEAR 2013-14 CONTINGENCY FUND FOR ADDITIONAL LANDSCAPE MAINTENANCE SERVICES	DEPT.: PUBLIC WORKS

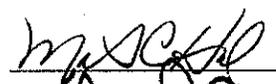
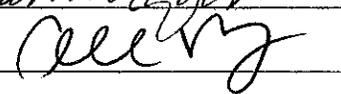
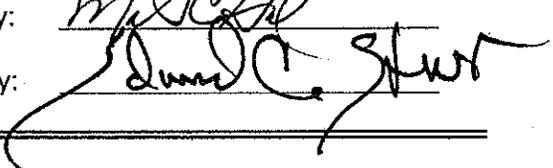
REASON FOR CONSIDERATION: Most City landscape maintenance services are provided by contract. Agreement No. 12-47 with Mariposa Landscapes, Inc., currently provides for these services and expires on June 30, 2013. The City Council is requested to consider approval of Agreement No. 13-41 with Mariposa Landscapes, Inc., to continue landscape maintenance services.

A copy of proposed Agreement No. 13-41 is attached for the City Council's review and consideration.

BACKGROUND: At its meeting on July 2, 2012, the City Council approved Agreement No. 12-47 with Mariposa Landscapes, Inc., for landscape maintenance of median islands, parks, and parkways. This Agreement was for a one-year period and expires on June 30, 2013. Proposed Agreement No. 13-41 is also a one-year Agreement; but if acceptable to both the City and Contractor, this Agreement may be extended for three additional three-year terms.

For the current fiscal year, Fiscal Year 2012-13, the City budgeted \$382,956 for the Mariposa Landscapes, Inc., maintenance contract. An additional \$24,000 was also budgeted by the City for miscellaneous repairs to the median islands and irrigation systems in the event of traffic accidents or vandalism and the need to repair and/or replace controllers, valves, and similar items as needed.

In an effort to reduce landscape maintenance costs, rather than extending the existing contract under Agreement 12-47, staff sought bids for a new contract. On April 11, 2013, bids were received from seven landscape maintenance contractors. A summary of the bids received is shown on the following page. The low bidder for landscape maintenance services was again Mariposa Landscapes, Inc., with a bid of \$278,736.00 per year or \$23,228 per month.

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

<i>Bidder Name</i>	<i>Bid Proposal</i>
Mariposa Landscapes, Inc.,	\$278,736.00
Excel Landscape	\$297,600.00
Southern California Landscape, Inc.,	\$409,200.00
ValleyCrest Landscape Maintenance	\$411,180.00
CLS Landscape Management	\$419,931.96
Saldana Landscape	\$490,050.00
California Landscape & Design	\$505,908.00

The City budget being recommended for approval this evening was based on the submitted low bid from Mariposa Landscapes, Inc. Subsequent to the budget being prepared, staff added additional landscaping requirements at the Kids Station and the surrounding turf area at the Montclair Transcenter. Mariposa Landscapes, Inc., submitted a request for an additional \$11,940 annually for this work. This additional cost was not included in the budget. Therefore, staff is recommending the additional cost be covered by the Fiscal Year 2013-14 Contingency Fund. The contract total is \$290,676 per year or \$24,223 per month as indicated in proposed Agreement No. 13-41.

FISCAL IMPACT: Proposed Agreement No. 13-41 represents a savings of approximately \$92,300 over the current contract after the additional work at the Kids Station and the surrounding turf area is factored in. It is anticipated that a similar savings will be realized over the next few years if the Agreement is renewed for Fiscal Year 2014-15 and beyond.

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

1. Approve Agreement No. 13-41 with Mariposa Landscapes, Inc., for landscape maintenance of median islands, parks, parkways, Kids Station, and turf area adjacent to the Kids Station.
2. Authorize an \$11,940 appropriation from the Fiscal Year 2013-14 Contingency Fund for additional landscape maintenance services.

**AN AGREEMENT BY AND BETWEEN THE CITY OF
MONTCLAIR AND MARIPOSA LANDSCAPES, INC., FOR
MEDIAN ISLAND, PARK, AND PARKWAY
MAINTENANCE**

THIS AGREEMENT, made and entered into this 1st day of July, 2013, by and between the CITY OF MONTCLAIR, a Municipal Corporation, County of San Bernardino, State of California, hereinafter referred to as "CITY"; and Mariposa Landscapes, Inc., hereinafter referred to as "CONTRACTOR."

WITNESSETH:

SECTION I

The CONTRACTOR, in consideration of the promises of the CITY hereinafter set forth, hereby agrees to furnish all tools, equipment, materials, labor, and transportation necessary to perform and complete the terms of this Agreement and to faithfully perform and maintain in a good and workmanlike manner the maintenance services on the areas as set forth and listed in this Agreement.

SECTION II

This Agreement is for a period of one (1) year from the date herein above set forth subject to the right of either party to cancel without cause by giving a minimum of thirty (30) days' written notice to the other of such cancellation. After the initial first year of this Agreement, if agreeable to both the City and CONTRACTOR, this Agreement may be extended for three additional three-year terms.

SECTION III

All of the work and services to be performed pursuant to this Agreement shall be performed in a good and workmanlike manner for the total monthly sum of \$24,223.00, with payments to be made on the 15th day of each and every calendar month, during the term of this agreement, which will be paid the CONTRACTOR for all work and services to be performed pursuant to this Agreement. CONTRACTOR shall pay prevailing wages in accordance with the laws of the State of California.

Payment of additional services requested, in writing, by CITY and not included in the scope of services as set forth in the Agreement shall be performed by the CONTRACTOR at the rate of \$35.00 per hour. This hourly rate is negotiable annually and shall include labor, equipment, overhead, and profit. Any and all work done under this Section of this Agreement will be with prior written approval from the CITY. If prior written approval is not obtained by the CITY, no payment will be approved. Charges for additional services shall be invoiced on a monthly basis and shall be paid by the CITY within a reasonable time after said invoices are received by the CITY.

SECTION IV

The CONTRACTOR shall defend, indemnify, and save harmless the CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by the CONTRACTOR of any and all legal costs and attorney's fees in any manner arising out of any negligent or intentional or willful acts or omissions of the CONTRACTOR or any of its agents, servants, employees, or licensees in the performance of this Agreement including, but not limited to, all consequential damages to the maximum extent permitted by law.

SECTION V

Not used.

SECTION VI

The CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to the CITY nor shall the CONTRACTOR allow any employee to commence work on the maintenance services subject to this Agreement until all insurance required has been obtained. The CONTRACTOR shall take out and maintain, at all times during the term of this Agreement, the policies of insurance as set forth hereinafter.

SECTION VII

Workers' Compensation Insurance: Before beginning work, the CONTRACTOR shall furnish the CITY a Certificate of Insurance as proof that it has taken out full Workers' Compensation Insurance for all persons whom it may employ directly or through subcontractors in carrying out the work specified herein in accordance with the State of California.

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

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

SECTION VIII

Throughout the term of this Agreement, at the CONTRACTOR'S sole cost and expense, the CONTRACTOR shall keep, or cause to be kept, in full force and effect for the mutual benefit of the CITY and the CONTRACTOR comprehensive, broad form,

general public liability, and automobile insurance against claims and liabilities for personal injury, death, or property damage arising from the CONTRACTOR'S activities, providing protection of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person and Three Million Dollars (\$3,000,000) for any one accident or occurrence and at least One Million Dollars (\$1,000,000) for property damage.

SECTION IX

All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California and policies required under Section VIII shall name, as additional insured, the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer, insured, and all subcontractors waive the right of subrogation against the CITY, its elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by the CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days written notice by the insurer to the CITY by certified mail. The CONTRACTOR shall furnish the CITY with copies of all such policies promptly upon receipt of them or certificate evidencing the insurance. The CONTRACTOR may effect for its own account insurance not required under this Agreement.

SECTION X

The CONTRACTOR shall, before any work begins, obtain and maintain the following: City of Montclair Business License, State of California Contractor's License (C27), and all State of California Pest Control Licenses and categories necessary to complete the provisions of this Agreement.

SECTION XI

The Public Works Superintendent, or his/her designated representative, shall be the judge of all work performed and shall approve all material provided by the CONTRACTOR before it is used. If the work is not satisfactory, the Public Works Superintendent, or his/her designated representative, may suspend the Agreement for any period of time or terminate the Agreement as set forth herein. No sums shall be due or payable to the CONTRACTOR for or during any time of such suspension or after termination.

It is further agreed that in the event the CONTRACTOR fails to furnish tools, equipment, materials, labor, or transportation in the necessary quantity or quality or fails to prosecute the work or any part thereof, the Public Works Superintendent or his/her designated representative shall so certify to the City Manager of the CITY, and if thereafter the CONTRACTOR, for a period of ten (10) days after receipt of a written demand from the Public Works Superintendent or his/her designated representative, fails to furnish tools, equipment, materials, labor, or transportation in the necessary quantity or quality and to prosecute said work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within said ten (10) days, fails to continue to do so, then the CITY may exclude the CONTRACTOR from the premises or any portion thereof, together with all materials and equipment thereon, and may complete the work contemplated by this Agreement or any portion of said work either by furnishing the tools, equipment, materials, labor, or transportation necessary therefore or by letting the unfinished portion of said work or the portion taken over by the CITY shall be a charge against the CONTRACTOR and may be deducted from any money due or becoming due to the CONTRACTOR for the CITY, or the CONTRACTOR may be compelled to pay the

CITY the amount of said charge or the portion thereof unsatisfied. As used herein, the term "premises" shall include those areas and sites as set forth in SECTION XIV hereof.

SECTION XII

Contractor shall comply with the Federal Clean Water Act and City of Montclair Municipal Code Section 9.24 – Storm Drain System, employees from said contractor shall be trained in Stormwater Best Management Practices. No blowing and/or depositing of grass clippings, leaves, or any other yard waste out into the street and catch basins.

SECTION XIII

SPECIFIC

A. Trees, Plants, Shrubbery

1. All plants and shrubbery shall be properly irrigated, pruned, and shaped in season to produce the best possible effect and growth condition including tree skirts to have a minimum seven feet of clearance.
2. Tree trimming, planting, and staking shall be completed by the CITY.
3. The CITY may make periodic soil analyses to determine soil amendment requirements (gypsum, sulfur, iron chelates, etc.) as well as fertilization demands, and the Contractor is required to make the necessary applications within two weeks of notification. In lieu of soil tests, the CITY/AGENCY may require the CONTRACTOR to provide an all-purpose fertilizer for application.

B. Lawns

1. All lawn areas will be mowed and edged weekly. As work is completed, the clippings, trimmings, weeds, and other extraneous materials shall be removed, leaving the lawns in a neat and attractive condition. The CONTRACTOR is responsible for cost of disposing such material.
2. All lawns shall be fed with commercial fertilizer supplied by the CONTRACTOR two times each year. Time of application of fertilizer shall be as specified by the CITY. Prior to fertilizing, the CONTRACTOR shall first mow the lawn to the appropriate height. Selective weed killer supplied by the CONTRACTOR, shall be applied to provide complete dandelion, crabgrass, or other weed control. Chemicals used shall meet Department of Food and Agriculture regulations. The CONTRACTOR is liable for misuse.
3. All lawns shall be verticut, mowed to one inch, seeded, and covered with top dressing. Seed and top dressing will be furnished by CONTRACTOR upon approval by the CITY.
4. All lawns shall be mowed between 2 and 2 1/2 inches.
5. All landscape areas will be monitored and treated for Gopher Control by the CONTRACTOR as needed. The CONTRACTOR, at no additional cost to the CITY, shall furnish chemicals and licenses necessary for Gopher Control.

C. Replacements

1. Any plant material that may expire from normal causes shall be replaced and replanted with a like or more desirable species without additional cost to the CITY.
2. Any plantings, cobblestone or stamped concrete areas, or portions of the irrigation systems that are damaged by vehicles, vandalism, or other means beyond the CONTRACTOR'S control shall be repaired and/or replaced by the CITY.

D. Irrigation System

1. Sprinkler heads shall be adjusted and kept clean to provide the best possible coverage. Missing, broken, worn, or sprinkler heads damaged while performing the duties pursuant to the Agreement shall be immediately replaced by CONTRACTOR to allow continuous irrigation without additional cost to the CITY.
2. Automatic irrigation controllers, remote control valves, and sprinkler heads will be properly checked and adjusted by the CONTRACTOR weekly.

The CONTRACTOR shall be responsible for immediately notifying City whenever a sprinkler system is not working properly. The CONTRACTOR shall be responsible for all repairs, upon approval by the CITY, at a flat rate of \$35.00 per hour plus costs of the materials needed. Repairs to damage caused by the CONTRACTOR'S operation, shall be borne by CONTRACTOR.

E. Debris

1. As work in any area is completed, the clippings, trimmings, and weeds shall be removed and the area shall be left in a neat and attractive condition. The CONTRACTOR is responsible for the cost of disposing all clippings, trimmings, and weeds.

F. Cobblestone Concrete, Bomanite, and Stamped Concrete Areas

1. All cobblestone, stamped concrete, Bomanite, and concrete areas shall be weeded and kept free of papers and other extraneous material on a weekly basis.

G. Management and Supervision

1. The sites defined by this Agreement shall be closely inspected by the CONTRACTOR'S Maintenance Superintendent to ensure proper work procedures are followed.
2. Monthly maintenance reports by CONTRACTOR'S Maintenance Superintendent shall be submitted for CITY'S information.
3. The landscape maintenance will be scheduled first to meet the requirements of the landscape and secondly to fit the working procedures of the CITY.

SECTION XIV

The areas to be maintained are listed below; however, they are general site descriptions and are to be considered inclusive, not precise:

A. Moreno Street Landscaping (six islands)—one island east of Central Avenue, one island west of Monte Vista Avenue, and four islands between Central and Monte Vista Avenues

Two of these islands are cobblestone only; the remaining islands are landscaped with lawn, trees, shrubs, cobblestone, and stamped concrete.

B. Monte Vista Avenue Landscaping (six islands) located from approximately 190 feet north of Richton Street to and including one island south of the I 10-Freeway

These islands are landscaped with lawn, trees, shrubs, stamped concrete, Bomanite, and cobblestone.

C. San José Street Landscaping (one island) located west of Monte Vista Avenue

This island is landscaped with lawn, trees, and stamped concrete.

D. Central Avenue Landscaping (28 islands) located from Phillips Boulevard north to and including 1st island north of Richton street

Islands are landscaped with lawn, shrubs, trees, stamped concrete, and cobblestone.

E. Mills Avenue Landscaping (17 islands) located between Moreno Street and Holt Boulevard

These islands are landscaped with lawn, trees, Bomanite and cobblestone.

F. Holt Boulevard Landscaping (17 islands and two parkways) located between Benson Avenue and Mills Avenue

The islands and parkways are landscaped with lawn, shrubs, stamped concrete, and trees.

One parkway is located across from 5200 Holt Boulevard on south side of Holt Boulevard

One parkway is located on the southwest corner of Holt Boulevard and Rose Street. This parkway borders an undeveloped parcel of land both west of Rose Street and South of Holt Boulevard.

G. San Bernardino Street Landscaping (five islands and one parkway) located from Mills Avenue east to approximately 4600 San Bernardino Street

The islands are landscaped with lawn, trees, and cobblestone.

H. Benson Avenue (two islands) located between Moreno Street and Arrow Highway

The islands are landscaped with shrubbery, trees, and cobblestone paving.

I. Central Avenue and State Street Overpass

The landscaped areas on the Central Avenue overpass shall include the northwest quadrant and island, the southwest quadrant and island and the southeast quadrant and island and a portion of the northeast quadrant that is west of the sloped sidewalk running from State Street to Central

Avenue. These areas are planted with trees and shrubbery. Queen Palms located in any of these four quadrants or islands must be trimmed annually as part of this contract.

J. Palo Verde Street, (three islands), located between Monte Vista Avenue and Marion Avenue

These islands are landscaped with shrubbery, trees, and Bomanite.

K. Monte Vista Avenue Underpass between Arrow Highway and Richton Street

The area includes the slopes on the east and west sides of the street. It is landscaped with trees, shrubs, and groundcover.

L. Richton Street Parkway located from Monte Vista Avenue to a point 1,500 feet east

The area to be maintained is located approximately 12 feet behind the sidewalk on the north and south sides of the street. The area is landscaped with lawn, trees, and shrubs.

M. Phillips Boulevard Parkway between Ramona Avenue and Buckskin Avenue

The parkway is located behind the sidewalk on the north side of the street. It is landscaped with shrubs.

N. Ramona Avenue Planters and Tree Wells (east side) located from Phillips Boulevard to a point 650 feet north of Howard Street

The tree wells are located on the east side of the street and include 55 tree wells, trees, shrubs and ground cover that cover the block wall behind the tree wells.

O. Ramona Avenue Tree Wells (west side) located from a point 360 feet north of Merle Street to a point 510 feet south of Howard Street

The tree wells are located on the west side of the street and include 25 tree wells, trees and ground cover that covers the wall behind the tree wells.

P. San Bernardino Street Tree Wells (south side) located from a point 170 feet west of Amherst Avenue to a point 175 feet east of Amherst Avenue

The tree wells are located on the south side of the street and include 6 tree wells and trees.

Q. San Bernardino Street Tree Wells (north side) located from San Bernardino Court to a point 380 feet west of Rosewood Street

The tree wells are located on the north side of the street and include 15 tree wells and trees.

R. San Bernardino Street Parkway (south side) located between Fremont and Monte Vista Avenues

The area is located on the south side of the street and includes 15 tree wells, trees and sidewalk that are to be cleaned weekly from end to end.

S. City-owned house at 9916 Central Avenue

The area to be maintained consists of concrete, vines, trees, groundcover, and native shrubs in the front and rear yards.

T. Walkway located between Yale and Palo Verde Streets

The walkway is located east of 5634 Yale Street and travels between Yale and Palo Verde Streets. The area includes sidewalk only and is to be cleaned weekly.

U. Walkway located at Rudisill Street and Amherst Avenue

The area is located east of 4383 Rudisill Street and travels between Amherst Avenue and the San Antonio Channel. The area includes sidewalks, planters and a dirt path that is to be maintained weed free and cleaned weekly.

V. Montclair Transcenter Passenger Platform

The area to be maintained is located south of the southern passenger platform and the east and west ends of the northern passenger platform and includes trash removal from the tunnel, ramps and stairs between the north and south passenger platforms.

W. Storm Drain Channel located East and West of Monte Vista Avenue and North of the I-10 Freeway

The west open-face channel is located north of the I-10 Freeway beginning at Monte Vista Avenue and ending at a point approximately 730 feet west and the east open-faced channel begins at a point approximately 660 feet east of Monte Vista Avenue and ending at a point approximately 900 feet east. The maintenance includes removal of weeds and debris from the channel and the flat areas above channel between fences/walls.

X. Freedom Plaza located at the north east corner of Monte Vista and Palo Verde

The site is located at the northeast corner of Palo Verde Street and Monte Vista Avenue. The site includes trees, shrubs, and groundcover around an existing monument and caboose.

Y. Alley Planters located at 5372 Yale Street (north end of alley) and 5371 Cambridge Street (south end of alley)

The two planters are each landscaped with trees and shrubs.

Z. Parkway on the east side of Ramona Avenue, north and south of Canary Court

The area includes cobblestone that is to be cleaned weekly and maintained weed free.

AA. Undeveloped property at the northwest corner of Dale Street and Camulos Avenue

The site is to be maintained free of trash and weeds.

BB. Benson Avenue Parkway, located on the west side of Benson Avenue from the I-10 Freeway south to San Jose Street

The parkway is landscaped with Oleander bushes.

CC. Mission Boulevard Median Islands (19 median islands) from the San Antonio Channel east to Benson Avenue and shall include the following parkway planters ranging in depth from 1 foot to approximately 10 feet from back of sidewalk or curb:

North Side of Mission Boulevard

- 5138 Mission Boulevard west to Fremont Avenue (5 parkway planters)
- Fremont Avenue west to Monte Vista Avenue (19 parkway planters)

- Monte Vista Avenue west to 4762 Mission Boulevard (23 parkway planters)
- 4722 Mission Boulevard (6 parkway planters)
- 4748 Mission Boulevard (2 parkway planters)
- 4590 Mission Boulevard west to Ramona Avenue (14 parkway planters)
- Northwest corner of Mission Boulevard and Ramona Avenue (1 parkway planter)
- 4284 Mission Boulevard west to 4230 Mission Boulevard (6 parkway planters)

South Side of Mission Boulevard

- Roswell Avenue east to 3973 Mission Boulevard (7 parkway planters)
- Kadota Avenue east to 4013 Mission Boulevard (2 parkway planters)
- 4093 Mission Boulevard (1 parkway planter)
- 4711 Mission Boulevard east to 4761 Mission Boulevard (10 parkway planters)
- Monte Vista Avenue east to Fremont Avenue (22 parkway planters)
- 5165 Mission Boulevard (1 parkway planter)
- Central Avenue east to Vernon Avenue (9 parkway planters)
- Benson Avenue to a point approximately 925 feet west.

The areas to be maintained consist of trees, lawn, shrubs, groundcover, and undeveloped areas.

DD. Palo Verde Street Landscape located on the north side of Palo Verde Street between Mills Avenue and the San Antonio Channel

The area includes trees, shrubs, groundcover, and wood chips.

EE. Trash Collection

Empty trash containers, replace can liners and pick up trash off the ground at the following locations every Monday unless otherwise indicated:

- Civic Center, 5111 Benito Street
- Alma Hofman Park Schedule 5201 Benito Street
 1. January 1st thru the fourth Friday in May twice per week, (Monday and Friday)
 2. The fourth Saturday in May thru the 1st Monday in September (Monday thru Friday) (during this time period trash collection shall be completed no later than 9 AM each day)
 3. The first Friday in September thru December 31st (Monday and Friday)
- Essex Park, 4295 Howard Street
- Golden Girls Park, 4594 San Bernardino Street
- Kingsley Park, 5575 Kingsley Street
- MacArthur Park, 5450 Deodar Street
- Mini Park #1, 9120 Monte Vista Avenue
- Mini Park #2, 4682 Highland Street
- Moreno Vista Park, 4675 Moreno Street
- Saratoga Park, 5397 Kingsley Street
- Sunrise Park, 5500 Princeton Street
- Sunset Park, 4351 Orchard Street
- Freedom Plaza, 4902 Palo Verde Street
- I-10 Freeway On and Off ramps at Central and Monte Vista Avenues (the first 50 feet leading into each ramp starting from the street shall be cleaned of trash and debris)
- Montclair Transcenter (twice per week, Monday and Friday), 5091 Richton Street

FF. Olive Street Parkway located on the south side of Olive Street beginning approximately 300 feet east of Vernon Avenue and ending at point approximately 950 east of Vernon

The parkway is landscaped with shrubs and groundcover.

GG. Mission Boulevard and Ramona Avenue Parkways located on Mission Boulevard approximately 300 feet east of Ramona Avenue and continues to a point 330 feet east of Carriage Avenue. This section includes a median island and parkways on both side of Carriage Avenue from Mission Boulevard to Rawhide Street. On Ramona Avenue from a point approximately 200 feet south of Mission Boulevard to a point 630 feet south of Mission Boulevard including both corner radius's at Mane Street

The parkway is landscaped with shrubs, groundcover, and trees.

HH. Monte Vista Avenue and I-10 Freeway Parkways located on the west side of Monte Vista Avenue south of the I-10 Freeway to the alley way south of Princeton Street and a walking path from Monte Vista Avenue west to Tudor Street

The parkway is landscaped with shrubs, groundcover, trees, and decomposed granite.

II. Pacific Electric Bike Trail located approximately 190 feet north of Richton Street from Monte Vista Avenue west to Huntington Drive

The area is landscaped with shrubs and trees.

JJ. Ramona Avenue Landscaping (two islands), one island north of Mission Boulevard and one island south of Mission Boulevard

These islands are landscaped with trees, shrubs, and stamped concrete.

KK. Richton Street Secured Private Parking Lot located on the south side of the 4800 block of Richton Street west of Monte Vista Avenue

The parking lot is landscaped around the perimeter with trees, shrubs, and groundcover

LL. Montclair Police Facility located at 4870 Arrow Highway

The Montclair Police Facility is located at 4870 Arrow Highway. The landscape at this facility includes various trees, lawn and shrubs. The total area to be maintained is approximately 76,665 square feet. This area also includes maintenance of the drainage basin and two catch basins adjacent to the drainage basin. All sediment and debris is to be removed from the drainage basin and catch basins weekly. (Includes landscaping in rear of building.)

MM. 5100 Block of Saddleback Street Parkway (north side) located from Fremont Avenue to Carrillo Avenue on the north side of Saddleback

The parkway is landscaped with trees and lawn. (No shrubs are to maintained as part of this contract at this location)

NN. Montclair Plaza Landscape at the northeast corner of Monte Vista Avenue and San Jose Street

The parkway is landscaped with trees, lawn, shrubs and ground cover.

OO. Montclair Plaza Landscape at the southwest corner of Central Avenue and Moreno Street

The parkway is landscaped with trees, lawn, shrubs and ground cover.

PP. Mission Boulevard and Stallion Avenue Parkway includes parkways starting approximately 115 feet west of Stallion Avenue to approximately 380 feet east of Stallion

Avenue and includes a median island and parkways on Stallion Avenue from Mission Boulevard to Rawhide Street

The parkway is landscaped with trees and shrubs and ground cover.

QQ. Central Avenue and Howard Street Parkway located on the west side of Central Avenue from Howard Street south to a point 1300 feet south of Howard and on Howard Street from 5253 Howard Street to Central Avenue

The parkway is landscaped with trees and shrubs, lawn and ground cover.

RR. Ramona Avenue Overpass Landscape

The landscaped areas on the Ramona Avenue overpass shall include the sloped landscape areas in the southeast and southwest quadrants, the northwest quadrant includes the sloped area and planter wells in parking lot on west side of overpass. These areas are planted with trees and shrubbery and ground cover.

SS. Montclair Transcenter Turf Area located at 5091 Richton Street.

This location is approximately 2 acres of lawn only.

TT. Montclair Kids Station located at 4985 Richton Street.

This location consists of trees, lawn, shrubs and ground cover inside and outside of a fenced play area.

SECTION XIV

In the event that additional areas require maintenance services, such areas may be added to this Agreement at a negotiated price; however, during the period of time the CONTRACTOR is negotiating a cost to maintain the new areas, it is the CONTRACTOR'S responsibility to provide maintenance service to any area in question. In the event a maintenance area is deleted from this Agreement, the contract price for that area shall be deducted from the negotiated price.

SECTION XV

MISCELLANEOUS PROVISIONS

- A. **Assignment.** No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, either in whole or in part, by the CONTRACTOR without the written consent of the CITY.
- B. **Independent Contractor.** The parties hereto agree that CONTRACTOR and its employees, officers, and agents are independent contractors under this Agreement, and shall not be construed for any purpose whatsoever to be employees of the CITY.
- C. **Compliance with Laws.** The CONTRACTOR shall comply with all applicable laws in performing its obligations under this Agreement.
- D. **Discrimination.** The CONTRACTOR agrees that no person shall be excluded from employment in the performance of this Agreement on grounds of race, creed, color, sex, age, marital status, or place of national origin. In this connection, the CONTRACTOR agrees to comply with all County, State, and Federal laws related to equal employment opportunity rights.
- E. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- F. **Attorney's Fees.** In the event that any legal proceeding is instituted to enforce any term or provisions of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorney's fees and costs from the opposing party in an amount to be determined by the court to be reasonable.
- G. **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any other party that is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing, signed by all parties.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the day and year first set forth herein above.

Contractor:

MARIPOSA LANDSCAPES, INC.

Name

Title

Date

City:

CITY OF MONTCLAIR

Paul M. Eaton
Mayor

Date

ATTEST:

Yvonne L. Smith
Deputy City Clerk

Date

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney

Date

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-42 WITH FIRST 5, THE CHILDREN AND FAMILIES COMMISSION FOR SAN BERNARDINO COUNTY, TO EXTEND THE HEALTHY CITIES PROGRAM.

DATE: June 17, 2013

SECTION: AGREEMENTS

ITEM NO.: 6

FILE I.D.: HSV042

DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The City Council is requested to consider accepting and appropriating grant funds from First 5, The Children and Families Commission for San Bernardino County, in the amount of \$420,604 to extend programs that will improve the health and well-being of the community. Proposed Agreement No. 13-42 would provide grant funding in the amount of \$420,604 to pay Healthy Cities Program personnel and program costs. A copy of proposed Agreement No. 13-42 is attached for the City Council's review and consideration.

BACKGROUND: The City was successful in obtaining an extended two-year First 5 San Bernardino County competitive grant. First 5 was formed as a result of the passage of Proposition 10, which created an additional tobacco tax to fund health and related services for children ages 0 to 5 and their families. Proposed Agreement No. 13-42 would provide funding for the following:

- Further promote a West End Healthy Cities Coalition comprised of the cities of Montclair, Ontario, and Upland as well as community partners, service agencies, and local residents.
- Develop policy briefs and recommendations as a result coalition meetings.
- The hiring of a part-time program coordinator and program assistant to administer the program and its activities.
- Promote community health activities including farmers' markets, classes for the Healthy Living Program, community garden planning meetings, and a West End Health Summit.
- Fiscal and data management and reporting to meet First 5 requirements.

The term of proposed Agreement No. 13-42 is from July 1, 2012, through June 30, 2015.

Prepared by:

M. Richter

Reviewed and Approved by:

[Signature]

Proofed by:

Christine Smickley

Presented by:

[Signature]

FISCAL IMPACT: Proposed Agreement No. 13-42 would provide grant funding in the amount of \$420,604 to pay for Healthy Cities Program personnel and program costs.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-42 with First 5, The Children and Families Commission for San Bernardino County, to extend the Healthy Cities Program.

**CHILDREN
AND FAMILIES
COMMISSION
FOR
SAN BERNARDINO COUNTY
STANDARD CONTRACT**

FOR COMMISSION USE ONLY						
<input type="checkbox"/> New <input checked="" type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code CITYOFM731		S C	Dept. 903	A	Contract Number SI006 A1
Organization Children and Families Commission			Dept. 903	Orgn. PROG	Contractor's License No.	
Commission Representative Cindy Faulkner, Operations Manager				Telephone 909-386-7706	Total Contract Amount \$420,604	
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, 2012		Contract End Date June 30, 2015		Original Amount \$90,500
Amendment Amount \$420,604						
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
RRC	903	PROG	300	3357	CSIHCY14	\$180,018
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Abbreviated Use Healthy Cities/Communities				Estimated Payment Total by Fiscal Year		
				FY	Amount	I/D
				12-13	\$90,500	
				13-14	\$180,018	
				14-15	\$150,086	

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

Legal Name (hereinafter called the Contractor)

City of Montclair

Department/Division

Address

5111 Benito Street

Montclair, CA 91763

Phone

(909) 626-8571

Federal ID No.

95-6005731

Program Address (if different from legal address):

IT IS HEREBY AGREED AS FOLLOWS:

AMENDMENT NO. 1

SECTION V. FISCAL PROVISIONS

Paragraph A. Contract Amount has been amended to read as follows:

- A. The maximum amount of reimbursement under this Contract shall not exceed **\$420,604** for the duration of the Contract term subject to the availability of California Children and Families Trust Fund monies. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof. These funds are divided as follows:

Fiscal Year 2012-13	\$ <u>90,500</u>	July 1, 2012 through June 30, 2013
Fiscal Year 2013-14	\$ <u>180,018</u>	July 1, 2013 through June 30, 2014
Fiscal Year 2014-15	\$ <u>150,086</u>	July 1, 2014 through June 30, 2015

Initial Here

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

SECTION VIII. TERM

Paragraph A. has been amended to read as follows:

- A. This contract is effective commencing July 1, 2012 and expires June 30, 2015 but may be terminated earlier in accordance with provisions of paragraph below or Section VII of this Contract.

Initial Here

ATTACHMENTS:

Attachment A --The attached Program Work Plan for 2013-2014 is added to the Contract.

Attachment B --The attached Budgets for 2013-2014 and 2014-2015 are added to the Contract.

All other terms and conditions of this contract remain in full force and effect.

**CHILDREN & FAMILIES COMMISSION FOR
SAN BERNARDINO COUNTY**

CITY OF MONTCLAIR

Legal Entity

Authorized Signature

Linda Haugan

Printed Name

Commission Chair

Title

Dated

Authorized Signature

Paul M. Eaton

Printed Name

Mayor

Title

Dated

Official Stamp

Reviewed for Processing

Cindy Faulkner

Operations Manager

Date

Approved as to Legal Form

Regina Coleman

Commission Counsel

Date

Presented to Commission for
Signature

Karen E. Scott

Executive Director

Date



Agency Name: City of Montclair
 Program Name: Healthy Cities Project: Healthy Montclair
 Contract #: SI006.A1 Fiscal Year (FY): 2013 - 2014
 Service Area: City of Montclair

Commission Level Outcome	Performance Objective	Service Activities	Expected Outcomes	Verification Method
Children and Families are Healthy and Safe	By May 31, 2014, the City of Montclair will host a minimum of 4 Healthy Montclair Coalition meetings	Host Monthly Healthy Montclair Coalition Develop policy briefs	Montclair Residents and Representatives of service agencies will participate in these coalition meetings and assisted in the development of policy briefs.	Quarterly Reports* Meeting agendas, minutes, and sign-in sheets Policy Briefs
Children and Families are Healthy and Safe	By May 31, 2014, a minimum of 25 families will participate in the Healthy Living Program	Conduct Healthy Living Program	Farmers' Market incentive program where 25 families who reside in a "Health Desert Area" of Montclair and Pregnant/Breastfeeding women (Montclair residents) receive education on nutrition and healthy meal planning.	Quarterly Reports* Healthy Living Program Materials Sign-in sheets of participating residents
Children and Families are Healthy and Safe	By June 30, 2014, The City of Montclair will host a minimum of 8 Farmers' Markets	Host 8 Farmers' Market in Montclair	Minimum of 500 San Bernardino County residents will attend Farmers' Markets Hosted by City of Montclair	Quarterly Reports* Observation and Log of Farmers' Market occurrences
Children and Families are Healthy and Safe	By June 30 2014, the City of Montclair will Host one West End Health Summit	Plan and Host West End Health Summit	Minimum of 10 community agencies and 25 families will participate in the West End Health Summit	Quarterly Reports* Summit agenda and sign-in sheets Participant Surveys
Children and Families are Healthy and Safe	By June 30, 2014, the City of Montclair will host a minimum of 2 Planning meetings for development of a Community Garden &/or Fruit Park.	Engage Montclair Residents and Service Agencies to assist in planning phases for Community Garden &/or Fruit Park	Minimum of 15 families who live in the Health Desert Area; Pregnant or Breastfeeding women and representatives from a minimum of 5 service agencies will participate in these efforts.	Quarterly Reports* Meeting agendas, minutes, sign-in sheets and Plan for Community Garden &/or Fruit Park

*Reporting requirements entered in Persimmony

PROGRAM BUDGET
FISCAL YEAR 2013-2014

AGENCY NAME City of Montclair CONTRACT # S1006 A1

DESCRIPTION		TOTAL PROGRAM COSTS	OTHER FUNDING	DONATED RESOURCES	FIRST 5 FUNDED PROJECT	First 5 Program Related Cost	First 5 Admin Cost	FIRST 5 %
A. SALARIES & BENEFITS		A	B	C	D	E		
FTE	POSITION TITLE							
1 0.1	Assistant Director of Human Services	\$ 8,320	\$	\$ 8,320	\$ 0			0.00%
2 0.15	Economic Development Coordinator	\$ 10,268	\$	\$ 10,268	\$ 0			0.00%
3 0.15	Senior Accountant	\$ 9,050	\$	\$ 9,050	\$ 0			0.00%
4 0.1	Program Administrator	\$ 7,500	\$	\$ 7,500	\$ 0			0.00%
5 0.5	Program Coordinator	\$ 20,698	\$	\$	\$ 20,698	\$ 20,698.00		100.00%
6 0.75	Health Education Specialist	\$ 40,272	\$ 10,068	\$	\$ 30,204	\$ 30,204.00		75.00%
7 0.5	Program Assistant	\$ 14,743	\$	\$	\$ 14,743	\$ 14,743.00		100.00%
TOTAL SALARIES		\$110,851.00	\$10,068.00	\$35,138.00	\$ 65,645	\$65,645.00	\$0.00	59.22%
31	TOTAL BENEFITS	\$ 36,534	\$	\$ 13,011	\$ 23,523	\$ 23,523.00		64.39%
TOTAL SALARIES, BENEFITS, PROGRAM & ADMIN		\$147,385.00	\$10,068.00	\$48,149.00	\$ 89,168	\$89,168.00	\$0.00	60.50%

PROGRAM BUDGET
FISCAL YEAR 2013-2014

AGENCY NAME City of Montclair CONTRACT # S1006 A1

DESCRIPTION	TOTAL PROGRAM COSTS			DONATED RESOURCES	FIRST 5 FUNDED PROJECT	First 5 Program Related Cost	First 5 Admin Cost	FIRST 5 %
	A	B	C					
B. SERVICES & SUPPLIES								
1 PROGRAM MATERIALS/SUPPLIES	\$ 1,000				\$ 1,000	\$ 1,000.00		100.00%
2 PARTICIPANT SUPPORT/INCENTIVES	\$ 7,500				\$ 7,500	\$ 7,500.00		100.00%
3 PARTICIPANT TRANSPORTATION					\$ 0			
4 FOOD EXPENSE FOR CLASSES/MEETINGS	\$ 7,000				\$ 7,000	\$ 7,000.00		100.00%
5 STAFF DEVELOPMENT/TRAINING					\$ 0			
6 EMPLOYEE MILEAGE/TRAVEL	\$ 3,000				\$ 3,000	\$ 3,000.00		100.00%
7 ADVERTISEMENTS	\$ 2,000		\$ 1,500		\$ 500	\$ 500.00		25.00%
8 PRINTING	\$ 3,500		\$ 1,150		\$ 2,350	\$ 2,350.00		67.14%
9 POSTAGE	\$ 1,500		\$ 850		\$ 650	\$ 650.00		43.33%
10 SUBSCRIPTIONS					\$ 0			
11 OFFICE SUPPLIES	\$ 3,700		\$ 200		\$ 3,500	\$ 3,500.00		94.59%
12 OFFICE EQUIPMENT					\$ 0			
13 RENT/LEASE BUILDING					\$ 0			
14 BUILDING/EQUIPMENT MAINTENANCE					\$ 0			
15 UTILITIES					\$ 0			
16 INSURANCE / TAXES / LICENSES					\$ 0			
17 PROFESSIONAL SERVICES/CONSULTANTS								
17.1 The Planning Center	\$ 40,000				\$ 40,000	\$ 40,000.00		100.00%
17.2 Interpretation (Spanish)-Por La Vida	\$ 5,350				\$ 5,350	\$ 5,350.00		100.00%
17.3 Community Garden Intern	\$ 20,000				\$ 20,000	\$ 20,000.00		100.00%
17.4					\$ 0			
17.5					\$ 0			
PROFESSIONAL SERVICES - SUBTOTAL	\$ 65,350	\$	\$		\$ 65,350	\$ 65,350.00		100.00%
18 INDIRECT COSTS (AS APPROVED)					\$ 0			
TOTAL SERVICES/SUPPLIES	\$94,550.00	\$0.00	\$3,700.00		\$ 90,850	\$90,850.00	\$0.00	96.09%

PROGRAM BUDGET
FISCAL YEAR 2013-2014

AGENCY NAME City of Montclair CONTRACT # SI006 A1

DESCRIPTION	A	B	C	D	ER	E
TOTAL PROGRAM COSTS	OTHER FUNDING	DONATED RESOURCES	FIRST 5 FUNDED PROJECT	First 5 Program Related Cost	First 5 Admin Cost	FIRST 5 %
C. SUBCONTRACTS						
SUBCONTRACTS - AGENCY NAME						
1 No Subcontractor			\$ 0			
2			\$ 0			
3			\$ 0			
4			\$ 0			
5			\$ 0			
6			\$ 0			
7			\$ 0			
8			\$ 0			
9			\$ 0			
10			\$ 0			
TOTAL SUBCONTRACTS	\$	\$	\$	\$	\$	
TOTAL PROJECT BUDGET	\$ 241,935	\$ 10,068	\$ 51,849	\$ 180,018	\$ 180,018	74.41%
First 5 Funding %	100.00%	4.16%	21.43%	74.41%		
Administrative Cost %				100.00%	0.00%	

BUDGET NARRATIVE - SALARIES & BENEFITS

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Position	Hours per Fiscal Year	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe position duties)
1	Assistant Director of Human Services	40	\$ 8,320	\$ -		\$ 8,320	\$ -	Program Contact- Responsible for administering and supervising subcontracts, professional services, and one proposed part-time position included in this proposal.
2	Economic Development Coordinator	300	\$ 10,268	\$ -		\$ 10,268	\$ -	Contract Contact-Responsible for insuring that all requirements, program, contract, and fiscal are in compliance, assists with submittal of monthly fiscal/program reports.
3	Senior Accountant	280	\$ 9,050	\$ -		\$ 9,050	\$ -	Fiscal Contact- Responsible for compiling all fiscal reports (monthly and quarterly), investigating and reviewing costs charged to grant, verifying grant compliance, and coordinating with Human Services staff on a monthly basis to monitor the grant budget.
4	Program Administrator	300	\$ 7,500	\$ -		\$ 7,500	\$ -	Responsible for program administration, overseeing the progress of the program; Program Coordinator, and Program Assistant.
5	Program Coordinator	1000	\$ 20,698	\$ -		\$ -	\$ 20,698	Oversees the expansion of the Healthy Montclair Coalition objectives, including facilitation of coalition meetings, responsible for planning, organizing, and coordinating the daily functions of the program; coordinating farmers markets; initiates and makes contact with community groups, public agencies, and other institutions to facilitate the implementation of the program; and serves as coordinator of services. (1000 hours x \$15.49 per hour = \$15,490, \$15,490.00 x .09% [Administrative Overhead] = \$1,841.00)
6	Health Education Specialist	1560	\$ 40,272	\$ 10,068		\$ -	\$ 30,204	Responsible for teaching and administering the classes part of the Healthy Living Program, distributing vouchers to successful program participants, overseeing the Por La Vida Cosejeras, and contributing to the expansion and promotion of the Healthy Montclair Coalition.

BUDGET NARRATIVE - SALARIES & BENEFITS

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Position	Hours per Fiscal Year	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe position duties)
7	Program Assistant	1000	\$ 14,743	\$ -		\$ -	\$ 14,743	Responsible for assisting the Program Coordinator and Program Administrator, data entry, data collection and contributing to the expansion and promotion of the Healthy Montclair Coalition.
TOTAL SALARIES			\$ 110,851	\$ 10,068		\$ 35,138	\$ 65,645	

Line	Listing of Covered Benefits	Total	Other	Other Funding	Donated	First 5 Costs	Narrative
31		\$ 36,534	\$ -		\$ 13,011	\$ 23,523	Full-time personnel benefits are calculated up to 45% of salaries; Part-time personnel benefits include Medicare (1.45%) and Social Security (6.2%)
TOTAL SALARIES & BENEFITS		\$ 147,385	\$ 10,068		\$ 48,149	\$ 89,168	

BUDGET NARRATIVE - SERVICES & SUPPLIES

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Service/Supply	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe need for services/supplies)
1	PROGRAM MATERIALS/SUPPLIES	\$ 1,000	\$ -		\$ -	\$ 1,000	Program/educational materials to support the Healthy Living Program.
2	PARTICIPANT SUPPORT/INCENTIVES	\$ 7,500	\$ -		\$ -	\$ 7,500	Farmers Market Vouchers for Healthy Living Program participants (\$25 per month).
3	PARTICIPANT TRANSPORTATION	\$ -	\$ -		\$ -	\$ -	
4	FOOD EXPENSE FOR CLASSES/MEETINGS	\$ 7,000	\$ -		\$ -	\$ 7,000	Food for meetings of the Healthy Cities Coalition and Community Garden planning meetings conducted by Program Coordinator; Catering for West End Health Summit attendees.
5	STAFF DEVELOPMENT/TRAINING	\$ -	\$ -		\$ -	\$ -	
6	EMPLOYEE MILEAGE/TRAVEL	\$ 3,000	\$ -		\$ -	\$ 3,000	Mileage for Program Coordinator related to project and meetings.
7	ADVERTISEMENTS	\$ 2,000	\$ -		\$ 1,500	\$ 500	Advertisements and outreach for the Healthy Cities Coalition, Healthy Living Program, and Health Summit
8	PRINTING	\$ 3,500	\$ -		\$ 1,150	\$ 2,350	Publication of materials pertaining to the project implementation and instruction. \$1,150.00 in-kind from the City of Montclair
9	POSTAGE	\$ 1,500	\$ -		\$ 850	\$ 650	Invitations to all organizations eligible to participate in the Healthy Cities Coalition. \$850.00 in-kind contribution from the City of Montclair.
10	SUBSCRIPTIONS	\$ -	\$ -		\$ -	\$ -	
11	OFFICE SUPPLIES	\$ 3,700	\$ -		\$ 200	\$ 3,500	Supplies for Program Administrator and Program Coordinator to conduct administrative functions of the program, including, but not limited to: data collection and analysis, record-keeping, and follow-up activities.
12	OFFICE EQUIPMENT	\$ -	\$ -		\$ -	\$ -	
13	RENT/LEASE BUILDING	\$ -	\$ -		\$ -	\$ -	

BUDGET NARRATIVE - SERVICES & SUPPLIES

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Service/Supply	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe need for services/supplies)
14	BUILDING/EQUIPMENT MAINTENANCE	\$ -	\$ -		\$ -	\$ -	
15	UTILITIES	\$ -	\$ -		\$ -	\$ -	
16	INSURANCE / TAXES / LICENSES	\$ -	\$ -		\$ -	\$ -	
17	PROFESSIONAL SERVICES - SUBTOTAL	\$ 65,350	\$ -		\$ -	\$ 65,350	The Planning Center will develop health policy briefs for the Healthy Montclair Coalition in order to promote healthy and active lifestyles in Montclair (\$40,000). "Por La Vida" consejeras will provide interpretation services for program activities and program assistance for Healthy Living Program classes (\$5,350). Community Garden Intern will oversee development of a plan for a community garden/fruit park in Montclair (\$20,000).
18	INDIRECT COSTS (AS APPROVED)	\$ -	\$ -		\$ -	\$ -	
TOTAL SERVICES & SUPPLIES		\$ 94,550	\$ -		\$ 3,700	\$ 90,850	

BUDGET NARRATIVE - SUBCONTRACTORS

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Subcontractor	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe need for subcontractors)
1	No Subcontractor	\$ -	\$ -		\$ -	\$ -	
2		\$ -	\$ -		\$ -	\$ -	
3		\$ -	\$ -		\$ -	\$ -	
4		\$ -	\$ -		\$ -	\$ -	
5		\$ -	\$ -		\$ -	\$ -	
6		\$ -	\$ -		\$ -	\$ -	
7		\$ -	\$ -		\$ -	\$ -	
8		\$ -	\$ -		\$ -	\$ -	
9		\$ -	\$ -		\$ -	\$ -	
10		\$ -	\$ -		\$ -	\$ -	
TOTAL SUBCONTRACTORS		\$ -	\$ -		\$ -	\$ -	

**PROGRAM BUDGET
FISCAL YEAR 2014-2015**

AGENCY NAME City of Montclair CONTRACT # SI006 A1

DESCRIPTION	FTE	POSITION TITLE	A			B		C		FIRST 5 FUNDED PROJECT	First 5 Program Related Cost	First 5 Admin Cost	FIRST 5 %
			TOTAL PROGRAM COSTS	OTHER FUNDING	DONATED RESOURCES			D	E				
1	0.1	Assistant Director of Human Services	\$ 8,320	\$	\$ 8,320	\$	\$	\$	0	\$			0.00%
2	0.15	Economic Development Coordinator	\$ 10,268	\$	\$ 10,268	\$	\$	\$	0	\$			0.00%
3	0.15	Senior Accountant	\$ 9,050	\$	\$ 9,050	\$	\$	\$	0	\$			0.00%
4	0.1	Program Administrator	\$ 7,500	\$	\$ 7,500	\$	\$	\$	0	\$			0.00%
5	0.5	Program Coordinator	\$ 20,698	\$	\$	\$	\$	\$ 20,698.00	20,698	\$			100.00%
6	1	Health Education Specialist	\$ 40,272	\$	\$	\$	\$	\$	40,272	\$			100.00%
7	0.5	Program Assistant	\$ 14,743	\$	\$	\$	\$	\$ 14,743.00	14,743	\$			100.00%
TOTAL SALARIES			\$ 110,851.00	\$ 0.00	\$ 35,138.00	\$	\$ 75,713	\$ 20,698.00	75,713	\$ 75,713.00	\$ 0.00	\$ 0.00	68.30%
31		TOTAL BENEFITS	\$ 36,534	\$	\$ 13,011	\$	\$ 23,523	\$ 23,523.00	23,523	\$ 23,523.00	\$	\$	64.39%
TOTAL SALARIES, BENEFITS, PROGRAM & ADMIN			\$ 147,385.00	\$ 0.00	\$ 48,149.00	\$	\$ 99,236	\$ 99,236.00	99,236	\$ 99,236.00	\$ 0.00	\$ 0.00	67.33%

**PROGRAM BUDGET
FISCAL YEAR 2014-2015**

AGENCY NAME City of Montclair CONTRACT # SI006 A1

DESCRIPTION	TOTAL PROGRAM COSTS			DONATED RESOURCES	FIRST 5 FUNDED PROJECT	FIRST 5 Program Related Cost	FIRST 5 Admin Cost	FIRST 5 %
	A	B	C					
B. SERVICES & SUPPLIES								
1 PROGRAM MATERIALS/SUPPLIES	\$ 1,000				\$ 1,000	\$ 1,000.00		100.00%
2 PARTICIPANT SUPPORT/INCENTIVES	\$ 7,500				\$ 7,500	\$ 7,500.00		100.00%
3 PARTICIPANT TRANSPORTATION					\$ 0			
4 FOOD EXPENSE FOR CLASSES/MEETINGS	\$ 7,000				\$ 7,000	\$ 7,000.00		100.00%
5 STAFF DEVELOPMENT/TRAINING					\$ 0			
6 EMPLOYEE MILEAGE/TRAVEL	\$ 3,000				\$ 3,000	\$ 3,000.00		100.00%
7 ADVERTISEMENTS	\$ 2,000	\$ 1,500			\$ 500	\$ 500.00		25.00%
8 PRINTING	\$ 3,500	\$ 1,150			\$ 2,350	\$ 2,350.00		67.14%
9 POSTAGE	\$ 1,500	\$ 850			\$ 650	\$ 650.00		43.33%
10 SUBSCRIPTIONS					\$ 0			
11 OFFICE SUPPLIES	\$ 3,700		\$ 200		\$ 3,500	\$ 3,500.00		94.59%
12 OFFICE EQUIPMENT					\$ 0			
13 RENT/LEASE BUILDING					\$ 0			
14 BUILDING/EQUIPMENT MAINTENANCE					\$ 0			
15 UTILITIES					\$ 0			
16 INSURANCE / TAXES / LICENSES					\$ 0			
17 PROFESSIONAL SERVICES/CONSULTANTS								
17.1 Interpretation (Spanish)-Por La Vida	\$ 5,350				\$ 5,350	\$ 5,350.00		100.00%
17.2 Community Garden Intern	\$ 20,000				\$ 20,000	\$ 20,000.00		100.00%
17.3					\$ 0			
17.4					\$ 0			
17.5					\$ 0			
PROFESSIONAL SERVICES - SUBTOTAL	\$ 25,350	\$	\$		\$ 25,350	\$ 25,350.00		100.00%
18 INDIRECT COSTS (AS APPROVED)					\$ 0			
TOTAL SERVICES/SUPPLIES	\$54,550.00	\$0.00	\$3,700.00	\$	50,850	\$50,850.00	\$0.00	93.22%

**PROGRAM BUDGET
FISCAL YEAR 2014-2015**

AGENCY NAME City of Montclair CONTRACT # SI006 A1

DESCRIPTION	A			B			C			D			E		
	TOTAL PROGRAM COSTS	OTHER FUNDING	DONATED RESOURCES	FIRST 5 FUNDED PROJECT	First 5 Program Related Cost	First 5 Admin Cost	FIRST 5 %	ER	ER	ER	ER	ER	ER	ER	
C. SUBCONTRACTS															
SUBCONTRACTS - AGENCY NAME															
1	No Subcontractors														
2															
3															
4															
5															
6															
7															
8															
9															
10															
	TOTAL SUBCONTRACTS	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
	TOTAL PROJECT BUDGET	\$	201,935	\$	\$	51,849	\$	150,086	\$	150,086	\$	150,086	\$	74.32%	
	First 5 Funding %	100.00%		0.00%		25.68%		74.32%							
	Administrative Cost %													0.00%	

BUDGET NARRATIVE - SALARIES & BENEFITS

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Position	Hours per Fiscal Year	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe position duties)
1	Assistant Director of Human Services	40	\$ 8,320	\$ -		\$ 8,320	\$ -	Program Contact- Responsible for administering and supervising subcontracts, professional services, and one proposed part-time position included in this proposal.
2	Economic Development Coordinator	300	\$ 10,268	\$ -		\$ 10,268	\$ -	Contract Contact-Responsible for insuring that all requirements, program, contract, and fiscal are in compliance, assists with submittal of monthly fiscal/program reports.
3	Senior Accountant	280	\$ 9,050	\$ -		\$ 9,050	\$ -	Fiscal Contact- Responsible for compiling all fiscal reports (monthly and quarterly) , investigating and reviewing costs charged to grant, verifying grant compliance, and coordinating with Human Services staff on a monthly basis to monitor the grant budget.
4	Program Administrator	300	\$ 7,500	\$ -		\$ 7,500	\$ -	Responsible for program administration, overseeing the progress of the program, Program Coordinator, and Program Assistant.
5	Program Coordinator	1000	\$ 20,698	\$ -		\$ -	\$ 20,698	Oversees the expansion of the Healthy Montclair Coalition objectives, including facilitation of coalition meetings, responsible for planning, organizing, and coordinating the daily functions of the program; coordinating farmers markets; initiates and makes contact with community groups, public agencies, and other institutions to facilitate the implementation of the program; and serves as coordinator of services. (1000 hours x \$15.49 per hour = \$15,490, \$15,490.00 x .09% [Administrative Overhead] = \$1,841.00)
6	Health Education Specialist	1560	\$ 40,272	\$ -		\$ -	\$ 40,272	Responsible for teaching and administering the classes part of the Healthy Living Program, distributing vouchers to successful program participants, overseeing the Por La Vida Consejeras, and contributing to the expansion and promotion of the Healthy Montclair Coalition.

BUDGET NARRATIVE - SALARIES & BENEFITS

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Position	Hours per Fiscal Year	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe position duties)
7	Program Assistant	1000	\$ 14,743	\$ -		\$ -	\$ 14,743	Responsible for assisting the Program Coordinator and Program Administrator, data entry, data collection and contributing to the expansion and promotion of the Healthy Montclair Coalition.
TOTAL SALARIES			\$ 110,851	\$ -		\$ 35,138	\$ 75,713	

Line	Listing of Covered Benefits	Total	Other	Other Funding	Donated	First 5 Costs	Narrative
31		\$ 36,534	\$ -		\$ 13,011	\$ 23,523	Full-time personnel benefits are calculated up to 45% of salaries; Part-time personnel benefits include Medicare (1.45%) and Social Security (\$6.2%)
TOTAL SALARIES & BENEFITS		\$ 147,385	\$ -		\$ 48,149	\$ 99,236	

BUDGET NARRATIVE - SERVICES & SUPPLIES

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Service/Supply	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe need for services/supplies)
1	PROGRAM MATERIALS/SUPPLIES	\$ 1,000	\$ -		\$ -	\$ 1,000	Program/educational materials to support the Healthy Living Program.
2	PARTICIPANT SUPPORT/INCENTIVES	\$ 7,500	\$ -		\$ -	\$ 7,500	Farmers Market Vouchers for Healthy Living Program participants (\$25 per month).
3	PARTICIPANT TRANSPORTATION	\$ -	\$ -		\$ -	\$ -	
4	FOOD EXPENSE FOR CLASSES/MEETINGS	\$ 7,000	\$ -		\$ -	\$ 7,000	Food for meetings of the Healthy Cities Coalition and Community Garden planning meetings conducted by Program Coordinator; Catering for West End Health Summit attendees.
5	STAFF DEVELOPMENT/TRAINING	\$ -	\$ -		\$ -	\$ -	
6	EMPLOYEE MILEAGE/TRAVEL	\$ 3,000	\$ -		\$ -	\$ 3,000	Mileage for Program Coordinator related to project and meetings.
7	ADVERTISEMENTS	\$ 2,000	\$ -		\$ 1,500	\$ 500	Advertisements and outreach for the Healthy Cities Coalition, Healthy Living Program, and Health Summit
8	PRINTING	\$ 3,500	\$ -		\$ 1,150	\$ 2,350	Publication of materials pertaining to the project implementation and instruction. \$1,150.00 in-kind from the City of Montclair
9	POSTAGE	\$ 1,500	\$ -		\$ 850	\$ 650	Invitations to all organizations eligible to participate in the Healthy Cities Coalition. \$850.00 in-kind contribution from the City of Montclair.
10	SUBSCRIPTIONS	\$ -	\$ -		\$ -	\$ -	
11	OFFICE SUPPLIES	\$ 3,700	\$ -		\$ 200	\$ 3,500	Supplies for Program Administrator and Program Coordinator to conduct administrative functions of the program, including, but not limited to: data collection and analysis, record-keeping, and follow-up activities.
12	OFFICE EQUIPMENT	\$ -	\$ -		\$ -	\$ -	
13	RENT/LEASE BUILDING	\$ -	\$ -		\$ -	\$ -	
14	BUILDING/EQUIPMENT MAINTENANCE	\$ -	\$ -		\$ -	\$ -	

BUDGET NARRATIVE - SERVICES & SUPPLIES

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Service/Supply	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe need for services/supplies)
15	UTILITIES	\$ -	\$ -		\$ -	\$ -	
16	INSURANCE / TAXES / LICENSES	\$ -	\$ -		\$ -	\$ -	
17	PROFESSIONAL SERVICES - SUBTOTAL	\$ 25,350	\$ -		\$ -	\$ 25,350	"Por La Vida" consejeras will provide interpretation services for program activities and program assistance for Healthy Living Program classes (\$5,350). Community Garden Intern will oversee initial implementation of a community garden/fruit park in Montclair (\$20,000).
18	INDIRECT COSTS (AS APPROVED)	\$ -	\$ -		\$ -	\$ -	
TOTAL SERVICES & SUPPLIES		\$ 54,550	\$ -		\$ 3,700	\$ 50,850	

BUDGET NARRATIVE - SUBCONTRACTORS

AGENCY NAME City of Montclair

CONTRACT # SI006 A1

Line	Subcontractor	Total Program Costs	Other Funding	Other Funding Sources	Donated Resources	First 5 Costs	Narrative (Please describe need for subcontractors)
1	No Subcontractors	\$ -	\$ -	-	\$ -	-	
2		\$ -	\$ -	-	\$ -	-	
3		\$ -	\$ -	-	\$ -	-	
4		\$ -	\$ -	-	\$ -	-	
5		\$ -	\$ -	-	\$ -	-	
6		\$ -	\$ -	-	\$ -	-	
7		\$ -	\$ -	-	\$ -	-	
8		\$ -	\$ -	-	\$ -	-	
9		\$ -	\$ -	-	\$ -	-	
10		\$ -	\$ -	-	\$ -	-	
TOTAL SUBCONTRACTORS		\$ -	\$ -	-	\$ -	-	



PROGRAM OUTLINE DOCUMENT

AGENCY INFORMATION:

Legal Entity: City of Montclair Contract # SI006 A1
Dept./Division: Human Services Phone #: (909) 625-9453
Project Name: West End Healthy Cities Coalition Fax #: (909) 399-9751
Project
Address: 5111 Benito Street Mailing Address: Same
Montclair, CA 91763
Website: www.cityofmontclair.org

PROGRAM CONTACT:

Name: Marcia Richter Phone #: (909) 625-9453
Title: Assistant Director of Human Services Fax #: (909) 399-9751
Email: mrichter@cityofmontclair.org

FISCAL CONTACT:

Name: Donald L. Parker Phone #: (909) 625-9418
Title: Finance Director Fax #: (909) 621-1584
Email: dparker@cityofmontclair.org

CONTRACT REPRESENTATIVE:

Name: Miguel Garcia Phone #: (909) 625-9417
Title: Economic Development Coordinator Fax #: (909) 621-1584
Email: mgarcia@cityofmontclair.org

ADDITIONAL CONTACT:

Name: Kay Fangerow Phone #: (909) 625-9464
Title: Program Administrator Fax #: (909) 399-9751
Email: kfangerow@cityofmontclair.org

TYPE OF AGENCY:

- | | |
|--|---|
| <input type="checkbox"/> School Districts
<input type="checkbox"/> K-8 <input type="checkbox"/> K-12 | <input type="checkbox"/> County/State Educational Institution |
| <input type="checkbox"/> Community Based Organization | <input type="checkbox"/> Faith Based Organization |
| <input type="checkbox"/> County Government Agency | <input checked="" type="checkbox"/> Other Government Agency |
| <input type="checkbox"/> Private Entity/Institution
<input type="checkbox"/> For Profit <input type="checkbox"/> Non-Profit | <input type="checkbox"/> Other - please describe: |

FIRST 5 FOCUS AREA:

- Strategies:**
- | | | | |
|--|--|--|--|
| <input type="checkbox"/> Health | <input type="checkbox"/> Education | <input type="checkbox"/> Family | <input checked="" type="checkbox"/> Community |
| <input type="checkbox"/> SART | <input type="checkbox"/> Pre-K Academy | <input type="checkbox"/> Resource Center and Case Management | <input checked="" type="checkbox"/> Healthy Cities |
| <input type="checkbox"/> Health Care Access | <input type="checkbox"/> Preschool | <input type="checkbox"/> Parent Education | <input type="checkbox"/> Systems |
| <input type="checkbox"/> Oral Health | <input type="checkbox"/> Home Visitation | Geographic location to service: <u>Montclair and west end.</u> | |
| <input type="checkbox"/> Primary Care Services | <input type="checkbox"/> Infant Toddler | | |
| <input type="checkbox"/> Perinatal | | | |
| <input type="checkbox"/> Asthma/Bronchitis | | | |
| <input type="checkbox"/> Obesity | | | |

OBJECTIVES:

1. By May 31, 2014, the City of Montclair will host a minimum of 4 Healthy Montclair Coalition Meetings.
2. By May 31, 2014, a minimum of 25 families will participate in the Healthy Living Program.
3. By June 30, 2014, The City of Montclair will host a minimum of 8 Farmers' Markets.
4. By June 30 2014, the City of Montclair will Host one West End Health Summit.
5. By June 30, 2014, the City of Montclair will host a minimum of 2 Planning meetings for development of a Community Garden &/or Fruit Park.

INVESTMENT:

Year	Amount
2012 - 2013	\$ <u>90,500</u>
2013 - 2014	\$ <u>180,018</u>
2014 - 2015	\$ <u>150,086</u>
TOTAL	\$ <u>420,604</u>

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 13-43 WITH THE LIQUIDATION
COMPANY FOR THE PUBLIC SALE OF
SURPLUS AND UNCLAIMED PROPERTY

DATE: June 17, 2013

SECTION: AGREEMENTS

ITEM NO.: 7

FILE I.D.: EQS052

DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-43 with the Liquidation Company for the public sale of surplus and unclaimed property.

A copy of proposed Agreement No. 13-43 is attached for the City Council's review and consideration.

BACKGROUND: The Police Department has used The Liquidation Company as an alternate auction source to dispose of surplus City property and unclaimed property in Police custody several times each year. The frequency of these auctions has significantly remedied issues related to handling and storage of this property as well as curtailed Police and Finance personnel costs associated with inventorying, tagging, selling, and bookkeeping procedures. The auctioneer works with other public agencies in the auction of surplus and unclaimed property. The Liquidation Company periodically collects the City's surplus and unclaimed property and stores it until a combined agency auction can be held. Although auctions are held a number of times throughout the year, they are sizable enough to draw a wider turnout than the City could on its own.

Proposed Agreement No. 13-43 authorizes The Liquidation Company to administer the entire auction process once it takes possession of the property.

FISCAL IMPACT: The City Council's approval of Agreement No. 13-43 would authorize the auctioneer to receive a standard fee of 35 percent of gross sales.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-43 with The Liquidation Company for the public sale of surplus and unclaimed property.

Prepared by:

Sharon Agajanian

Reviewed and
Approved by:

M. D. [Signature]

Proofed by:

Presented by:



10012 CITRUS AVENUE
 FONTANA, CA 92335
 888-700-0523

AGREEMENT

This agreement dated the 1st day of July, 2013 in the County of San Bernardino, State of California, by and between **City of Montclair** hereinafter referred to as SELLER, and **The Liquidation Company** hereinafter referred to as AUCTIONEER.

This Agreement is to conduct an unreserved auction for the sale of all board approved surplus property to the SELLER'S needs either through offsite auctions, online at TLCAuctions.com or at eBay.com

1. For all the services, which AUCTIONEER is obligated to perform under the terms of this Agreement, the SELLER shall pay to the AUCTIONEER a standard Seller's Fee of 35 percent of gross sales. AUCTIONEER shall provide a check made payable to **City of Montclair** of net proceeds of auction. The check shall be delivered to SELLER no later than thirty (30) working days after the sale and removal of sold items.
2. The duty of the AUCTIONEER shall be to serve as AUCTIONEER and to provide the necessary additional team members to solicit and receive bids on property offered for sale and to award said property to the highest qualified bidder. AUCTIONEER has a security bond (#70611286) on file with the State of California. AUCTIONEER is also licensed by the State of California Cal Recycle Program for the collection of electronic waste (#102618). AUCTIONEER shall perform all other duties in regards to such sales, including but not limited to transportation of surplus items, tagging, inventorying, set-up, advertising, telemarketing, clerking, cashiering, DMV paperwork (if applicable), bookkeeping and all other related functions.
3. AUCTIONEER shall be an independent contractor retained by the SELLER for the aforementioned purpose. Employees of the AUCTIONEER will not be considered for any reason to be employees of the SELLER.
4. It shall be the responsibility of the AUCTIONEER to obtain, at the AUCTIONEER'S expense, all required licenses and permits necessary to perform under this Agreement. SELLER warrants that they are the owner of and have merchantable title to the items of surplus property offered for sale as set forth in this agreement, and grants to the AUCTIONEER the right to convey a merchantable title to that property to the successful buyer at the auction. SELLER shall offer all board approved surplus property to AUCTIONEER. In the event SELLER provides a listing of surplus items, said list will be made an integral part of this Agreement as Addendum "A". No items shall be removed from Addendum "A" less than four days prior to the scheduled auction date.

5. AUCTIONEER shall comply with all Federal, State, and County safety, environmental, and sanitation laws and regulations.
6. In the case of dispute, the laws of the State of California and the County of San Bernardino shall apply.
7. Non-discrimination in the performance of the terms of this Agreement: AUCTIONEER agrees that he will not engage in or permit subcontractors where applicable, as he may employ, from engaging in discrimination in employment of persons because of race, color, sex, religion, ancestry or national origin.
8. AUCTIONEER shall have the right but not the obligation to charge buyers a "BUYERS PREMIUM" or surcharge not to exceed thirteen percent (13%), the full amount of which AUCTIONEER will be entitled.
9. AUCTIONEER shall provide SELLER with the selling price for each lot sold.
10. With this signed agreement SELLER hereby appoints AUCTIONEER as their attorney in fact, to complete all necessary DMV documents as needed, to transfer ownership as required by law of the items sold pursuant to this agreement.
11. The term of this agreement shall be for a period of one year ending on the 30th of June, 2014. The SELLER or AUCTIONEER have the right to terminate this agreement at any time after thirty (30) days prior written notice specifying the desired date of termination.

The parties hereto have executed this Agreement on the 1st day of July, 2013.

BY: _____

BY: _____

DATE: _____

DATE: _____

The Liquidation Company

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-44 WITH THE COUNTY OF SAN BERNARDINO FOR ALLOCATION AND EXPENDITURE OF JUSTICE ASSISTANCE GRANT PROGRAM FUNDS TO PURCHASE MOBILE COMMAND TRAILER	DATE: June 17, 2013
	SECTION: AGREEMENTS
	ITEM NO.: 8
	FILE I.D.: PDT362
CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE MONTCLAIR CITY COUNCIL	DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-44 with the County of San Bernardino for allocation and expenditure of Justice Assistance Grant (JAG) Program funds to purchase a mobile command trailer.

A copy of proposed Agreement No. 13-44 is attached for the City Council's review and consideration.

BACKGROUND: The Police Department has been notified it is eligible to receive a \$14,413 JAG Program award. The JAG Program requires that the state's allocation for municipal agencies in the region be distributed and administered directly through San Bernardino County. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, shall disburse appropriate grant allocations to eligible jurisdictions, less a 5 percent administrative fee as allowable under JAG guidelines. Such appropriations must be made within 70 days of receipt of grant funds by the JAG Program administrator.

JAG moneys are for the exclusive use of law enforcement services and programs. These funds shall supplement existing services and shall not be used to supplant any existing funding for law enforcement services.

The Police Department is requesting current funding be appropriated to purchase a mobile command trailer (MCT) for the Police Department. The MCT would serve law enforcement, the impound storage lot, and community functions alike.

The MCT would be a self-contained 20 to 24-inch hitch-towed command center, which would serve a myriad of functions for the Police Department and the Montclair community. The unit would have distinct markings identifying the vehicle as a Montclair Police Command Vehicle. The MCT would provide support to police personnel both as shelter and operability during emergencies, disasters, and major investigations. These uses include, but are not limited to, critical incidents, major traffic collision investigations, checkpoints, pre-planned events, active shooter investigations, and civil unrest events. The MCT is capable of housing dispatchers, supervisors, City staff members, and officers alike during these major events.

Prepared by: <u>J. Reed</u>	Reviewed and Approved by: <u>A. deMoet</u>
Proofed by: <u>Sharon Aguirre</u>	Presented by: <u>James J. Sturt</u>

An alternate and frequent use of the MCT would be its use at the Police Impound Lot for City employees responsible for the operation of frequent vehicle auctions that occur at the location. The MCT has the ability to be connected to shore power at the impound lot. It would be connected to City phone and computer lines, which would aid in communication and streamline auction and vehicle release processes. This alternate use for the MCT would alleviate the need to build or purchase a structure for the impound lot, which has recently been considered. When not in use, the MCT would be stored at the Police impound lot.

Another important function of the MCT would be its use during community functions. The MCT would be brought to several community events taking place in the City throughout the year. The MCT would represent the Police Department at events such as National Night Out, the Country Fair Jamboree, cancer awareness functions, City school functions, and it would also be used as a Department recruitment vehicle. Members of the community would be welcome to contact Department employees at the window of the MCT for questions, informational handouts, and to report suspicious activities.

The MCT would easily be attached and detached from its tow vehicle, which would free the tow vehicle for alternative uses. Using future funding from alternative sources, the MCT would be fully outfitted with add-on equipment. The MCT would be equipped with items such as air conditioning/heating, police radios, a mobile data terminal, running water, and restroom. Additional equipment would include a retractable shade awning; exterior lighting; and ability for the rear of the vehicle to be opened up to store larger items, such as small vehicles; motorcycles; bicycles, and storage of portable awnings, tables, and promotional items.

FISCAL IMPACT: Approval of proposed Agreement No. 13-44 would result in a \$13,643 JAG Program fund allocation to the Police Department Fiscal Year 2013-14 Budget. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, would retain a 5 percent administrative fee of \$770.

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

1. Approve Agreement No. 13-44 with the County of San Bernardino for allocation and expenditure of Justice Assistance Grant Program funds to purchase a mobile command trailer.
2. Authorize the City Manager to sign the Agreement on behalf of the Montclair City Council.

INTERLOCAL AGREEMENT
BETWEEN THE TOWN OF APPLE VALLEY, THE CITIES OF ADELANTO, BARSTOW, CHINO,
COLTON, FONTANA, HESPERIA, HIGHLAND, MONTCLAIR, ONTARIO, RANCHO CUCAMONGA,
REDLANDS, RIALTO, SAN BERNARDINO, UPLAND, VICTORVILLE,
AND THE COUNTY OF SAN BERNARDINO, CA

CONCERNING DISTRIBUTION OF THE
2013 JUSTICE ASSISTANCE GRANT AWARD

This Agreement is made and entered into this ____ day of _____, 2013, by and between THE COUNTY OF SAN BERNARDINO, acting by and through its governing body, the Board of Supervisors (hereinafter referred to as "COUNTY"), and the aforementioned TOWN (hereinafter referred to as "TOWN") and named CITIES (hereinafter referred to as "CITIES"), acting by and through their respective governing bodies, the Town Council and City Councils, all of whom are situated within the County of San Bernardino, State of California, as follows:

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected on Appendix 1 here attached and hereby incorporated by reference as part of this agreement; and COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of TOWN's and CITIES' programs during the entire permissible duration of said programs; and TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with JAG guidelines; and TOWN and CITIES each agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected on Appendix 1 for administrative fees toward the administration of this program; and additionally the TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines, and that the interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines; and

WHEREAS, the TOWN, CITIES and COUNTY believe it to be in their best interests to reallocate the JAG funds,

NOW THEREFORE, the COUNTY and TOWN and CITIES agree as follows:

Section 1.

COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected in Appendix 1 here attached and hereby incorporated by reference as part of this Agreement, and; COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of the TOWN's and CITIES' programs during the entire permissible duration of said programs.

Section 2.

TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with the JAG guidelines; and TOWN and CITIES agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected in Appendix 1, for administrative fees toward the administration of this program, and; TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines and that all interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines.

Section 3.

TOWN and CITIES agree to enter into a sub-award grant agreement with the COUNTY in order to acknowledge receipt of the federal award information and applicable compliance requirements, including special conditions for each sub-award, before receiving grant funds.

Section 4.

TOWN and CITIES agree to provide COUNTY with sufficient timely information as necessary within five business days after receiving written request from COUNTY to meet JAG requirements for quarterly and annual financial and performance reports.

Section 5.

Nothing arising from this Agreement shall impose any liability for claims or actions against COUNTY other than what is authorized by law.

Section 6.

Nothing arising from this Agreement shall impose any liability for claims or actions against TOWN and/or CITIES other than what is authorized by law.

Section 7.

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable to any other party to this Agreement for any claim or action arising from the services provided under this Agreement.

Section 8.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 9.

By entering into this Agreement, the parties do not intend to create any obligations, either express or implied, other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

WHEREFORE, all parties freely and voluntarily agree to all of the above terms.

TOWN OF APPLE VALLEY, CA

COUNTY OF SAN BERNARDINO, CA

City Manager

Janice Rutherford
Chair, County Board of Supervisors

ATTEST:

ATTEST:

City Clerk

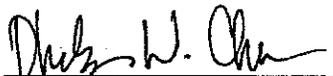
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

*Jean-Rene Basle
County Counsel



by: Phebe W. Chu, Deputy

*By law, the County Counsel's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our clients. Our approval of this document was offered solely for the benefit of our clients. Other parties should not rely on this approval and should seek review and approval by their own respective attorneys.

**2013 Justice Assistance Grant
APPENDIX 1**

Jurisdiction	Formula-based Allocation	5% Admin Fee	Award Amount
San Bernardino County	\$ 84,728	\$ (4,542)	\$ 80,186
Adelanto	\$ 17,205	\$ (894)	\$ 16,311
Apple Valley	\$ 15,504	\$ (1,013)	\$ 14,491
Barstow	\$ 15,809	\$ (993)	\$ 14,816
Chino	\$ 17,255	\$ (808)	\$ 16,447
Colton	\$ 14,743	\$ (845)	\$ 13,898
Fontana	\$ 59,328	\$ (3,178)	\$ 56,150
Hesperia	\$ 22,584	\$ (1,099)	\$ 21,485
Highland	\$ 18,727	\$ (943)	\$ 17,784
Montclair	\$ 14,413	\$ (770)	\$ 13,643
Ontario	\$ 47,071	\$ (2,869)	\$ 44,202
Rancho Cucamonga	\$ 24,741	\$ (1,377)	\$ 23,364
Redlands	\$ 17,078	\$ (932)	\$ 16,146
Rialto	\$ 38,545	\$ (2,042)	\$ 36,503
San Bernardino	\$ 136,850	\$ (7,167)	\$ 129,683
Upland	\$ 11,622	\$ (674)	\$ 10,948
Victorville	\$ 54,557	\$ (2,745)	\$ 51,812
Total	\$ 610,760	\$ (32,891)	\$ 577,869

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-45 WITH LIEBERT CASSIDY WHITMORE FOR PARTICIPATION IN THE EAST INLAND EMPIRE EMPLOYMENT RELATIONS CONSORTIUM

DATE: June 17, 2013

SECTION: AGREEMENTS

ITEM NO.: 9

FILE I.D.: PER250

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City's current Agreement with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium (ERC) is scheduled for renewal on July 1, 2013. The City Council is requested to consider approval of proposed Agreement No. 13-45 with Liebert Cassidy Whitmore, a copy of which is attached for the City Council's review and consideration.

BACKGROUND: For the past 25 years, the City of Montclair has participated in the Liebert Cassidy Whitmore ERC. The City's participation entitles elected officials and employees to receive five one-day group training sessions, unlimited free telephone consultations with the law firm's attorneys, and a monthly employment-relations newsletter. Participating agencies may also receive specialized training for an added cost.

The term of proposed Agreement No. 13-45 is July 1, 2013, through June 30, 2014.

FISCAL IMPACT: The annual fee for participation in the Consortium is \$2,654. Funds to cover the cost of the training sessions and consulting service are included in the Fiscal Year 2013-14 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-45 with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium.

Prepared by:

Gary E. Chandler

Reviewed and
Approved by:

[Signature]

Proofed by:

[Signature]

Presented by:

[Signature]

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the City of Montclair, A Municipal Corporation, hereinafter referred to as "Agency," and the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation, hereinafter referred to as "Attorney."

WHEREAS Agency has the need to secure expert training and consulting services to assist Agency in its relations and negotiations with its employee organizations; and

WHEREAS Agency has determined that no less than seventeen (17) public agencies in the East Inland Empire area have the same need and have agreed to enter into identical agreements with Attorney; and

WHEREAS Attorney is specially experienced and qualified to perform the special services desired by the Agency and is willing to perform such services;

NOW, THEREFORE, Agency and Attorney agree as follows:

Attorney's Services:

During the year beginning July 1, 2013, Attorney will provide the following services to Agency (and the other aforesaid public agencies):

1. Five (5) days of group training workshops covering such employment relations subjects as management rights and obligations, negotiation strategies, employment discrimination and affirmative action, employment relations from the perspective of elected officials, performance evaluation (administering evaluations), grievance and discipline administration for supervisors and managers, planning for and responding to concerted job actions, current court, administrative and legislative developments in personnel administration and employment relations, etc., with the specific subjects covered and lengths of individual workshop presentations to be determined by Agency and the other said local agencies.

It is expressly understood that the material used during these presentations, including written handouts and projected power points are provided solely for the contracted workshops. This agreement warrants there will be no future use of Liebert Cassidy Whitmore material in other trainings or formats without the expressed written permission of Liebert Cassidy Whitmore. Any such use will constitute a violation of this agreement and copyright provisions.

2. Availability of Attorney for Agency to consult by telephone.
3. Providing of a monthly newsletter covering employment relations developments.

Fee:

Attorney will provide these special services to Agency for a fee of Two Thousand Six Hundred Fifty Four Dollars (\$2,654.00) payable in one payment prior to August 1, 2013. The fee, if paid after August 1, 2013 will be \$2,754.00.

Said fee will cover Attorney's time in providing said training and consultative services and the development and printing of written materials provided to attendees at the training programs.

Additional Services:

Attorney shall, as and when requested by Agency, make itself available to Agency to provide representational, litigation, and other employment relations services. The Agency will be billed for the actual time such representation services are rendered, including reasonable travel time, plus any necessary costs and expenses authorized by the Agency.

The range of hourly rates for Attorney time is from One Hundred Eighty to Three Hundred Dollars (\$180.00 - \$300.00) per hour for attorney staff and from Seventy to One Hundred Forty Dollars (\$70.00 - \$140.00) per hour for services provided by paraprofessional and litigation support staff. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour. Communications advice (telephone, voice-mail, e-mail) is billed in a minimum increment of three-tenths (.30) of an hour. Attorney reviews its hourly rates in an annual basis and if appropriate, adjusts them effective July 1.

Independent Contractor:

It is understood and agreed that Attorney is and shall remain an independent contractor under this Agreement.

Term:

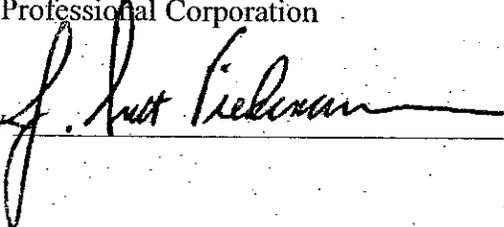
The term of this Agreement is twelve (12) months commencing July 1, 2013. The term may be extended for additional periods of time by the written consent of the parties.

Condition Precedent:

It is understood and agreed that the parties' aforesaid rights and obligations are contingent on no less than seventeen (17) local agency employers entering into a substantially identical Agreement with Attorney on or about July 1, 2013.

Dated: _____

LIEBERT CASSIDY WHITMORE
A Professional Corporation

By  _____

Dated: _____

CITY OF MONTCLAIR
A Municipal Corporation

By _____
Paul M. Eaton, Mayor

Dated: _____

By _____
Yvonne L. Smith, Deputy City Clerk

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 13-46 WITH MERCHANTS BUILDING MAINTENANCE FOR CUSTODIAL SERVICES	DATE:	June 17, 2013
		SECTION:	AGREEMENTS
		ITEM NO.:	10
		FILE I.D.:	CVC060
		DEPT.:	PUBLIC WORKS

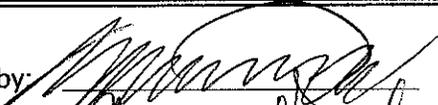
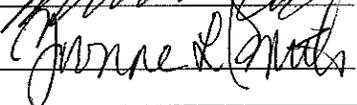
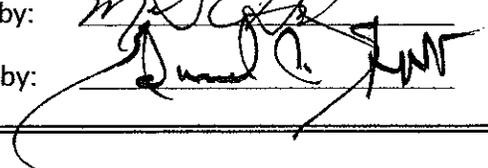
REASON FOR CONSIDERATION: The City's current custodial services are provided by Merchants Building Maintenance through Agreement No. 12-44 approved by the City Council on June 18, 2012, and through Agreement No. 12-78 approved by the City Council on September 4, 2012. Both Agreement No. 12-44 and Agreement No. 12-78 expire on June 30, 2013. The City Council is requested to consider approval of Agreement No. 13-46 with Merchants Building Maintenance for continued custodial services at the Montclair Police Facility, Civic Center buildings, and the Kids Station Day Care Center located at the Montclair Transcenter. A copy of proposed Agreement No. 13-46 is attached for the City Council's review and consideration

BACKGROUND: As of Fiscal Year 2012-13 the City of Montclair no longer employs any full-time custodians. The City of Montclair currently employs one part-time Senior Custodian whose primary duties are to set up for meetings held at City Hall and to perform miscellaneous tasks at the Civic Center and the Police Facility. The Fire Department cleans its two buildings with Fire Department personnel. The Police Department facility, Senior Center, and Youth Center have added over 51,000 square feet of area that needs to be cleaned by the City. Unfortunately, the City has lacked the financial ability to clean all Civic Center facilities and the Police Department facility adequately. As a result, in fiscal year 2012-13 the City of Montclair contracted out all custodial services with the exception of both Fire Stations.

Proposed Agreement No. 13-46 is a three-year agreement beginning on July 1, 2013, expiring on June 30, 2016. The Agreement provides that either party may terminate the Agreement without cause when either party is given a 30-day written notice.

FISCAL IMPACT: The annual cost to provide custodial services for the Police Department Facility, Civic Center Facilities, and the Kids Station Day Care Center is \$146,696.88. The Fiscal Year 2013-14 includes \$175,000 for this work. There is a possibility that the contract may be amended at some point during the year to provide additional supervision of the custodians by Merchants Building Maintenance. Should this amendment be necessary, no additional funds will need to be appropriated.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-46 with Merchants Building Maintenance for Custodial Services.

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

**AN AGREEMENT BY AND BETWEEN THE CITY OF
MONTCLAIR AND MERCHANTS BUILDING
MAINTENANCE FOR CUSTODIAL SERVICES.**

THIS AGREEMENT, made and entered into this 1st day of July, 2013, by and between the CITY OF MONTCLAIR, a Municipal Corporation, County of San Bernardino, State of California, hereinafter referred to as "CITY," and MERCHANTS BUILDING MAINTENANCE, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

SECTION I

The CONTRACTOR, in consideration of the promises of the CITY hereinafter set forth, hereby agrees to furnish all tools, equipment, materials, labor, and transportation necessary to perform and complete the terms of this Agreement and to faithfully perform and maintain in a good and workmanlike manner the scope of maintenance services on the areas as set forth and listed in Exhibit "A" to this Agreement.

SECTION II

This Agreement is for a period of three years from the date herein above set forth subject to the right of either party to terminate this Agreement without cause by giving a minimum of thirty (30) days' written notice to the other of such cancellation. After the term of this three year Agreement, if agreeable to both the City and CONTRACTOR, this Agreement may be extended for two additional three-year terms.

SECTION III

All of the work and services to be performed pursuant to this Agreement shall be performed in a good and workmanlike manner. CONTRACTOR shall invoice CITY within seven calendar days of the end of the month. Payment for said work shall be made in accordance with Exhibit "B" and based upon the items of work performed that month. Payments shall be made within 30 calendar days of receipt of monthly invoice. The scheduled items of work to be completed by CONTRACTOR are detailed in Exhibit "A."

Payment of additional services requested, in writing, by CITY and not included in the scope of services as set forth in the Agreement shall be performed by the CONTRACTOR at a negotiated price. This negotiated price shall include labor, equipment, overhead, and profit. Charges for additional services shall be included on the monthly invoice and shall be paid by the CITY within 30 calendar days of receipt. CONTRACTOR shall not be compensated for any additional services unless such additional services are authorized in advance and in writing by the City Manager. In the event the CITY desires to delete a maintenance area from the scope of service, the parties shall negotiate a reduced price which shall become effective immediately.

SECTION IV

The CONTRACTOR shall defend, indemnify, and hold harmless the CITY, its elected and appointed officials, officers, agents, and employees from any and all claims, losses, damages, injuries, and liabilities arising from the death or injury of any person or persons (including CONTRACTOR's employees, agents, and subcontractors), or from the damage, destruction, or theft of any property or properties, including any and all legal costs and attorney fees, caused by or connected with the performance of this Agreement by CONTRACTOR or CONTRACTOR's employees, agents, or subcontractors.

SECTION V

The CONTRACTOR shall furnish a Certificate of Deposit as surety in the amount equal to CONTRACTOR's monthly compensation and it shall be in the name of the City of Montclair with all interest payments to the CONTRACTOR. The certificate shall remain in force for the term of this Agreement. In the event CONTRACTOR's monthly compensation increases, the Certificate of Deposit shall be increased in like amount. The Certificate of Deposit must be on file with the Facilities and Grounds Superintendent before the CONTRACTOR will be permitted to begin his maintenance operations. CITY shall be authorized to withdraw from said deposit any and all sums necessary to compensate CITY for losses or damages incurred by CITY caused by or connected with the performance of this Agreement by CONTRACTOR or CONTRACTOR's employees, agents, or subcontractors.

SECTION VI

The CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to the CITY nor shall the CONTRACTOR allow any employee to commence work on the maintenance services subject to this Agreement until all insurance required has been obtained. The CONTRACTOR shall take out and maintain, at all times during the term of this Agreement, the policies of insurance as set forth hereinafter.

SECTION VII

Workers' Compensation Insurance: Before beginning work, the CONTRACTOR shall furnish the CITY a Certificate of Insurance as proof that it has taken out full Workers' Compensation Insurance for all persons whom it may employ directly or through subcontractors in carrying out the work specified herein in accordance with the State of California.

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

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

Fidelity Bond – CONTRACTOR shall carry and continuously maintain a Fidelity Bond or Crime Insurance that provides coverage for CONTRACTOR (its directors, officers, employees,

and agents), and any subcontractor of the CONTRACTOR (altogether, "CONTRACTOR Employees") who render services or products connected with the performance of this Agreement. The bond/policy shall with respect to the property of the CITY include coverage for any dishonest act of CONTRACTOR's employees, agents, and subcontractors including, but not limited to, larceny, theft, embezzlement, transfer of funds (electronic or otherwise) forgery, misappropriation, wrongful abstraction, or willful misapplication, whether CONTRACTOR Employees acted alone or in collusion with others. Such insurance must cover (i) property of CONTRACTOR; (ii) property of others, which CONTRACTOR holds in its care, custody, and control; and (iii) property of others for which CONTRACTOR is legally liable.

This insurance shall be in the minimum amount of \$1,000,000 and shall include a Third Party or Client Coverage Endorsement. Any deductible under this policy shall be the responsibility of CONTRACTOR. In addition, the coverage shall contain no requirement for arrest and convictions and shall cover loss outside the premises of the CONTRACTOR's Named Insureds. CONTRACTOR must endorse the policy to name the CITY as a Loss Payee.

SECTION VIII

Throughout the term of this Agreement, at the CONTRACTOR's sole cost and expense, the CONTRACTOR shall keep, or cause to be kept, in full force and effect for the mutual benefit of the CITY and the CONTRACTOR comprehensive, broad form, general public liability, and automobile insurance against claims and liabilities for personal injury, death, or property damage arising from the CONTRACTOR's activities, providing protection of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person and Three Million Dollars (\$3,000,000) for any one accident or occurrence and at least One Million Dollars (\$1,000,000) for property damage.

SECTION IX

All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California and policies required under Section VIII shall name, as additional insured, the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer, insured, and all subcontractors waive the right of subrogation against the CITY, its elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by the CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days written notice by the insurer to the CITY by certified mail. The CONTRACTOR shall furnish the CITY with copies of all such policies promptly upon receipt of them or certificate evidencing the insurance. The CONTRACTOR may effect for its own account insurance not required under this Agreement.

SECTION X

The CONTRACTOR shall, before any work begins, obtain and maintain the following: City of Montclair Business License.

SECTION XI

The Facilities and Grounds Superintendent, or his/her designated representative, shall be the judge of all work performed and shall approve all material provided by the CONTRACTOR before it is used. If the work is not satisfactory, the Facilities and Grounds Superintendent, or his/her designated representative, may suspend the Agreement for any

period of time or terminate the Agreement as set forth herein. No sums shall be due or payable to the CONTRACTOR for or during any time of such suspension or after termination.

It is further agreed that in the event the CONTRACTOR fails to furnish tools, equipment, materials, labor, or transportation in the necessary quantity or quality or fails to prosecute the work or any part thereof, the Facilities and Grounds Superintendent or his/her designated representative shall so certify to the City Manager of the CITY; and if thereafter the CONTRACTOR, for a period of ten (10) days after receipt of a written demand from the Facilities and Grounds Superintendent or his/her designated representative, fails to furnish tools, equipment, materials, labor, or transportation in the necessary quantity or quality and to prosecute said work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within said ten (10) days, fails to continue to do so, then the CITY may exclude the CONTRACTOR from the premises or any portion thereof, together with all materials and equipment thereon, and may complete the work contemplated by this Agreement or any portion of said work either by furnishing the tools, equipment, materials, labor, or transportation necessary therefore or by letting the unfinished portion of said work or the portion taken over by the CITY shall be a charge against the CONTRACTOR and may be deducted from any money due or becoming due to the CONTRACTOR for the CITY, or the CONTRACTOR may be compelled to pay the CITY the amount of said charge or the portion thereof unsatisfied. As used herein, the term "premises" shall include those areas and sites as set forth in SECTION XIII hereof.

SECTION XII

MISCELLANEOUS PROVISIONS

- A. **Assignment.** No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, either in whole or in part, by the CONTRACTOR without the written consent of the CITY.
- B. **Independent Contractor.** The parties hereto agree that CONTRACTOR and its employees, officers, and agents are independent contractors under this Agreement, and shall not be construed for any purpose whatsoever to be employees of the CITY.
- C. **Compliance With Laws.** The CONTRACTOR shall comply with all applicable laws in performing its obligations under this Agreement.
- D. **Discrimination.** The CONTRACTOR agrees that no person shall be excluded from employment in the performance of this Agreement on grounds of race, creed, color, sex, age, marital status, or place of national origin. In this connection, the CONTRACTOR agrees to comply with all County, State, and Federal laws related to equal employment opportunity rights.
- E. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal court with jurisdiction over the CITY.
- F. **Attorney's Fees.** In the event that any legal proceeding is instituted to enforce any term or provisions of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorney's fees and costs from the opposing party in an amount to be determined by the court to be reasonable.

G. Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any other party that is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing, signed by all parties.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the day and year first set forth herein above.

CONTRACTOR: MERCHANTS BUILDING MAINTENANCE

By: _____
Name: _____ Title: _____

Date

By: _____
Name: _____ Title: _____

Date

CITY: CITY OF MONTCLAIR

Paul M. Eaton
Mayor

Date

ATTEST:

Yvonne L. Smith
Deputy City Clerk

Date

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney

Date

EXHIBIT "A"
SCHEDULE OF WORK ITEMS

Specific Requirements by Building

The Custodial Maintenance CONTRACTOR shall be responsible for all custodial maintenance of the properties as set forth in this Agreement. Duties will include, but are not be limited to, the following:

BUILDING OPERATING HOURS AND CLEANING SCHEDULES

Due to the nature of the various building types and the schedules the following schedule shall apply to all facilities as listed below:

Youth Center

1. Operation Monday thru Friday 6 AM to 9 PM
2. Cleaning shall occur between the hours of 9 PM and 6 AM – Monday thru Friday

Senior Center

1. Operation Monday thru Friday 6 AM to 6 PM
2. Cleaning shall occur between the hours of 6 PM and 6 AM – Monday thru Friday

City Hall

1. Operation Monday thru Thursday 6 AM to 6 PM
2. Cleaning shall occur between the hours of 6 PM and 6 AM – Monday thru Thursday

Library

1. Operation Monday thru Saturday 6 AM to 8 PM
2. Cleaning shall occur between the hours of 8 PM and 6 AM – Monday thru Friday

Recreation Facility

1. Operation Monday thru Saturday 6 AM to 10 PM
2. Cleaning shall occur between the hours of 10 PM and 6 AM – Monday thru Friday

Police Facility

1. 24/7 Operation
2. Cleaning shall occur between the hours of 6 PM and 6 AM – Monday thru Friday

Community Center

1. Operation of this building varies weekly
2. Cleaning of this facility shall occur Monday thru Friday after facility has closed for the evening.

Kids Station

1. Operation Monday thru Friday 7 AM to 5 PM
2. Cleaning shall occur between the hours of 5 PM and 6 AM – Monday thru Friday

THE FOLLOWING PRODUCTS SHALL BE SUPPLIED BY THE CITY FOR ALL FACILITIES

- a. Toilet Tissue
- b. Paper Roll Towels

- c. Paper Multifold Towels
- d. Foam-Type Hand Soap

YOUTH CENTER

DAILY SERVICE

1. Sweep all hard-surfaced floors with either treated dust-mops or microfiber dust-mops. (Epoxy floors to be swept with bristle type broom)
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard floor surfaces.
4. Vacuum all carpet in corridors.
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
6. Empty all office trash, and recycle containers and place refuse in designated areas (replace soiled liners as required).
7. Spot-clean glass entry doors and surrounding glass inside and out.
8. Remove smudges from doors, door frames, and counters.
9. Clean and polish drinking fountains.
10. Return furniture to neat and orderly position.
11. Close and lock all doors after cleaning is complete.
12. Turn off all lights after cleaning is complete.
13. Clean spillage spots from carpets.
14. Clean staff room tables, chairs, counters and sink.
15. Dump trash and recyclables in common areas (replace soiled liners as required).
16. Clean all appliances in staff room as required.
17. Sweep, vacuum and mop staff room floor.
18. Inspect for vandalism and report to City's representative.
19. Dump trash receptacles at all building entrances. **Replace liners daily.**
20. Dump trash in all common areas (replace soiled liners as required).
21. Sweep building entrances.
22. Clean counters, floors, wash basins, floor sinks and appliances in kitchen and bar area.
23. Dump trash in kitchen and staff room.

WEEKLY SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.
3. Perform dusting of low-reach areas.
4. Detail wood work.

5. Dust office furniture including book cases, chairs, tables, etc., with treated dustcloths and feather type microfiber dusters. Individual desks shall not be dusted unless requested in advance by city personnel. Requesting employee shall remove all items from the desk top prior to dusting.
6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open flat surfaces.
10. Clean and polish café tables and chairs.

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas.

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE

1. Clean and refinish all common areas floors. (strip and wax) **(TWICE PER YEAR)**
2. Wipe down baseboards when refinishing floors.
3. All epoxy coated floor shall be scrubbed either manually with a brush or with auto scrubber to remove ground in dirt, grease, etc. **(WEEKLY)**

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. **(TWICE/YEAR)**
2. Entire interior window cleaning. **(ONE TIME/YEAR)**

CARPET CLEANING SERVICE

1. Carpet extraction. **(ANNUALLY)**

EXTERIOR SERVICE:

1. Sweep entrance approaches daily.

RESTROOM SERVICE (DAILY)

1. Empty and wipe out all wastepaper receptacles.

2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.
4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets, and urinals.
6. Spot-clean tile walls and toilet partitions.
7. Spot-clean walls around wash basins.
8. Mop all lavatory floors with germicidal solution.
9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.

RESTROOM SERVICE (WEEKLY)

1. Brush down vents.
2. Wash down ceramic tile walls and toilet compartment partitions.
3. Perform high dusting.
4. Wipe down lockers with germicidal solution.

SENIOR CENTER

DAILY SERVICE

1. Sweep all hard-surfaced floors with either treated dust-mops or micro fiber dust-mops (Epoxy floors to be swept with bristle type broom).
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard surface floors.
4. Vacuum all carpet in corridors.
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
6. Empty all office trash, and recycle containers and place refuse designated areas (replace soiled liners as required).
7. Spot-clean glass entry doors and surrounding glass inside and out.
8. Remove smudges from doors, door frames, and counters.
9. Clean and polish drinking fountains.
10. Return furniture to neat and orderly position.
11. Close and lock all doors after cleaning is complete.
12. Turn off all lights after cleaning is complete.
13. Clean spillage spots from carpets.
14. Clean staff room tables, chairs, counters and sink.
15. Dump trash and recyclables in common areas (replace soiled liners as required)
16. Clean all appliances in staff room as required.
17. Sweep, vacuum and mop staff room floor.
18. Inspect for vandalism and report to client.
19. Dump trash receptacles at all building entrances. **Replace liners daily.**
20. Dump trash in all common areas (replace soiled liners as required).
21. Sweep building entrances.
22. Clean counter, sink, floor, appliances and floor around coffee bar.
23. Clean tables and chairs in East and West Multipurpose Rooms as needed.
24. Spot mop all hard floor surfaces throughout facility needed.
25. Wet mop wood floor in lunch room.

WEEKLY SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.
3. Perform dusting of low-reach areas.

4. Detail wood work.
5. Dust office furniture including book cases, chairs, tables, etc., with treated dustcloths and feather type microfiber dusters. Individual desks shall not be dusted unless requested in advance by city personnel. Requesting employee shall remove all items from the desk top prior to dusting.
6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open flat surfaces.

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas. (Teak furniture to be wiped down with damp cloth only—"NO CHEMICALS")

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE (except wood floors)

1. Clean and refinish all common areas floors. (strip and wax) (**TWICE PER YEAR**)
2. Wipe down baseboards when refinishing floors.
3. All epoxy coated floor shall be scrubbed either manually with a brush or with auto scrubber to remove ground in dirt, grease etc. (**WEEKLY**)

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. (**TWICE/YEAR**)
2. Entire interior window cleaning. (**ONE TIME/YEAR**)

CARPET CLEANING SERVICE

1. Carpet extraction. (**ANNUALLY**)

EXTERIOR SERVICE:

1. Sweep entrance approaches daily.

RESTROOM SERVICE (DAILY)

1. Empty and wipe out all wastepaper receptacles.
2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.

4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets, and urinals.
6. Spot-clean tile walls and toilet partitions.
7. Spot-clean walls around wash basins.
8. Mop all lavatory floors with germicidal solution.
9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.

RESTROOM SERVICE (WEEKLY)

1. Brush down vents.
2. Clean ceramic tile walls and toilet compartment partitions.
3. Perform high dusting.
4. Wipe down lockers, benches with germicidal solution.

COMMERCIAL KITCHEN DAILY CLEANING

1. Drain and clean steam table.
2. Remove rubber floor mats to location designated by client, wash mats and return to kitchen.
3. Sweep and mop floor.
4. Epoxy coated floor shall be scrubbed manually with a brush or auto scrubber to removed ground in dirt and grease etc.

CITY HALL

DAILY SERVICE

1. Sweep all hard-surfaced floors with either treated dust-mops or microfiber dust-mops.
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard surface floors.
4. Vacuum all carpet in corridors and executive offices.

EXECUTIVE OFFICES:City Manager

- Director of Public Works/Redevelopment
 - Personnel Officer
 - Mayor
 - City Council
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
 6. Empty all office trash, and recycle containers and place refuse designated areas (replace soiled liners as required).
 7. Spot-clean glass entry doors and surrounding glass inside and out.
 8. Remove smudges from doors, door frames, and counters.
 9. Clean and polish drinking fountains.
 10. Return furniture to neat and orderly position.
 11. Close and lock all doors after cleaning is complete.
 12. Turn off all lights after cleaning is complete.
 13. Clean spillage spots from carpets.
 14. Clean staff room tables, chairs, counters, sink.
 15. Dump trash and recyclables in common areas (replace soiled liners as required)
 16. Clean all appliances in staff room as required.
 17. Sweep, vacuum and mop staff room floor.
 18. Inspect for vandalism and report to client.
 19. Dump trash receptacles at all building entrances. **Replace liners daily.**
 20. Dump trash in all common areas (replace soiled liners as required).
 21. Sweep building entrances.
 22. Spot-clean partition glass
 23. Clean City Manager's patio.
 - Sweep Concrete Surfaces.
 - Remove debris from top of umbrella.
 - Clean all patio furniture.

WEEKLY SOUTHEAST SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.
3. Perform dusting of low-reach areas.
4. Detail wood work.
5. Dust office furniture including book cases, chairs, tables etc with treated dustcloths and feather type microfiber dusters. Individual desks shall not be dusted unless requested in advance by city personnel. Requesting employee shall remove all items from the desk top prior to dusting.
6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open flat surfaces.

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas.
4. Clean and polish executive furniture.

EXECUTIVE OFFICES:City Manager

- Director of Public Works/Redevelopment
- Personnel Officer
- Mayor
- City Council

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE

1. Clean and refinish all common areas floors (strip and wax). (twice per year)
2. Wipe down baseboards when refinishing floors.
3. All epoxy coated floor shall be scrubbed either manually with a brush or with auto scrubber to remove ground in dirt, grease etc. (weekly)

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. **(TWICE/YEAR)**
2. Entire interior window cleaning. **(ONE TIME/YEAR)**

CARPET CLEANING SERVICE

1. Carpet extraction. **(ANNUALLY)**

RESTROOM SERVICE (DAILY)

1. Empty and wipe out all wastepaper receptacles.
2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.
4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets, and urinals.
6. Spot-clean tile walls and toilet partitions.
7. Spot-clean walls around wash basins.
8. Mop all lavatory floors with germicidal solution.
9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.

RESTROOM SERVICE (WEEKLY)

1. Brush and/or vacuum down vents.
2. Wash down ceramic tile walls and toilet compartment partitions.
3. Perform high dusting.

LIBRARY

DAILY SERVICE

1. Sweep all hard-surfaced floors with either treated dust-mops or microfiber dust-mops.
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard surface floors.
4. Vacuum all carpet in corridors, and executive offices.
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
6. Empty all office trash, and recycle containers and place refuse designated areas (replace soiled liners as required).
7. Spot-clean glass entry doors and surrounding glass inside and out.
8. Remove smudges from doors, door frames, and counters.
9. Clean and polish drinking fountains.
10. Return furniture to neat and orderly position.
11. Close and lock all doors after cleaning is complete.
12. Turn off all lights after cleaning is complete.
13. Clean spillage spots from carpets.
14. Clean staff room tables, chairs, counters, sink.
15. Dump trash and recyclables in common areas (replace soiled liners as required).
16. Clean all appliances in staff room as required.
17. Sweep, vacuum and mop staff room floor.
18. Inspect for vandalism and report to client.
19. Dump trash receptacles at all building entrances. **Replace liners daily.**
20. Dump trash in all common areas (replace soiled liners as required).
21. Sweep building entrances.
22. Spot-clean partition glass.

WEEKLY SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.
3. Perform dusting of low-reach areas.
4. Detail wood work.
5. Dust office furniture including book cases, chairs, tables etc with treated dustcloths and feather type microfiber dusters. Individual desks shall not be dusted unless requested in advance by city personnel. Requesting employee shall remove all items from the desk top prior to dusting.

6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open flat surfaces.

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas.

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE

1. Clean and refinish all common areas floors (strip and wax). (twice per year)
2. Wipe down baseboards when refinishing floors.

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. (TWICE/YEAR)
2. Entire interior window cleaning. (ONE TIME/YEAR)

CARPET CLEANING SERVICE

1. Carpet extraction. (ANNUALLY)

RESTROOM SERVICE (DAILY)

1. Empty and wipe out all wastepaper receptacles.
2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.
4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets, and urinals.
6. Spot-clean tile walls and toilet partitions.
7. Spot-clean walls around wash basins.
8. Mop all lavatory floors with germicidal solution.
9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.

RESTROOM SERVICE (WEEKLY)

1. Brush and/or vacuum down vents.
2. Wash down ceramic tile walls and toilet compartment partitions.
3. Perform high dusting.

RECREATION FACILITY

DAILY SERVICE

1. Sweep all hard-surfaced floors with either treated dust-mops or microfiber dust-mops.
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard surface floors.
4. Vacuum all carpet in corridors, and executive offices.
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
6. Empty all office trash, and recycle containers and place refuse designated areas (replace soiled liners as required).
7. Spot-clean glass entry doors and surrounding glass inside and out.
8. Remove smudges from doors, door frames, and counters.
9. Clean and polish drinking fountains.
10. Return furniture to neat and orderly position.
11. Close and lock all doors after cleaning is complete.
12. Turn off all lights after cleaning is complete.
13. Clean spillage spots from carpets.
14. Clean staff room tables, chairs, counters, sink.
15. Dump trash and recyclables in common areas (replace soiled liners as required)
16. Clean all appliances in staff room as required.
17. Sweep, vacuum and mop staff room floor.
18. Inspect for vandalism and report to client.
19. Dump trash receptacles at all building entrances. **Replace liners daily.**
20. Dump trash in all common areas (replace soiled liners as required).
21. Sweep building entrances.
22. Spot-clean partition glass.

WEEKLY SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.
3. Perform dusting of low-reach areas.
4. Detail wood work.
5. Dust office furniture including book cases, chairs, tables etc with treated dustcloths and feather type microfiber dusters. Individual desks shall not be

dusted unless requested in advance by city personnel. Requesting employee shall remove all items from the desk top prior to dusting.

6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open-flat surfaces.

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas.

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE (except wood floors)

1. Clean and refinish all common areas floors (strip and wax). (twice per year)
2. Wipe down baseboards when refinishing floors.
3. All epoxy coated floor shall be scrubbed either manually with a brush or with auto scrubber to remove ground in dirt, grease etc. (weekly)

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. (TWICE/YEAR)
2. Entire interior window cleaning. (ONE TIME/YEAR)

CARPET CLEANING SERVICE

1. Carpet extraction. (ANNUALLY)

RESTROOM SERVICE (DAILY)

1. Empty and wipe out all wastepaper receptacles.
2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.
4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets, and urinals.
6. Spot-clean tile walls and toilet partitions.
7. Spot-clean walls around wash basins.
8. Mop all lavatory floors with germicidal solution.

9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.
11. Clean and disinfect locker room benches and lockers in front of lockers.
12. Clean shower walls and floors.

RESTROOM SERVICE (WEEKLY)

1. Brush and/or vacuum down vents.
2. Wash down ceramic tile walls and toilet compartment partitions.
3. Perform high dusting.

POLICE FACILITY

DAILY SERVICE (includes shooting range office, gun cleaning room, and restroom)

1. Sweep all hard-surfaced floors with either treated dust-mops or microfiber dust-mops.
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard surface floors.
4. Vacuum all carpet in corridors, and executive offices:

EXECUTIVE OFFICES:

- **Police Chief**
 - **Captain**
 - **Lieutenants (2 offices)**
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
 6. Empty all office trash, and recycle containers and place refuse designated areas (replace soiled liners as required).
 7. Spot-clean glass entry and office doors and surrounding glass inside and out.
 8. Remove smudges from doors, door frames, and counters.
 9. Clean and polish drinking fountains.
 10. Return furniture to neat and orderly position.
 11. Close and lock all doors after cleaning is complete.
 12. Turn off all lights after cleaning is complete.
 13. Clean spillage spots from carpets.
 14. Clean staff room tables, chairs, counters, sink.
 15. Dump trash and recyclables in common areas (replace soiled liners as required)
 16. Clean all appliances in staff room as required.
 17. Sweep, vacuum and mop staff room floor.
 18. Inspect for vandalism and report to client.
 19. Dump trash receptacles at all building entrances. **Replace liners daily.**
 20. Dump trash in all common areas (replace soiled liners as required).
 21. Sweep building entrances.
 22. Spot-clean partition glass
 23. Clean Police Chief's patio and furniture.
 24. Clean holding cells, walls, floors, beds, toilet/sink, and doors.
 25. Clean jail area floor; wipe down counters.

26. Clean jail area interview room's walls, floors, and tables.
27. Clean Sally Port shower walls and floor.
28. Vacuum Dispatch Center as requested.

WEEKLY SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.
3. Perform dusting of low-reach areas.
4. Detail woodwork.
5. Dust office furniture including book cases, chairs, tables, etc., with treated dustcloths and feather-type microfiber dusters. Individual desks shall not be dusted unless requested in advance by City personnel. Requesting employee shall remove all items from the desk top prior to dusting.
6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open flat surfaces.
10. Sweep Sally Port concrete floor.

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas.
4. Clean and polish executive furniture.

EXECUTIVE OFFICES:

- **Police Chief**
- **Captain**
- **Lieutenants (2 offices)**

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE

1. Clean and refinish all common areas floors (strip and wax). (twice per year)
2. Wipe down baseboards when refinishing floors.

3. All epoxy coated floor shall be scrubbed either manually with a brush or with auto-scrubber to remove ground in dirt, grease, etc.

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. (TWICE/YEAR)
2. Entire interior window cleaning. (ONE TIME/YEAR)

CARPET CLEANING SERVICE

1. Carpet extraction. (ANNUALLY)

RESTROOM SERVICE (DAILY)

1. Empty and wipe out all wastepaper receptacles.
2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.
4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets, and urinals.
6. Spot-clean tile walls and toilet partitions.
7. Spot-clean walls around washbasins.
8. Mop all lavatory floors with germicidal solution.
9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.
11. Clean shower walls, floors, doors, curtains and partitions.
12. Clean and disinfect benches in front of lockers.

RESTROOM SERVICE (WEEKLY)

1. Brush and/or vacuum down vents.
2. Wash down ceramic tile walls and toilet compartment partitions.
3. Perform high dusting.
4. Wipe down exterior of lockers.

COMMUNITY CENTER

DAILY SERVICE

1. Sweep all hard-surfaced floors with either treated dust mops or micro fiber dust mops.
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard surface floors.
4. Vacuum all carpeted areas.
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
6. Empty all office multi purpose room trash, and recycle containers and place refuse designated areas (replace liners daily).
7. Spot-clean glass entry doors and surrounding glass inside and out.
8. Remove smudges from doors, door frames, and counters.
9. Clean and polish drinking fountains.
10. Return furniture to neat and orderly position.
11. Close and lock all doors after cleaning is complete.
12. Turn off all lights after cleaning is complete.
13. Clean spillage spots from carpets.
14. Dump trash and recyclables in common areas (replace liners daily).
15. Clean all appliances in staff room as required.
16. Inspect for vandalism and report to client.
17. Dump trash receptacles at all building entrances (replace liners daily).
18. Dump trash in all common areas and multi purpose rooms and pottery room (replace liners daily).
19. Sweep building entrances.
20. Clean tables and chairs in Multipurpose Rooms and Pottery Room as needed.
21. Spot mop all hard floor surfaces throughout facility needed.
22. Auto scrub gym floor daily (white pad).
23. Clean wet bar sinks, countertops.
24. Fill all soap and paper towel dispensers as needed.

WEEKLY SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.

3. Perform dusting of low-reach areas.
4. Detail wood work.
5. Dust office furniture including book cases, chairs, tables etc with treated dust cloths and feather type micro fiber dusters. Individual desks shall not be dusted unless requested in advance by city personnel. Requesting employee shall remove all items from the desk top prior to dusting.
6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open flat surfaces.
10. Complete wet mopping of all hard floor surfaces (except gym floor).

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas.

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE (except wood floors)

1. Clean and refinish all common areas floors. (strip and wax) (**TWICE PER YEAR**)
2. Wipe down baseboards when refinishing floors.
3. All epoxy coated floor shall be scrubbed either manually with a brush or with auto scrubber to remove ground in dirt, grease etc. (**WEEKLY**)

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. (**TWICE/YEAR**)
2. Entire interior window cleaning. (**ONE TIME/YEAR**)

CARPET CLEANING SERVICE

1. Carpet extraction. (ANNUALLY)

EXTERIOR SERVICE:

1. Sweep entrance approaches daily.

DAILY RESTROOM SERVICE

1. Empty and wipe out all wastepaper receptacles.
2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.
4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets and urinals.
6. Spot-clean tile walls and toilet partitions.
7. Spot-clean walls around wash basins.
8. Mop all lavatory floors with germicidal solution.
9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.

WEEKLY RESTROOM SERVICE

1. Brush down vents.
2. Clean ceramic tile walls and toilet compartment partitions.
3. Perform high dusting.
4. Wipe down lockers, benches with germicidal solution.

DAILY COMMERCIAL KITCHEN CLEANING

1. Remove rubber floor mats to location designated by client, wash mats and return to kitchen.
2. Sweep and mop floor.
3. Epoxy coated floor shall be scrubbed manually with a brush or auto scrubber to removed ground in dirt and grease etc.
4. Wipe down appliances.
5. Wipe down cabinets and walls.
6. Dump trash and replace liners daily.

7. Wash waste receptacles as needed.
8. Fill soap and paper dispensers as needed.

KIDS STATION

DAILY SERVICE

1. Sweep all hard-surfaced floors with either treated dust-mops or microfiber dust-mops. (Epoxy floors to be swept with bristle type broom)
2. Vacuum all building entry mats (inside and out).
3. Mop spills from all hard floor surfaces.
4. Vacuum all carpet in corridors.
5. Empty, damp-wipe clean and dry ash trays and replace sand as necessary.
6. Empty all building trash, and recycle containers and place refuse in designated areas (replace soiled liners as required).
7. Remove smudges from doors, door frames, and counters.
8. Clean and polish drinking fountains.
9. Return furniture to neat and orderly position.
10. Clean spillage spots from carpets.
11. Clean all tables, chairs, counters and sinks.
12. Dump trash and recyclables in common areas (replace soiled liners as required).
13. Clean all appliances in staff room as required.
14. Sweep, and mop staff room floor.
15. Inspect for vandalism and report to City's representative.
16. Dump trash receptacles at all building entrances. **Replace liners daily.**
17. Dump trash in all common areas (replace soiled liners as required).
18. Sweep building entrances.
19. Clean counters, floors, wash basins, floor sinks and appliances in kitchen.
20. Dump trash in kitchen and staff room.
21. Turn off all lights after cleaning is complete.
22. Set burglar alarms, close and lock all doors, after cleaning is complete.

WEEKLY SERVICE

1. Detail vacuum all carpeted areas.
2. Dust baseboards, ledges, and window sills.
3. Perform dusting of low-reach areas.
4. Detail wood work.
5. Dust office furniture including book cases, chairs, tables, etc., with treated dustcloths and feather type microfiber dusters. Individual desks shall not be dusted unless requested in advance by city personnel. Requesting employee shall remove all items from the desk top prior to dusting.

6. Spot clean painted partitions and painted walls.
7. Spot-clean all wall switches and door facings.
8. Clean entry door metal and thresholds.
9. Dust open flat surfaces.
10. Clean and sanitize all toys, individual cubbies and furniture.

MONTHLY SERVICE

1. Perform dusting of high-reach areas including partition tops, door tops, and air conditioning vents.
2. Dust picture frames.
3. Wipe down furniture in common areas.

QUARTERLY SERVICE

1. Brush or vacuum upholstered furniture.
2. Wipe down plastic and leather furniture.
3. Clean entry door metal trim.
4. Brush down or vacuum wall/ceiling vents.

HARD FLOOR SERVICE

1. Clean and refinish all common areas floors. (strip and wax) **(TWICE PER YEAR)**
2. Wipe down baseboards when refinishing floors.
3. All epoxy coated floor shall be scrubbed either manually with a brush or with auto scrubber to remove ground in dirt, grease, etc. **(WEEKLY)**

WINDOW CLEANING SERVICE

1. Entire building exterior window cleaning. **(TWICE/YEAR)**
2. Entire interior window cleaning. **(ONE TIME/YEAR)**

CARPET CLEANING SERVICE

1. Carpet extraction. **(ANNUALLY)**

EXTERIOR SERVICE:

1. Sweep entrance approaches daily.

RESTROOM SERVICE (DAILY)

1. Empty and wipe out all wastepaper receptacles.
2. Empty sanitary napkin containers and replace insert with new paper liner.
3. Polish all metal and mirrors.
4. Clean and disinfect all dispensers.
5. Clean and disinfect wash basins, toilets, and urinals.

6. Spot-clean walls and toilet partitions.
7. Spot-clean walls around wash basins.
8. Mop all lavatory floors with germicidal solution.
9. Refill soap, towel, tissue containers, and seat cover dispensers.
10. Pour clean water down floor drains to prevent sewer gases.

RESTROOM SERVICE (WEEKLY)

1. Brush down vents.
2. Wash down walls and toilet compartment partitions.
3. Perform high dusting.
4. Wipe down lockers with germicidal solution.

EXHIBIT "B"

ITEMIZED CUSTODIAL MAINTENANCE COSTS

No.	Description	Quant	Unit Cost	Annual Cost
1.	City Hall – Per Month	12	<u>\$1,480.51</u>	<u>\$17,766.12</u>
2.	Police Facility – Per Month	12	<u>\$4,459.32</u>	<u>\$53,511.84</u>
3.	Youth Center – Per Month	12	<u>\$1,221.46</u>	<u>\$14,657.52</u>
4.	Senior Center – Per Month	12	<u>\$784.39</u>	<u>\$9,412.68</u>
5.	Recreation Facility – Per Month	12	<u>\$1,091.15</u>	<u>\$13,093.80</u>
6.	Library – Per Month	12	<u>\$1,210.01</u>	<u>\$14,520.12</u>
7.	Community Center-Per Month	12	<u>\$491.79</u>	<u>\$5,901.48</u>
8.	Kids Station-Per Month	12	<u>\$1,486.11</u>	<u>\$17,833.32</u>

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-47 WITH CATERING SYSTEMS, INC., TO PROVIDE MEALS FOR THE SENIOR CITIZEN NUTRITION PROGRAM

DATE: June 17, 2013
SECTION: AGREEMENTS
ITEM NO.: 11
FILE I.D.: HSV105
DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-47 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program for a term of one year beginning July 1, 2013.

BACKGROUND: The City of Montclair is currently contracting with the San Bernardino County Department of Aging and Adult Services (DAAS) to operate a Senior Citizen Nutrition Program at the Montclair Senior Center. The Human Services Division is managing and operating the nutrition program with grant funds awarded by DAAS.

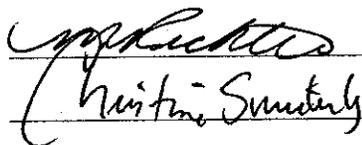
The Human Services Division would like to continue subcontracting with Catering Systems, Inc., for nutrition program meal service. The company has been providing meals for the program since December 1999. Program participants and staff have been pleased with the catering service's performance. Catering Systems, Inc., continues to provide an enhanced menu at a reasonable cost. Catering Systems, Inc., is one of the few approved vendors qualified to provide nutritious meals funded under the Older Americans Act that delivers to San Bernardino County DAAS programs.

Should the City Council approve Agreement No. 13-47, Catering Systems, Inc., would continue to deliver prepared meals every weekday. Catering Systems, Inc., would keep the meal cost at \$3.90 per meal, which is the same as the cost of meals served during Fiscal Year 2012-13.

The following chart shows the suggested donation for meals in surrounding cities. The cities of Claremont and Pomona receive grant funding from the Los Angeles County Area Agency on Aging.

<i>City</i>	<i>Donation</i>	<i>Provider</i>
Claremont	\$2.00	Morrison's
Chino	\$2.50	Family Services Association
Ontario	\$2.50	Family Services Association
Pomona	\$1.75	Morrison's
Rancho Cucamonga	\$2.50	Family Services Association
Upland	\$2.50	Family Services Association

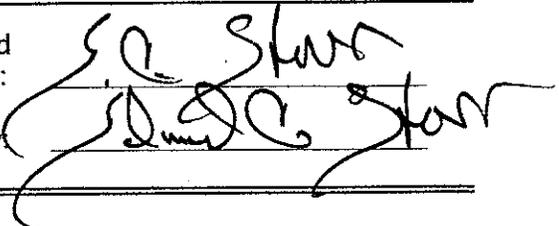
Prepared by:



Proofed by:

Reviewed and Approved by:

Presented by:



Montclair's current suggested donation is \$2.00 per meal, which is one of the lowest in the surrounding communities. The funding for the meal cost would be paid through participant donations and funding from Agreement No. 13-35 with the San Bernardino County Department of Aging and Adult Services that was approved by the City Council on June 3, 2013.

The term of proposed Agreement No. 13-47 is July 1, 2013, through June 30, 2014.

FISCAL IMPACT: There would be no cost to the City's General Fund associated with providing the estimated 14,837 meals that would be served during Fiscal Year 2013-14.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-47 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program.

FOOD SERVICE AGREEMENT

THIS AGREEMENT, executed in Montclair, California, is made by and between the City of Montclair, a California Municipal Corporation, hereinafter referred to as the "Contractor," and Catering Systems, Inc., hereinafter referred to as the "Subcontractor."

WHEREAS, the Contractor and the County of San Bernardino Department of Aging and Adult Services, hereinafter referred to as "County," have entered into an Agreement which authorizes the Contractor to provide certain services, said City Agreement being No. 13-47 dated June 17, 2013; and

WHEREAS, the aforesaid Agreement provides that the Contractor may subcontract for certain professional services subject to prior County approval; and

WHEREAS, the Contractor desires to engage the Subcontractor to provide professional services as detailed elsewhere in this Agreement; and

WHEREAS, the Subcontractor desires to perform and provide such services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Contractor and the Subcontractor agree as follows:

AGREEMENT

Section 1. Statement of Work and Schedule

The Subcontractor shall perform and provide the services set forth in the Food Service Specifications, which is attached hereto as "Attachment 1" and by this reference incorporated herein. The rights and obligations of the parties to this Agreement shall be subject to and governed by said Food Service Specifications as well as by the general provisions herein.

Section 2. Representatives of the Parties and Service of Notice

The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands, and communications shall be given are as follows:

- A. The representative of the Contractor shall be, unless otherwise stated in the Agreement:

Marcia Richter, Assistant Director of Human Services
City of Montclair
5111 Benito Street
Montclair, California 91763
(909) 625-9453

- B. The representative of the Subcontractor shall be:

Lordwin Dsouza
Catering Systems, Inc.
2512 East Fender Avenue, Suite E
Fullerton, California 92831
(714) 278-9294

Section 3. Compensation to the Subcontractor

The Contractor shall pay to the Subcontractor an amount not to exceed \$3.90 per meal for approximately 70 meals per day for complete and satisfactory performance of the terms of this Agreement. The Subcontractor shall be paid for providing services set forth in this Agreement. Payment shall be made on a bimonthly basis.

Section 4. Time of Performance

The term of this Agreement shall commence July 1, 2013, and terminate June 30, 2014, provided that said term is subject to the provisions of Section 14, "Indemnity, Liability, and Insurance Requirements," and Section 18, "Termination," and the availability of Federal funds through the County.

There are 251 serving days during Fiscal Year 2013-14 including the following holidays and special occasions:

Independence Day - July 4, 2013
Labor Day - September 2, 2013
Veterans Day - November 11, 2013
Thanksgiving (two days) - November 28 and 29, 2013
Christmas Eve and Day - December 24 and 25, 2013
New Year's Eve and Day - December 31, 2013 and January 1, 2014
Martin Luther King's Birthday - January 20, 2014
Presidents Day - February 17, 2014
Memorial Day - May 26, 2014

Section 5. Notices, Demands, and Communications

- A. Formal notices, demands, and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, return receipt requested, and shall be deemed effective as the date of mailing.

- B. Such notices, demands, or communications shall be addressed as set forth below:

1. For the Contractor:

Marcia Richter, Assistant Director of Human Services
City of Montclair
5111 Benito Street
Montclair, California 91763
(909) 625-9453

2. For the Subcontractor:

Lordwin Dsouza
Catering Systems, Inc.
2512 East Fender Avenue, Suite E
Fullerton, California 92831
(310) 619-1218

- C. If the name of the person designated to receive the notices, demands, or communications or the address of such person is changed, written notice shall be given, in accord with this Section, within five (5) working days of said change.

Section 6. Audit Records and Bonding

- A. The Subcontractor shall maintain financial records and reports related to funds received under this Agreement.
- B. The Subcontractor shall maintain books, records, documents, and other accounting procedures and practices, which reflect all costs of any nature, including cost of raw food and labor costs, expended in the performance of this Agreement.
- C. These records shall be subject to audit or inspection by duly authorized County, State, or Federal personnel.
- D. The Subcontractor shall maintain all books, records, and other documents relative to this Agreement for three (3) years after final payment or audit by the United States Department of Health and Human Services, the California Department of Aging, and County for five years if no audit occurred.
- E. The Subcontractor shall provide to the Contractor, on an annual fiscal year basis, a statement that all persons handling funds received or disbursed by this Agreement are covered by Fidelity Insurance.
- F. The Subcontractor shall provide, on an annual basis, an official copy of the Certified Public Accountant audit, which shall be conducted following generally accepted audit practices, to determine that there has been a proper accounting for and use of contract funds. All records of the Subcontractor bearing upon food purchases, storage, and food preparation directly related to said program under this Agreement shall be made available to the Contractor upon request.
- G. The Subcontractor shall furnish reports as required by the Contractor, County, California Department of Aging, and the U.S. Administration on Aging.
- H. Subcontractors shall use standardized recipes which meet Hazard Analysis requirements and which shall be available to Contractor and County.
- I. The Subcontractor shall supply raw food and labor costs to the Contractor as needed.
- J. The Subcontractor shall permit periodic monitoring of contracted activities by Contractor, Centralized Dietary Services, County, State, or Federal personnel.

Section 7. Amendments to Agreement

Any changes in the terms of this Agreement, including changes in the scope of services to be performed by the Subcontractor and any increase or decrease in amount of compensation which are agreed to by the Contractor and the Subcontractor, shall be incorporated into this Agreement by a written amendment properly executed by both parties. Prior written approval shall be received from County.

Section 8. Permit and Licenses

The Subcontractor shall hold valid permits, license, certificates, and other documents as are required by the State, County, City, or other governmental or regulatory bodies to legally engage in and perform the services to be provided under this Agreement, such as public health license, Orange County Inspection Reports, annual Fire Inspection Certificates, and other documents attached for County's approval. The Subcontractor shall notify the Contractor immediately of any suspension, termination, lapses, nonrenewals, or restrictions of required licenses, certificates, or other documents that may be cause for termination of this Agreement.

Section 9. Conflict of Interest

- A. The Subcontractor, during the period to be covered by this Agreement, shall have no interest, direct or indirect, with respect to the Contractor that could create a conflict of interest.
- B. No member, officer, or employee of the Contractor and no official, officer, or employee of the County who exercises any responsibilities or functions with respect to the Contractor during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- C. The Subcontractor warrants that no person has been employed to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Contractor the right to terminate this contract or, at the discretion of the Contractor, to deduct from the Subcontractor's fees the amount of such commission, percentage, brokerage, or contingent fees.

Section 10. Independent Contractor Status of the Subcontractor

The parties agree that the performance of the Subcontractor's services hereunder shall be in the capacity of an Independent Contractor and that no employees of the Subcontractor have been, are, or shall be employees of the Contractor or County by virtue of this Agreement, and the Subcontractor shall so inform each employee organization and each employee who is hired or retained under this Agreement.

Section 11. Assignment or Transfer of Interest

The Subcontractor shall not assign or transfer any interest in this Agreement, except that claims for moneys due or to become due from the Contractor under this Agreement may be assigned to a bank, trust company, or other financial institution.

Section 12. Applicable Sections of Agreement between County and the Contractor

The Contractor and the Subcontractor agree that all conditions set forth in the Agreement between the County and the Contractor, as applicable in the performance of this Agreement, are hereby included herein by reference as though set forth herein in full. Referenced sections are available at the Contractor and County for review during normal business hours.

Section 13. Discrimination Prohibited

- A. The Subcontractor shall not discriminate against any employee or person served on account of race, color, sex, religious background, ancestry, national origin, or disability in its performance of this contract and hereby agrees to comply with all Federal, State, and County laws or regulations pertaining hereto including the Americans With Disabilities Act and applicable Civil Rights Acts.
- B. It is expressly understood that upon receipt of evidence of such discrimination, the Contractor shall have the right to terminate said contract.
- C. Affirmative Action: A written affirmative action plan, embodying both (1) goals and timetables of minority manpower utilization; and (2) specific affirmative action steps directed at increasing minority utilization by means of applying good faith efforts to carry out such steps, is to be included.

Section 14. Indemnity, Liability, and Insurance Requirements

- A. The Subcontractor agrees to defend, indemnify, and hold harmless the Contractor and the County, their officers, employees, and assigns, against any and all claims arising from acts, omissions, or negligence of the Subcontractor, its officers, or employees in the performance of this Agreement. The Subcontractor shall defend any suit against the Contractor and County alleging personal injury, sickness, or disease arising out of meals served at the project sites (or home delivered) provided food is served one hour after delivery (or eaten immediately after home delivery).
- B. The Contractor shall promptly notify the Subcontractor in writing of any claims against the Contractor or Subcontractor and, in the event of a suit being filed, the Contractor shall promptly forward to the Subcontractor all papers in connection therewith. The Contractor shall not incur any expenses or make any settlement without the Subcontractor's consent. However, if Subcontractor refuses or neglects to defend any such suit, the Contractor may defend, adjust, or settle any such claim, and the cost of such defense, adjustment, or settlement, including reasonable attorney's fees, shall be charged to the Subcontractor.
- C. The Subcontractor shall furnish proof in the form of a hand-signed certificate of insurance that he/she carries insurance in the minimum amounts listed below prior to commencement of performance under this Agreement. Such coverage shall be maintained currently effective until receipt of final payment under the terms of this Agreement.

1. Comprehensive General \$1,000,000 combined Single Liability
[including (CSL) minimum Product Liability]
 2. Professional Liability \$1,000,000 per occurrence
- D. Comprehensive Auto Liability (owned and nonowned)
1. Bodily Injury
 - \$ 100,000 each person
 - \$ 300,000 each accident
 - \$ 300,000 aggregate products
 2. Property Damage
 - \$ 50,000 each accident
 - \$ 250,000 aggregate operations
 - \$ 250,000 aggregate protection
 - \$ 250,000 aggregate products
 - \$ 250,000 aggregate contractual
- E. Worker's Compensation. The statutory limit shall be in accordance with Sections 3700 and 3800 of the Labor Code of the State of California.
- F. Additional Insured. The City of Montclair and County of San Bernardino shall be named as additional insured on all policies or certificates.
- G. Cancellation Notice. A 30-day Notice of Cancellation shall be mailed to the Contractor and County, 686 East Mill Street, San Bernardino, California 92415.
- H. In the event any new or additional meal locations are started, the insurance carrier shall name all new or additional sites as insured under the policy.
- I. Failure on the part of the Subcontractor to procure or maintain required insurance shall constitute a material breach of Agreement and Contractor may immediately terminate or suspend this Agreement.

Section 15. Compliance with Statutes and Regulations

- A. In the performance of this Agreement, the Subcontractor shall obey all laws of the United States, the State of California, and the ordinances, regulations, policies, codes, and provisions of County.
- B. The Subcontractor shall conform to the nutrition requirements under Title III-C of the Older Americans Act of 1965, as amended, including providing the minimum Title III-C requirement per person of one third of the Recommended Daily Dietary Allowance (RDA).
- C. The Subcontractor shall comply with the California Uniform Retail Food Facilities Law (CURFFL). The Hazard Analysis (HACCP) requirements and San Bernardino County Department of Aging and Adult Services Policy and Procedures for Senior Nutrition Sites.

Section 16. Federal, State and Local Taxes

Federal, State, and local taxes shall be the responsibility of the Subcontractor as an independent contractor and not as a Contractor employee.

Section 17. Renewal Options

This Agreement is for one year only. It is optional on the part of the Contractor to renew the Agreement if desired. However, all agreements must be put out to bid during the County RFP period. Contractors must publicly bid on subsequent project year food contract. Bids will be awarded based on cost, capacity to provide service, proven competency and quality of product, proximity of meal locations, or other justifiable reasons.

Section 18. Termination

The Contractor may terminate this Agreement at any time within the period of its duration upon not less than thirty (30) days' written notice by the Contractor to the Subcontractor or immediately for cause. The Subcontractor may terminate this contract upon not less than thirty (30) days' written notice to the Contractor. Notice shall be provided as in Section 5 herein.

In addition, the contract may be terminated because of lack of funds, repeated citations by County, and failure to make corrective actions required by County. In the event funds to finance this contract, or part of this contract, become unavailable, the obligations of each party hereunder may be terminated upon no less than ten days' written notice to the other party. Said notice shall be delivered by certified mail, telegram, or in person. County shall be the final authority as to the availability of Federal or State funds. Waivers of breach of any provision of the contract shall not be construed to be a modification of the terms of the contract.

Section 19. Negotiation of Disputes

Any disputes of law or fact between the Contractor and the Subcontractor shall be settled between the parties concerned in such a manner that they will not delay or adversely affect the performance of the Contractor. Should any questions remain unresolved, the dispute would be submitted to the Director of the Area Agency on Aging or his designee to render a decision. Said decision will be binding upon the Contractor and the Subcontractor.

Section 20. Prior Approval of Subcontracts

The Subcontractor shall not enter into any subcontracts, for all or part of the services contemplated under this Agreement, without obtaining prior written approval of the Contractor and the Area Agency on Aging, which shall then be made a part of the original Agreement. No subcontracts shall be approved which would incur an obligation higher than the original agreed-upon price.

Section 21. Fair Labor Standards Compliance

Subcontractor agrees to indemnify, defend, and hold harmless the County of San Bernardino and the Contractor, its agents, officers, and employees from any and all

liability including, but not limited to, wages, overtime party, liquidated damages, penalties, court costs, and attorney's fees arising under any wage and hour law including, but not limited to, the Federal Fair Labor Standards Act for services performed by the Subcontractor's employees for which the Contractor or the County of San Bernardino may be found jointly or solely liable.

Section 22. Citizenship Laws

Subcontractor and Contractor warrant their full compliance with all laws regarding employment of aliens and others and that all their employees performing services hereunder meet the citizenship or alien status requirements contained in Federal Immigration Reform and Control Act of 1986. Subcontractor and Contractor shall obtain from all covered employees services hereunder all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Subcontractor and Contractor shall retain such documentation for all covered employees for the period prescribed by law. Subcontractor and Contractor shall indemnify, defend, and hold harmless the County, its officers, and employees from employer sanctions and any other liability which may be assessed against Subcontractor and Contractor of County or both in connection with any alleged violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this contract.

Section 23. Subcontractor Staffing Requirements

To assure that meals are prepared in a safe, sanitary environment in compliance with the California Health and Safety Code, the San Bernardino County Department of Aging and Adult Services Policies and Procedures, and Contracts Management Manual, the Subcontractor shall comply with the following requirements:

The Subcontractor shall hire a part-time Registered Dietitian (minimum 20 hours a week) who possesses a Bachelor's degree and/or Master's degree in Nutrition/Dietetics with an institutional food service management emphasis from an accredited college or university for supervision of the food services operation within the catering company and/or central kitchen. The Dietitian shall be both qualified as specified in sections 2585 and 2586, Business and Professions Code, and registered by the Commission on Dietetic Registration.

Or

The Subcontractor shall hire a qualified Food Service Manager who possesses a Bachelor of Science degree in Food and Nutrition with emphasis on food service management or restaurant management from an accredited college or university, plus two (2) years' professional experience as a food service supervisor; no less than six (6) years of experience in the food service industry at a supervising level can be substituted for the four-year degree requirements. The Subcontractor must submit to the Contractor the registration identification number and expiration date of Registered Dietitian along with complete verifiable résumés of the Registered Dietitian or Food Service Manager for County's approval.

The County may, at its sole discretion, waive this requirement or, for repeated deficiencies of noncompliance, require the Subcontractor to fill both positions and/or to expand the required positions to full-time positions.

Section 24. Date of Execution

The parties hereto agree that the first party to execute this Agreement shall enter the date executed in the blank provided herein on both duplicate originals, which date shall be the date this Agreement is made provided, however, the term shall be for the period set forth in Section 4 herein.

Section 25. Complete Agreement

This Agreement, Appendices, if applicable, and Attachment 1 contain the full and complete Agreement between the two parties. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the day and year first set forth above.

Subcontractor:

CATERING SYSTEMS, INC.

City:

CITY OF MONTCLAIR

Lorwin Dsouza

Paul M. Eaton
Mayor

Date

Date

ATTEST:

Yvonne L. Smith
Deputy City Clerk

Date

ADDENDUM

OTHER REQUIREMENTS (Contractor's Option)

"Penalties for discrimination in employment - Any contractor who shall be found in violation of the nondiscrimination provisions of the State of California Fair Employment Practice Act or similar provisions of federal law or executive order in the performance of any contract with the City, thereby shall be found in material breach of such contract and thereupon the City shall have power to cancel or suspend the contract, in whole or in part, or to deduct from the amount payable to such contractor the sum of \$25 for each person for each calendar day during which such person was discriminated against, as damages for said breach of contract, both. Only a finding of the State of California Fair Employment Practices Commission or the equivalent federal agency or officer shall constitute evidence of a violation of contract under this section."

"Penalties for violation of affirmative action provisions - Any contractor who shall be found in violation of the agreement to pursue an affirmative course of action, or in violation of any provision of the affirmative action guidelines pertaining to the contract, shall be found in material breach of such contract and thereupon the City shall have power to cancel or suspend the contract, in whole or in part, or to deduct from the amount payable to such contractor the sum of \$250 for each calendar day during which the contractor is found to have been in noncompliance, damages for said breach of contract, or both."

**FOOD SERVICE SPECIFICATIONS
BETWEEN THE CITY OF MONTCLAIR
AND CATERING SYSTEMS INC.**

STATEMENT OF WORK AND SCHEDULE

During the time of performance as set forth herein, the Subcontractor shall furnish all food, labor, and equipment necessary to prepare and deliver individual meals and/or bulk food for persons 60 years of age and older in compliance with the Title III Congregate and Home-Delivered Nutrition standards as described in Federal, State, and County regulatory statutes and the California Health and Safety Codes, more specifically, the California Uniform Retail Food Facilities Law (CURFFL) as amended January 1, 1996, the Older Americans Act (OAA), Amendment of 1992, and the San Bernardino County Department of Aging and Adult Services (County).

To assure that meals are prepared in a safe, sanitary environment, in compliance with the California Health and Safety Code, the DAAS Policies and Procedures and Contracts Management Manual, the Subcontractor shall comply with the following requirements:

The Subcontractor shall hire a part-time Registered Dietitian (minimum 20 hours a week) who possesses a Bachelor's degree and/or Master's Degree in Nutrition/Dietetic with an institutional food service management emphasis from an accredited college or university, for supervision of the food services operation within the catering company and/or central kitchen.

The Subcontractor shall hire a qualified Food Service Manager who possess a BS degree in Food and Nutrition with emphasis on food service management or restaurant management from an accredited college or university, plus two (2) years professional experience as a food service supervisor; no less than six (6) years of experience in the food service industry at a supervising level can be substituted for the 4 year degree requirements.

The Subcontractor must submit, to the Contractor, the registration identification number and expiration date of the Registered Dietitian along with complete verifiable resumes of the Registered Dietitian or Food Service Manager for the County's DAAS approval.

The County may, at its sole discretion, waive this requirement or for repeated deficiencies of non-compliance, require the Subcontractor to fill both positions, and/or to expand the required positions to full time positions.

A. Number of Meals

The maximum requirement is estimated at 60 meals per day, Monday through Friday.

	<i>Total Annual Meals</i>	<i>Catered Cost of Meal</i>
Monday through Friday	60	\$3.90
Saturday	N/A	
Sunday	N/A	
Box lunches	N/A	
Breakfast	N/A	
Frozen meals	N/A	
Other food items	N/A	
Total Annual Meals	14,877	\$58,020.30

B. Delivery

1. The meals shall be delivered as follows:

<i>Meal Location</i>	<i>Approx. Number of Meals</i>	<i>Time Food Preparation Completed</i>	<i>Time Food Leaves Kitchen</i>	<i>Time Food Arrives at Site</i>
Montclair Senior Center 5111 Benito Street Montclair, California	60	10:00 a.m.	10:30 a.m.	11:00 a.m.

2. The Contractor reserves the right to add or delete meal sites or designate alternate meal locations, as appropriate, subject to approval by County.
3. The Contractor may change the days and time of delivery and service by giving the Subcontractor seven (7) days notice.
4. The Contractor may change the number of meals to be delivered to any of the meal locations by notifying the Subcontractor by 10:00 a.m. the day prior to delivery.
5. The Subcontractor shall deliver the meals no more than 60 minutes prior to or 30 minutes after the agreed upon serving time.
6. Box lunch delivery time may be as early as 9:00 a.m. as long as appropriate holding facilities are available for perishable food items and

meals are transported under appropriate packing, heating and cooling temperature requirements.

7. The Contractor reserves the right to require Subcontractor to deliver food on all holidays that food service is needed.
8. The contractor shall serve foods for congregate meals; within two (2) hours after food preparation has been completed.

C. Delivery Service Specifications

1. Meals are to be delivered in (bulk/individual) prepackaged servings.
2. The Subcontractor shall supply the following food service items.

<i>Item</i>	<i>Specifications</i>
Rectangular disposable plates	Five compartment
Disposable bowls	Eight-ounce soup bowls
Disposable flatware	Bulk or pre-packaged, good quality
Napkins	Good quality
Table coverings	Paper placemats
Disposable cups	Eight-ounce cups for bulk milk
Other	Straws, plastic gloves, boxes, or bags as needed for box lunches

3. The Subcontractor shall provide all serving trays and utensils, warming, refrigerating and freezing equipment, where necessary, for the maintenance of proper temperatures as specified herein, and shall provide servicing of the equipment and/or replacement (depending on needs of Project).
4. All food must be packaged and transported under conditions that will ensure temperature control to prevent bacterial contamination, spillage, and/or infestation. All hot foods should be packaged individually or in bulk containers to ensure a minimum delivery temperature of 145° F. All cold foods must be packaged to ensure a maximum delivery temperature of 40° F. All foods intended to be delivered frozen shall be packaged to maintain a hard frozen state until such food reaches point of delivery.

Temperature of bulk and home-delivered meals must be taken daily at the end of production/packaging and on delivery at the nutrition site by the Subcontractor and Contractor. Hot and cold foods must be placed immediately into insulated hot and cold transport equipment upon completion of packing.

Daily written documentation of temperature logging/monitoring must be kept by Subcontractor and will be subject to audit by the centralized dietary services and the County nutritionist.

The sites shall be assumed correct on shortages unless the caterer proves them wrong. All calls regarding shortages and food replacement will be communicated by the Contractors office.

5. Meals must be delivered in refrigerated trucks and/or approved for bulk-insulated containers for hot pack and cold pack. Delivery standards shall comply with applicable local health department regulations.
6. Food and supplies must be packed and handled in a sanitary manner to assure absence of contamination and spillage.
7. The program may require replacement of any cold food that is received on site at above 45 F and any hot food that falls below 140 F.
8. Food shortages and/or spoiled foods that are reported to the caterer by agree time of delivery must be replaced or the enclosed deduction schedule will be utilized.
9. Packing of food for delivery to the sites will be negotiated as mutually acceptable to the Contractor and Subcontractor. Sites may differ on packaging of some items due to available site equipment and time/distance.
10. The Subcontractor shall be responsible for cleaning and care of equipment returned to his facility each day.
11. The Subcontractor shall place food in areas designated by meal location managers.
12. Food shall be transported no longer than 60 minutes after packaging.
13. Food shall be kept in heat retaining equipment no longer than **60 minutes** prior to serving.
14. Each delivery shall be accompanied by a delivery slip, in triplicate, designating number of meals and supplies delivered. Project Director or designated person will sign receipt, if in order, and one copy shall be left with the Project Director.
15. Instructions shall be attached to each food product delivered indicating name of meal location, number of servings, size of servings, and size of utensil to be used in serving.
16. Cake, cornbread, and casserole dishes, i.e. meatloaf, lasagna, tuna noodle casserole shall be pre-scored by the Subcontractor for the appropriate number of servings.
17. All Subcontractor delivery equipment shall be removed from the meal location by the next service day. Contractor is not responsible after this time.

18. The Subcontractor shall provide a back-up delivery system in the event of vehicle breakdown.
19. Electrical items required to be provided herein shall have the UNDER-RITERS LABORATORY approval and meet all current OSHA and COSHA laws and regulations. Subcontractor shall provide Contractor with a current copy of the health certificate and any corrected deficiencies with bid. To ensure that all regulations are followed, the Subcontractor must have a qualified food service manager or part-time registered dietitian (20 hours per week) or staff who will assure that meals are prepared in a safe and sanitary condition throughout the meal service operation.
20. Authorized representatives of the Contractor, County, centralized dietary services, State, and Federal shall have the right to inspect food preparation, storage, and packaging sites during the term of the contract.

D. Meal Standards

1. A Chemical analysis of any food delivered by the Subcontractor may be requested by the Contractor or County at any time. The Subcontractor agrees to cooperate in having the analysis done. If the analysis discloses that the food does not comply with required meal specifications, the Subcontractor shall be liable for the cost of this analysis and meals served to seniors out of compliance.
2. The Subcontractor shall be liable for meals that do not meet the nutritional standards and requirements, are spoiled or unwholesome at time of delivery, are incomplete or insufficient in number ordered, or are delivered after the time specified by the Contractor. In the event the Subcontractor fails to deliver complete meals, other foods, or supplies as agreed upon, the Contractor may provide a substitute meal with emergency meals of supplies purchased from other places and charge the cost of the purchased meal to the Subcontractor. The replacement cost shall not exceed 100 percent of the contract catered meal cost.
3. If any portion of a meal other than the entree is delivered in an unacceptable condition, such as incorrect temperature (potentially hazardous)* less than contracted portion, spoiled or too late, the Subcontractor shall be liable for the cost of that portion. If the entree is unacceptable, the Subcontractor shall be liable for the cost of the entire meal. In order to ensure conformance to the above, the delivery driver shall remain at the site until the food is checked by the location manager. All shortages shall be noted on delivery slip for proper crediting.

E. Menu Requirements

1. All menus shall comply with Title III-C meal pattern requirements.
2. A six-week cycle menu shall be used that is written once yearly.

3. The Contractor has the responsibility for menu writing with input from the Project Council and Subcontractor. The menu shall be approved by the centralized dietary services dietitian.
4. The Contractor is responsible for typing and duplicating the menu.
5. All menus must be signed by the Project Director, Project Council Chairman or designee, the centralized dietary services dietitian, and certified by the County nutritionist prior to the start of the menu cycle.
6. The Project Director or centralized dietary services dietitian shall submit all menu substitutions by the Subcontractor at least 2 days prior to the serving date. The subcontractor may, however, in an emergency make menu substitutions on verbal approval of the Project Director or centralized dietary services dietitian, with a written notice to follow for documentation.
7. Provisions shall be made by the Subcontractor to provide in-service training regarding food sanitation and safety for their food service staff. Documentation of such training shall be submitted to the Contractor. County may require the Contractor, based upon major finding of non-compliance items in food and safety, to provide additional food service training.

*See definition of Potentially Hazardous Food, DAAS Contract Management for Service Providers.

F. Meal Pattern Specifications

1. All food must be of the highest quality standard and conform to USDA requirements. It must be prepared in a manner to preserve optimum flavor and appearance while retaining nutrients and food value. Special consideration should be given to tenderness of meat because of the age of our participants. The Subcontractor is responsible for assuring its high quality before it is sent to the meal sites.

Title III - Meal Pattern:

Meat or meat alternatives	A minimum of 15 g protein per meal required. Specification for all processed preformed meat must be approved by the County nutritionist before adding to menu. Two-and one-half-ounce edible portion of meat/meat alternate in casserole dishes.
Vegetable/Fruits	Two half cup servings each per meal (exclusive of dessert).
Juice*	One-half cup Vitamin C fortification required to satisfy Vitamin C requirement.

Starch or alternate	One slice bread or one-half cup serving cooked starch, such as rice, pasta, etc. Selections made from whole grains are preferred.
Fortified margarine or butter	One teaspoon.
Dessert*	One-half (1/2) cup portions or fresh fruit equivalent. Limit of 1 dessert high in sugar, refined grains, or saturated fat per week.
Milk or milk product	Eight-fluid-ounce serving or calcium equivalent. Liquid milk served must be 1% fat, nonfat, or buttermilk.

- (a) In the preparation of all meals, the Subcontractor shall use a minimum of simple sugars. Each meal shall not exceed 1000 milligrams of sodium and shall be low in fat (standard is no more than 30 percent or less of total calories). Limit of 2 high-sodium meals served in any week.
- (b) Subcontractor shall provide all condiments that are normally served with specific menus including, but not limited to, salt; pepper; salad dressing; tartar sauce; mustard; catsup; cream; sugar; and garnishes, such as lemon slices and parsley (as agreed upon). A low-sodium salad dressing choice shall be offered and used in sodium and other nutrient calculations for menus with green salads.
- (c) Ground beef may be used no more often than twice a week and must be in solid form such as meat loaf or Salisbury steak for one of the servings. The fat content cannot exceed 15 percent.
- (d) Textured vegetable protein may be used at no greater amount than 30 percent of the total protein.
- (e) Meat alternates (dried beans, peas, lentils, nuts, nut butters) shall not be served more often than one time per week.
- (f) Desserts, such as fruits or high-nutrient density desserts shall be served throughout the week in one-half (1/2) cup portions. High-calorie desserts, such as plain gelatin desserts, cakes, pies, cookies, and similar foods, shall also be included but are to be limited to once per week. Milk-based dessert may be served once per week. A dessert consisting of 50 percent fruit (fruited Jell-O, etc.) may be served once a week.
- (g) Different fruits will be served once per meal. Whole fresh fruit in season shall be served at least once during each week. Canned fruit will be water packed or packed in its own juice.

2. Minimum grades for all foods shall be as follows:

- (a) Beef: USDA Grade A choice
- (b) Pork: USDA Number 1 (as defined in S R.A., No. 171, U.S. Standards and Grades of Pork Carcasses)
- (c) Lamb: USDA choice
- (d) Poultry: USDA Grade A to be used for all fresh or frozen poultry products. Necks, backs, and wings alone shall not be used prior approval of the Project Director or project designee. Reconstructed roll products are not acceptable (optional).
- (e) Variety meats: Grade No. 1 from USDA Government-inspected plants.
- (f) Dairy products: Following is to be used as minimum specifications for all graded dairy products:
 - (1) Eggs, fresh USDA or State Graded A
 - (2) Cheese, USDA Grade A nonprocessed cheese
 - (3) Milk, low fat, shall be available
- (g) Fish and seafood must be fresh or frozen and be a nationally distributed brand packed under continuous inspection of the U.S. Department of Interior.
- (h) Canned fruits and juices: USDA Grade A (Fancy) and Grade B (Choice) are to be used for all graded fruits and fruit juices. Grade C (Standard) may be used for pie and cobbler products only.
- (i) Fresh fruits: USDA Fancy to USDA No. 1 to be used for all graded fresh fruits as a minimum standard.
- (j) Fresh vegetables: USDA Fancy and No. 1 to be used for all graded fresh vegetables as a minimum standard.
- (k) Frozen fruits and vegetables: USDA Grade A is to be used for all graded frozen fruits and vegetables as a minimum standard.

3. Meal Component/Nutrient Analysis

- (a) A meal component /nutrient analysis of the entire menu cycle conducted and/or approved by a Registered Dietitian shall be completed in compliance with OAA, Section 339, and California Regulations, Title 22, Division 1.8, Chapter 4, Article 5, Section 7638.5.

Computerized Nutrient Analysis Requirements:

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. Nutrition programs for the elderly should focus on:

- Vitamin A
- Vitamin C
- Protein
- Fat
- Sodium
- 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.

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 Dietary Reference Intakes, the menus should also follow the Dietary Guidelines for Americans.

- (b) Menu cycle shall be analyzed on a regular basis and documentation maintained for County review.

G. Supplies Specification Procedures

The Subcontractor shall provide disposable table service based upon the supplies specification included. These supplies shall be ordered and delivered weekly at each site. A minimum of one week's supply on hand at all times. The Contractor shall supply order forms and monitor supply usage.

The Subcontractor shall furnish, as part of supplies, the cleaning and other miscellaneous supplies (see Supplies Specification Sheet). These supplies will be ordered as needed. The Contractor shall supply order forms and monitor supply usage. (This is subject to negotiation.)

EVALUATION OF SUBCONTRACTOR

The Contractor and centralized dietary services dietitian shall evaluate the Subcontractor's performance to determine if the Agreement is in compliance in meeting requirements. All evaluations must be sent to the County nutritionist.

RECEIPTS AND INVOICES PROCEDURES

- A. The Subcontractor shall issue daily delivery receipts to each site.
- B. After the close of each week, the Subcontractor will furnish to the program an invoice of meals ordered by the program, the previous week. The Contractor will pay such invoices for the prior week within 30 days after receipt of same invoice or as agreed between the Contractor and Subcontractor.

DEDUCTION PROCEDURE

- A. The Subcontractor shall deliver meals that meet Title III-C menu regulations. If the Subcontractor fails to deliver all menu items or appropriate substitute items and/or the program rejects food, the Subcontractor shall be reimbursed as outlined in Section 4, "Meal Standards."

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 13-48 WITH NUTRITION INK TO
PROVIDE NUTRITION-EDUCATION
SERVICES FOR THE CITY'S SENIOR
CITIZEN NUTRITION PROGRAM

DATE: June 17, 2013
SECTION: AGREEMENTS
ITEM NO.: 12
FILE I.D.: HSV105
DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-48 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

BACKGROUND: At its meeting of June 3, 2013, the City Council approved Agreement No. 13-35 with the San Bernardino County Department of Aging and Adult Services to provide a Senior Citizen Nutrition Program for participants aged 60 and over. Agreement No. 13-35 requires that the City of Montclair provide nutrition-education services to program participants, volunteers and staff. Agreement No. 13-48 proposes that Nutrition Ink would perform the following services on a quarterly basis:

- ✓ Plan, organize, and conduct nutrition education training programs for participants, volunteers, and staff
- ✓ Monitor the nutrition site
- ✓ Evaluate and monitor food preparation and, if needed, make recommendations for improvements
- ✓ Recommend and monitor standards for sanitation, safety, and security of the food service

In addition, Nutrition Ink would review and analyze menus monthly or as needed and develop, maintain, and use pertinent record systems in relation to the needs of the program. The term of Agreement No. 13-48 is July 1, 2013, through June 30, 2014.

FISCAL IMPACT: The annual fee of \$2,000 would be paid with funds that have already been allocated in Agreement No. 13-35.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-48 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

Prepared by:

M. Richter

Proofed by:

Christine Smuderly

Reviewed and
Approved by:

Presented by:

J. A. Sturt
J. A. Sturt

NUTRITION INK AGREEMENT

I. OBJECTIVE:

To provide consultation to City of Montclair Senior Citizen's Program (Agency/Contractor) regarding nutrition provider requirements as outlined in Title 22, Division 1.8 of the California Department of Aging Regulations, including, but not limited to, the following:

- A. Give preference to older individuals in greatest economic or social need with particular attention to low-income minority individuals.
- B. Promote good health behaviors through nutrition education and nutrition screening of participants.
- C. Promote or maintain coordination with other nutrition-related supportive services for older individuals.

PROGRAM DESCRIPTION:

- A. Purpose – The purpose of the Elderly Nutrition Program (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. Target Population – The ENP Provider (City of Montclair) 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.

2. TERMS OF AGREEMENT:

This is to certify that City of Montclair Senior Citizen's Program has engaged the services of *NUTRITION INK* (Sub-Contractor) for its Nutrition consultation to one (1) site. This service is effective July 1, 2013 through June 30, 2014

3. RESPONSIBILITIES OF SUB-CONTRACTOR:

- A. At a minimum, quarterly monitor site for safe food handling and sanitation practices of facilities.
- B. Provide input, review, and approve the Nutrition Education Plan for staff and participants prior to presentation.
- C. Develop, or review and approve the cycle menus unless provided and signed by RD of approved caterer.
- D. Provide technical support and assistance as needed.
- E. Plans, organizes and conducts Nutrition Education a minimum of four (4) times per year for food service staff (paid and volunteers) and participants in congregate meal programs. Nutrition Education for congregate sites is defined as demonstrations, presentations, lectures or small group discussions, all of which may be augmented with printed materials. Training sessions shall be evaluated by those receiving the training.
- F. Nutrition Education shall be based on the particular need of congregate meal participants. An annual Needs Assessment shall be performed by the ENP Provider to make this determination.
- G. The Nutrition Education Plan and annual Needs Assessment must be submitted to DAAS by September 1st of the FY it is being provided in.
- H. 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: 278	# of Units to be Provided: N/A
# of Sites to be Presented at: 1	# of Participants to be Presented to: N/A

4. RESPONSIBILITIES OF AGENCY/CONTRACTOR

- A. Identify person designated as supervisor or designee.
- B. Provide a general orientation for the dietitian to the Agency including its staff, policies, recording systems.
- C. Provide suitable space, equipment and materials.
- D. Make records available and if necessary send monthly menus to dietitian for review, analysis, and approval.
- E. Maintain documentation of each training session including sign-in sheets, agendas, handouts, and completed evaluations.
- F. An annual Needs Assessment shall be performed by the ENP Provider to determine the particular Nutrition Education need of congregate meal participants.
- G. Will send Nutrition Education Service Unit Report monthly to DAAS.
- H. Agrees not to hire or contract with a Nutrition Ink Dietitian for a period of one year from termination of this contract unless facility pays RD's annual salary as buyout fee.

5. COPIES of subcontracts, licenses and insurance memoranda and/or letters of understanding shall be on file with the Contractor. Contractor shall be responsible to ensure all subcontractors meet the insurance requirements and for monitoring the insurance requirements in accordance with Article III, Section N.

6. The Sub-Contractor shall provide the following:

- (1). Indemnification - The Sub-Contractor agrees to indemnify, defend and hold harmless the Contractor and County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from Sub-Contractor's acts, errors or omissions and for any costs or expenses incurred by the Contractor on account of any claim therefore, except where such indemnification is prohibited by law.
- (2). Insurance - Without in any way affecting the indemnity herein provided and in addition thereto, the Sub-Contractor shall secure and maintain throughout the term of the Contract the following types of insurance with minimum limits as shown:
 - a. Sub-Contractor will maintain Worker's Compensation - in amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Sub-Contractor and all risks to such persons under this Contract.
 - b. Professional Liability - Professional liability insurance shall have limits of at least \$1,000,000 per claim or occurrence.
- (3). Proof of coverage - Sub-Contractor shall immediately furnish certificates of the required insurance policies to contractor evidencing the insurance coverage, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (3) days prior written notice to Contractor, and Sub-Contractor shall maintain such insurance from the time Sub-Contractor commences performance of services hereunder until the termination of the Contract. Within sixty (60) days of the commencement of this Contract, the Sub-Contractor shall furnish copies of the policies.

7. The Sub-Contractor shall complete all reporting and expenditure documents requested by Contractor. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by Contractor.

8. Sub-Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for Contract performance. Said records shall be kept and maintained at 3164 W. Ramsey St., Banning, Ca. 92220.

9. Sub-Contractor shall notify Contractor in writing of any change in mailing address, telephone or fax numbers and/or physical location within ten (10) days of the change.

10. HIPAA Law:

The Sub-Contractor recognizes and acknowledges that, by virtue of entering into this Agreement and providing services to Institution, hereunder, Sub-Contractor will have access to certain information of Institution that is confidential and constitutes valuable, special and unique property of Institution. Sub-Contractor agrees that they will at no time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without Institution's express written consent, except pursuant to their duties hereunder, any confidential or proprietary information of Institution, including, but not limited to, information which concerns Institution's participants, cost, prices and treatment methods at any time used, developed or made by Institution, and which is not otherwise available to the public. Sub-Contractor shall not disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by Institution in writing, any participant or medical record information regarding Institution's participants, and Sub-Contractor shall comply with all federal and state laws and regulations, and all rules, regulations, and policies of Institution, regarding the confidentiality of such information. In addition, if necessary, Sub-Contractor agrees to assist in judicial proceedings any effort to obtain access to such records or information except such access as is expressly permitted by the aforementioned federal regulations.

11. Elderly Abuse. In accordance with W & I 15630 (a) all employees of the sub-contractor are mandated reporters of elder and dependent adult abuse. Mandated reporters are required to report all instances of physical abuse of elderly and dependent adults and may report other types of abuse.

Costs:

Nutrition Education and materials plus yearly plan	\$600
Site Monitoring quarterly.....	\$600
Staff Training quarterly.....	\$600
Mileage.....	\$200
Total.....	\$2000

(951) 849-5150 (951) 849-4799 Fax	Federal Tax I.D. Number 20-4651795
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SUBCONTRACTOR:

CITY:

NUTRITION INK

CITY OF MONTCLAIR

Merijane McTalley, R.D.

Paul M. Eaton, Mayor

Date: _____

Date: _____

ATTEST:

Yvonne L. Smith, Deputy City Clerk

Date: _____

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2986 AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN SAN BERNARDINO COUNTY DURING 2012 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2013-14

DATE: June 17, 2013

SECTION: RESOLUTIONS

ITEM NO.: 1

FILE I.D.: FIN225

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider adoption of Resolution No. 13-2986 pursuant to Government Code Section 7901, requiring each city to annually adopt a resolution selecting the change in population factor for purposes of calculating the Gann Spending Limit.

A copy of proposed Resolution No. 13-2986 is attached for the City Council's review and consideration.

BACKGROUND: The passage of Proposition 111 in June 1990 requires cities to annually select a change-in-population factor for the purpose of calculating the Gann Spending Limit. For this purpose, Government Code Section 7901 permits cities to select either the change in population within their jurisdictions or within the county in which they are located. This selection must be done by a recorded vote of the governing body of each city.

The change in population in the City of Montclair during 2012 was 0.61 percent compared to a 0.85 percent change for San Bernardino County. Because it is in the City's best interest to establish the highest possible Gann Spending Limit, staff suggests the City Council choose the percentage change in population in the San Bernardino County during 2012 as the change-in-population factor to be used in calculating the limit.

FISCAL IMPACT: There would be no fiscal impact to the City's General Fund should the City Council adopt proposed Resolution No. 13-2986 authorizing approval of the change in population in San Bernardino County during 2012 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2013-14.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2986 authorizing approval of the change in population in San Bernardino County during 2012 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2013-14,

Prepared by: Michael Piotrowski
Proofed by: Yvonne L. Smith

Reviewed and
Approved by:

Presented by:

RESOLUTION NO. 13-2986

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN SAN BERNARDINO COUNTY DURING 2012 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2013-14

WHEREAS, California Government Code Section 7901 requires a city to calculate its Gann Spending Limit by choosing either the change in population within its jurisdiction or the change in population within the county in which it is located; and

WHEREAS, the selection of the change in population must be accomplished by a recorded vote of the governing body; and

WHEREAS, the change in population in the City of Montclair during 2012 was 0.61 percent compared to a 0.85 percent change in population in San Bernardino County; and

WHEREAS, it is in the City's best interest to establish the highest possible Gann Spending Limit.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby approves the change in population in San Bernardino County during 2012 as its change-in-population factor to be used in calculating the Gann Spending Limit for Fiscal Year 2013-14.

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. 13-2986 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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2987 AUTHORIZING THE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING CALENDAR YEAR 2012 AS THE CHANGE IN THE COST-OF-LIVING FACTOR FOR FISCAL YEAR 2012-13 FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2013-14	DATE: June 17, 2013 SECTION: RESOLUTIONS ITEM NO.: 2 FILE I.D.: FIN225 DEPT.: ADMIN. SVCS.
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REASON FOR CONSIDERATION: The City Council is requested to consider adoption of Resolution No. 13-2987 pursuant to Article 13-B of the California Constitution, requiring each city to annually adopt a resolution selecting a change in the cost-of-living factor for purposes of calculating the Gann Spending Limit.

A copy of proposed Resolution No. 13-2987 is attached for the City Council's review and consideration.

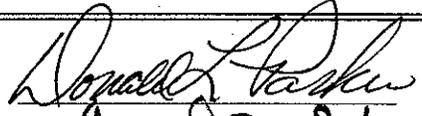
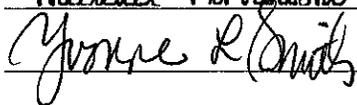
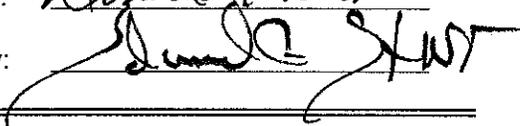
BACKGROUND: Upon the passage of Proposition 111 in June 1990, Article 13-B of the California Constitution was amended requiring cities to select one of the following as the change in the cost-of-living factor to be used in calculating the Gann Spending Limit.

1. The percentage change in California per capita personal income from the preceding year
2. The percentage change in the local assessment roll attributable to nonresidential new construction

Gann Spending Limit - Fiscal Year 2012-13. The Gann Spending Limit for Fiscal Year 2012-13 was adopted last June on a provisional basis. This action was taken because San Bernardino County was unable to provide staff with the information necessary to calculate the limit based upon the change in the local assessment roll attributable to nonresidential new construction. Therefore, the limit was based upon the percentage change in California per capita personal income, which was 3.77 percent.

Gann Spending Limit - Fiscal Year 2013-14. Since the County is not be able to provide current assessment roll information until well into next fiscal year and because the limit must be adopted prior to June 30, 2013, staff suggests the Council adopt the percentage change in California per capita personal income during Calendar Year 2012 as the change in the cost-of-living factor for Fiscal Year 2012-13, which will be used in calculating the Gann Spending Limit for Fiscal Year 2013-14.

The Council's adoption of the change in the cost-of-living factors suggested above would result in a Gann Spending Limit for Fiscal Year 2013-14 of \$321,537,021. Proposed

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

Resolution No. 13-2988 adopting the limit will be considered by the Council in the next agenda item.

FISCAL IMPACT: There would be no fiscal impact to the City's General Fund should the City Council adopt proposed Resolution No. 13-2987.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2987 authorizing approval of the Per Capita Personal Income change during Calendar Year 2012 as the final Fiscal Year 2012-13 change in the cost-of-living factor for use in calculating the Gann Spending Limit for Fiscal Year 2013-14.

RESOLUTION NO. 13-2987

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING THE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME AS THE COST-OF-LIVING FACTOR FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2012-13 AND ADOPTION OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING CALENDAR YEAR 2012 AS THE CHANGE IN THE COST-OF-LIVING FACTOR FOR FISCAL YEAR 2012-13 FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2013-14

WHEREAS, Article 13-B of the California Constitution requires a city to calculate its Gann Spending Limit by choosing a change in cost-of-living factor based on either (1) the percentage change in California per capita personal income from the preceding year; or (2) the percentage change in the local assessment roll from the preceding year for the jurisdiction attributable to the addition of nonresidential new construction; and

WHEREAS, the selection of the change in cost-of-living factor must be accomplished annually by a recorded vote of the governing body; and

WHEREAS, the change in the cost-of-living factor used as a basis for calculating the existing Gann Spending Limit was adopted by the City Council on a provisional basis; and

WHEREAS, the County of San Bernardino is currently unable to provide the City with information necessary to determine the change in the local assessment roll attributable to the addition of nonresidential new construction for Fiscal Year 2012-13; and

WHEREAS, the Gann Spending Limit is subject to audit and, in accordance with Article 13-B of the California Constitution, must be established prior to the beginning of the fiscal year.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby approves the percentage change in California per capita personal income during Calendar Year 2012 as the change in the cost-of-living factor for Fiscal Year 2012-13 for use in calculating the Gann Spending Limit for Fiscal Year 2013-14.

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. 13-2987 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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2988 ESTABLISHING AN APPROPRIATIONS LIMIT FOR FISCAL YEAR 2013-14 PURSUANT TO ARTICLE 13-B OF THE CALIFORNIA CONSTITUTION AND TO SECTION 7910 OF THE GOVERNMENT CODE	DATE: June 17, 2013 SECTION: RESOLUTIONS ITEM NO.: 3 FILE I.D.: FIN225 DEPT.: ADMIN. SVCS.
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REASON FOR CONSIDERATION: The City Council is requested to consider adoption of Resolution No. 13-2988 establishing an appropriations limit for Fiscal Year 2013-14.

A copy of proposed Resolution No. 13-2988 is attached for the City Council's review and consideration.

BACKGROUND: Government Code Section 7910 requires a city council to establish, by resolution, the city's appropriations limit (Gann Spending Limit) for the following fiscal year pursuant to Article 13-B of the California Constitution. The limit, which restricts the amount of tax revenues spent during the year, is based upon the limit for the preceding year, as adjusted for changes in population and cost of living.

The passage of Proposition 111 in June 1990 requires each city to choose either the percentage change in population within its jurisdiction as its change-in-population factor, or the percentage change in population within the county in which it is located. Cities must also now select either the percentage change in California's per capita personal income or the percentage change in the local assessment roll attributable to nonresidential new construction as its change in cost-of-living factor.

Earlier this evening, the City Council adopted Resolution No. 13-2986 approving the change in population in the San Bernardino County during 2012 as the change-in-population factor to be used in calculating the Fiscal Year 2013-14 appropriations limit. The Council also adopted Resolution No. 13-2987 selecting the change in California per capita personal income during 2012 as the change in cost-of-living factor for Fiscal Year 2012-13 for use in calculating the appropriations limit for Fiscal Year 2013-14. The Council was requested to consider selecting the change in California per capita personal income because the appropriations limit must be adopted prior to the beginning of the fiscal year and information necessary for selecting the change in the local assessment roll attributable to nonresidential new construction for Fiscal Year 2012-13 is currently unavailable.

The change in population within San Bernardino County during 2012 was 0.85 percent. The change in California per capita personal income during 2012 was 5.12 percent. Based on these adjustment factors, the City's appropriations limit for Fiscal Year 2013-14 is \$321,537,021 as established by proposed Resolution No. 13-2988.

Prepared by: <u>Michael P. [Signature]</u>	Reviewed and Approved by: <u>[Signature]</u>
Proofed by: <u>[Signature]</u>	Presented by: <u>[Signature]</u>

FISCAL IMPACT: The City would be authorized to spend all tax revenues received up to \$321,537,021 should the City Council adopt proposed Resolution No. 13-2988.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2988 establishing an appropriations limit for Fiscal Year 2013-14 pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code.

RESOLUTION NO. 13-2988

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR ESTABLISHING
AN APPROPRIATIONS LIMIT FOR FISCAL
YEAR 2013-14 PURSUANT TO ARTICLE 13-B
OF THE CALIFORNIA CONSTITUTION AND TO
SECTION 7910 OF THE GOVERNMENT CODE**

WHEREAS, Article 13-B of the California Constitution limits the appropriations budget of a local government, which is financed by taxes to the appropriations limit (Gann Spending Limit) of the prior fiscal year as adjusted by the change in population and the change in cost of living; and

WHEREAS, Government Code Section 7910 requires that the governing body of each local jurisdiction shall, by resolution, annually establish its appropriations limit for the following fiscal year pursuant to Article 13-B of the California Constitution; and

WHEREAS, at a meeting held on June 17, 2013, the City Council selected the change in cost of living and change in population factors to be used in determining the appropriations limit for Fiscal Year 2013-14; and

WHEREAS, the City of Montclair has determined that said appropriations limit for Fiscal Year 2013-14 is \$321,537,021, and documentation supporting calculation of the limit is available to the public as required by Government Code Section 7910.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby establishes an appropriations limit in the amount of \$321,537,021 for Fiscal Year 2013-14 pursuant to Article 13-B of the Constitution of the State of California and Government Code Section 7910.

BE IT FURTHER RESOLVED that said appropriations limit herein established may be changed as deemed necessary by resolution of the City Council.

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. 13-2988 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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2990 ADJUSTING THE EQUIVALENT DWELLING UNIT MONTHLY FEE FOR SEWER SERVICE	DATE: June 3, 2013 SECTION: RESOLUTIONS ITEM NO.: 4 FILE I.D.: SEW125 DEPT.: PUBLIC WORKS
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REASON FOR CONSIDERATION: The Inland Empire Utilities Agency (IEUA) provides sewage treatment services to the City of Montclair and six other regional contracting agencies. The IEUA Board of Directors has approved a rate increase for the fee charged to the contracting agencies for this sewage treatment. This higher rate is effective July 1, 2013. In addition to the rate increase approved by IEUA, the City's sewer maintenance costs are expected to increase over the next year. In order to cover the cost of the rate increase by IEUA and the higher City maintenance costs, the City must change the rates charged to its customers. The rate may be changed by a Resolution adopted by the City Council.

BACKGROUND: IEUA provides sewage treatment for seven regional contracting agencies including the City of Montclair. Treatment costs are passed on to City residents and businesses via a monthly fee based on an equivalent dwelling unit (EDU). Annual adjustments in these rates may be made provided the rates have been approved by the City Council under the requirements of Proposition 218.

Earlier this evening, the Montclair City Council conducted a public hearing in accordance with Proposition 218 requirements. If the proposed rates were approved, then proposed Resolution no. 13-2990 sets the sewer rates effective July 1, 2013, through June 30, 2014. The sewer rate is composed of three parts:

- Part 1 Fee - Inland Empire Utilities Agency Sewage Treatment Fee
- Part 2 Fee - City Sewer Maintenance Cost
- Part 3 Fee - City Sewer Replacement Cost

<i>Effective Date</i>	<i>Part 1 Fee</i>	<i>Part 2 Fee</i>	<i>Part 3 Fee</i>	<i>Rate</i>
July 1, 2013	\$13.39	\$5.53	\$1.50	\$20.42

FISCAL IMPACT: Adoption of Resolution No. 13-2990 would permit the City to collect the sufficient funds to pay the higher treatment rate being assessed by IEUA, pay for increased maintenance costs, and continue to contribute to the sewer replacement fund. Should the City not adopt Resolution No. 13-2990, it would still be obligated to pay the increased IEUA treatment rate and find some other source of funds for sewer maintenance or operate the sewer fund at a deficit.

Prepared by: masche
Proofed by: all vj

Reviewed and
Approved by: masche
Presented by: Edward A. Jura

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2990 adjusting the equivalent dwelling unit monthly fee for sewer service.

RESOLUTION NO. 13-2990

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR SETTING
THE EQUIVALENT DWELLING UNIT RATE
FOR SEWER SERVICE**

WHEREAS, on June 17, 2013, the City Council of the City of Montclair conducted a public hearing to discuss maximum sewer rates for the five-year period commencing July 1, 2013, and terminating June 30, 2018; and

WHEREAS, the City Council of the City of Montclair approved the rates as recommended by staff; and

WHEREAS, the maximum monthly rate to be charged per equivalent dwelling unit (EDU) for the period commencing July 1, 2013, and ending June 30, 2014, was set as follows:

Part 1 Fee – Inland Empire Utilities Agency Treatment Fee	\$13.39
Part 2 Fee – City Sewer Maintenance Fund	5.53
Part 3 Fee – City Sewer Replacement Fund	<u>1.50</u>
Total Maximum Monthly EDU Rate	<u>\$20.42</u>

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby set the monthly EDU rate as follows:

Part 1 Fee – Inland Empire Utilities Agency Treatment Fee	\$13.39
Part 2 Fee – City Sewer Maintenance Fund	5.53
Part 3 Fee – City Sewer Replacement Fund	<u>1.50</u>
Total Maximum Monthly EDU Rate	<u>\$20.42</u>

APPROVED AND ADOPTED this XX day of XX 2013.

Mayor

ATTEST:

City Clerk

I, Yvonne Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 13-2990 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

Yvonne Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2991 AUTHORIZING SUBMITTAL OF USED OIL PAYMENT PROGRAM APPLICATIONS AND RELATED AUTHORIZATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY	DATE: June 17, 2013 SECTION: RESOLUTIONS ITEM NO.: 5 FILE I.D.: REF165
CONSIDER DESIGNATING CITY MANAGER OR DESIGNEE AS THE PERSON AUTHORIZED TO EXECUTE ALL NECESSARY DOCUMENTS FOR THE PURPOSE OF SECURING PAYMENT FUNDS	DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Section 48653 of the California Public Resources Code authorizes the California Department of Resources Recycling and Recovery (CalRecycle) to issue payments to local governments for the establishment of new programs or the enhancement of existing programs that address the proper management of used oil and oil filters. The City of Montclair is eligible to receive payment in the minimum estimated amount of \$5,000 from the State of California for development and maintenance of used oil/oil filter recycling programs.

Proposed Resolution No. 13-2991 would give the City Manager or designee authorization to execute all necessary documentation to secure payment program funds for multiple payment program cycles and years, thus eliminating the annual resolution adoption process for each individual payment program cycle. The proposed Resolution would remain effective until it is rescinded by the City Council.

BACKGROUND: The State of California enacted the California Oil Recycling Enhancement Act (Act) authorizing CalRecycle to issue payments to enhance the collection and recycling of used oil. Under the Act, oil manufacturers make a four cent per quart payment on every quart of oil sold, transferred, or imported into California. The Act mandates CalRecycle use these funds for specified activities that encourage the proper disposal of used oil and oil filters and set up necessary procedures governing payment applications by cities and counties.

The Used Oil Payment Program Application proposes inclusion of the following program activities:

- Development and distribution of public education materials related to disposal of used oil and oil filters
- Elementary school presentations/demonstrations teaching children about the proper disposal of used oil and oil filters

Prepared by: Nicole Greene
Proofed by: Alle Mj

Reviewed and Approved by:
Presented by:

[Signature]
[Signature]

- Radio, newspaper, and direct-mail advertisement related to used oil and oil filter collection information and locations
- Promotion of used oil and oil filter recycling at the certified oil collection centers in the City of Montclair through newspaper and radio advertisements

FISCAL IMPACT: The City is eligible to receive minimum payments in the estimated amount of \$5,000 for each payment program cycle.

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

1. Adopt Resolution No. 13-2991 authorizing the submittal of Used Oil Payment Program applications and related authorizations to the California Department of Resources Recycling and Recovery.
2. Designate the City Manager or designee as the person authorized to execute all necessary documents for the purpose of securing payment funds.

RESOLUTION NO. 13-2991

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR AUTHORIZING
SUBMITTAL OF USED OIL PAYMENT
PROGRAM APPLICATIONS AND RELATED
AUTHORIZATIONS TO THE DEPARTMENT
OF RESOURCES RECYCLING AND RECOVERY**

WHEREAS, the people of the State of California have enacted the California Oil Recycling Enhancement Act that makes payments to qualifying jurisdictions for implementation and maintenance of their local used oil collection programs that encourage recycling or appropriate disposal of used oil; and

WHEREAS, pursuant to Public Resources Code §48690, the Department of Resources Recycling and Recovery (CalRecycle), formerly known as the California Integrated Waste Management Board, has established the Used Oil Payment Program to make payments to cities and counties for implementation of their used oil programs; and

WHEREAS, in furtherance of this authority, CalRecycle is required to establish procedures governing the administration of the Used Oil Payment Program; and

WHEREAS, CalRecycle's procedures for administering the Used Oil Payment Program require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the Used Oil Payment Program.

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

1. The City Council of the City of Montclair authorizes submittal of Used Oil Payment Program Applications to CalRecycle.

2. The City Manager or designee is hereby authorized as Signature Authority and empowered to execute in the name of the City of Montclair all necessary applications, contracts, payment requests, agreements, and amendments hereto for the purpose of securing payment under the OPP and implementing the purpose specified by the Used Oil Payment Program.

3. This authorization is effective until rescinded by the Signature Authority or the City Council of the City of Montclair.

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. 13-2991 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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 13-2992 ADOPTING THE CITY OF
MONTCLAIR FISCAL YEAR 2013-14
ANNUAL BUDGET

DATE: June 17, 2013

SECTION: RESOLUTIONS

ITEM NO.: 6

FILE I.D.: FIN240

DEPT.: CITY MGR.

REASON FOR CONSIDERATION: Pursuant to state law, the governing body of a local government agency is required to annually adopt an Operating Budget. The City Council is requested to consider adoption of Resolution No. 13-2992 formally adopting the City of Montclair Fiscal Year 2013-14 Annual Budget.

A copy of proposed Resolution No. 13-2992 is attached for the City Council's review and consideration.

BACKGROUND: The City Council reviewed the Fiscal Year 2013-14 Preliminary Budget on June 12, 2013, at an adjourned joint meeting.

In addition to providing a formal means to adopt the Annual Budget, proposed Resolution No. 13-2992 includes the following fiscal-control provisions:

- The automatic reappropriation of funds into the Fiscal Year 2014-15 Budget to finance outstanding encumbrances as of June 30, 2014.
- The automatic reappropriation of funds into the Fiscal Year 2014-15 Budget to finance capital improvement projects and grants that were not completed during Fiscal Year 2013-14.

The City Council's adoption of proposed Resolution No. 13-2992 would provide for a total Estimated Revenue Budget, including transfers-in, of \$35,661,657, and a total Appropriations Budget, including transfers-out, of \$35,360,013. The General Fund has estimated revenues/transfers-in of \$24,961,367, and appropriation budget/transfers-out of \$24,882,711, leaving a surplus of \$78,656.

FISCAL IMPACT: It is estimated the Fiscal Year 2013-14 Preliminary Budget would provide for an overall increase in total unreserved fund balances/retained earnings of \$301,644 when considering all funds and operations of the City.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2992 adopting the City of Montclair Fiscal Year 2013-14 Annual Budget.

Prepared by: *Janeel Kelleck* Reviewed and Approved by: *Donald Parker*

Proofed by: *Yvonne Smith* Presented by: *Donald Parker*

RESOLUTION NO. 13-2992

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR ADOPTING THE
FISCAL YEAR 2013-14 BUDGET**

WHEREAS, the City Manager submitted to the City Council of the City of Montclair the proposed budget for Fiscal Year 2013-14 including all proposed expenditures, estimated revenues, and estimated fund balances; and

WHEREAS, a copy of the proposed budget is on file in the City Clerk's office for inspection by the public; and

WHEREAS, the City Council duly reviewed the proposed budget at a meeting open to the public on June 12, 2013.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby adopt the proposed budget as the Annual Budget for Fiscal Year 2013-14.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into Fiscal Year 2014-15 for all outstanding purchase orders and unexecuted contracts as of June 30, 2014, for which a valid appropriation exists.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into Fiscal Year 2014-15 for all capital improvement projects included in the adopted budget that have not been completed as of June 30, 2014.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into Fiscal Year 2014-15 for all grants included in the adopted budget that have not been completed as of June 30, 2014.

BE IT FURTHER RESOLVED that department heads and their designees are authorized to transfer funds between object codes within the Services and Supplies Budget provided the funding source remains the same.

BE IT FURTHER RESOLVED that except for personnel cost-of-living adjustments, which are governed by approved Memorandums of Understanding and Agreements, all expenditures from the Contingency Reserve Fund must be expressly authorized by the City Council.

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. 13-2992 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

Yvonne L. Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 13-01 ADOPTING THE MONTCLAIR HOUSING CORPORATION FISCAL YEAR 2013-14 ANNUAL BUDGET

DATE: June 17, 2013
SECTION: RESOLUTIONS
ITEM NO.: 7
FILE I.D.: FIN220
DEPT.: MHC

REASON FOR CONSIDERATION: Pursuant to state law, the governing body of a local government agency is required to annually adopt an Operating Budget. The Montclair Housing Corporation Board of Directors is requested to consider adoption of Resolution No. 13-01 formally adopting the Montclair Housing Corporation Annual Budget for Fiscal Year 2013-14.

BACKGROUND: The Fiscal Year 2013-14 Preliminary Budget for the Montclair Housing Corporation was submitted to the respective Board of Directors on June 12, 2013.

The Montclair Housing Corporation Board of Directors is requested to approve the Annual Budget for the Montclair Housing Corporation. Expenses related to the Montclair Housing Corporation involve operation and maintenance of 33 properties. The Montclair Housing Corporation owns and manages 18 single-family homes and 80 multifamily units. It should be noted that the California Department of Finance (DOF) is questioning the former Montclair Redevelopment Agency's sale of the housing units to the Montclair Housing Corporation. Depending on DOF's decision, the properties may be required to be transferred back to the Successor Agency or Montclair Housing Authority with the Montclair Housing Corporation potentially managing the rental units.

FISCAL IMPACT: It is estimated the Fiscal Year 2013-14 Montclair Housing Corporation Annual Budget would provide for a decrease in total balance of \$493,202 during Fiscal Year 2013-14.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors adopt Resolution No. 13-01 adopting the Montclair Housing Corporation Fiscal Year 2013-14 Annual Budget:

Prepared by:

Mike Pothorn

Reviewed and
Approved by:

M. STAATS

Proofed by:

Christine P. Caldwell

Presented by:

D. J. Stewart

RESOLUTION NO. 13-01

A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION ADOPTING THE FISCAL YEAR 2013-14 BUDGET FOR THE MONTCLAIR HOUSING CORPORATION

WHEREAS, the President has submitted to the Board of Directors of the City of Montclair Housing Corporation the Preliminary Budget for Fiscal Year 2013-14 including all proposed expenditures, estimated revenues, and estimated fund balances; and

WHEREAS, a copy of the Preliminary Budget is on file in the Montclair Housing Corporation Secretary's office for inspection by the public; and

WHEREAS, the Montclair Housing Corporation has duly reviewed the Preliminary Budget at an adjourned joint meeting open to the public held on June 17, 2013.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Montclair Housing Corporation hereby adopts the Preliminary Budget as the Annual Budget for Fiscal Year 2013-14.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into the Fiscal Year 2014-15 Budget for all outstanding purchase orders and unexecuted contracts as of June 30, 2014, for which a valid appropriation exists.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into the Fiscal Year 2014-15 Budget for all capital improvement projects included in the adopted Budget that have not been completed as of June 30, 2014.

APPROVED AND ADOPTED this XX day of XX, 2013.

Chairman

ATTEST:

Secretary

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

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

Yvonne L. Smith
Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR
CODE ENFORCEMENT COMMITTEE HELD ON
MONDAY, APRIL 15, 2013, AT 6:00 P.M. IN THE
CITY HALL CONFERENCE ROOM, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Council Member Paulitz called the meeting to order at 6:00 p.m.

II. ROLL CALL

Present: Council Member Paulitz, City Manager Starr; Director of Community Development Lustro, Director, Office of Public Safety/Police Chief Jones, Deputy City Manager/Director, Office of Economic Development Staats, Deputy City Attorney Holdaway

Excused: Council Member Dutrey

III. APPROVAL OF MINUTES

A. Minutes of Code Enforcement Committee Meeting of March 18, 2013

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of March 18, 2013.

IV. PUBLIC COMMENT

None.

V. OLD BUSINESS

A. Draft amendment to Chapter 11.42 MMC ("CUPs for off-sale liquor establishments")

Council Member Paulitz asked why a 500-foot separation requirement even exists. Community Development Director Lustro replied that he presumed that separation was instituted to avoid having off-sale establishments at every quadrant of an intersection

or in close proximity to one another. He explained that the separation is currently measured property line to property line. The proposed code amendment reduces the distance to 400 feet as measured door-to-door for those businesses that are applying to sell alcoholic beverages as an incidental use to their business.

Council Member Paulitz asked what a current CUP cost. Community Development Director Lustro replied it is less than most cities at \$2,215. In the proposed fee update, staff is recommending the fee be increased to \$2,950. He added that he conducted an electronic survey through the League of California Cities' Listserv to determine what other cities charge for a Minor or Administrative CUP. He received approximately 30 responses from other cities and the majority of the cities charge approximately 50% of the cost of a regular CUP, so he used that as a guide for establishing a fee for the proposed Administrative CUP process.

Discussion followed regarding whether we want to encourage ancillary uses by having a lower fee or discourage it by raising the fee, those that use the services should pay for it, and whether we should differentiate the incidental use.

Community Development Director Lustro informed the Committee that he researched with ABC whether the City could restrict or condition that alcohol only be sold as part of something else (i.e., a bouquet of flowers or gift basket with wine vs. just going in and buying the bottle of wine). ABC responded that we cannot place that limitation on an entitlement because it infringes upon the privileges that go along with a Type 20 ABC license. The City can, however, limit the square footage used for displaying the liquor and we can regulate signage advertising liquor.

VI. NEW BUSINESS

None.

VII. DISTRIBUTION OF LIST OF PROBLEM PROPERTIES / Q&A

Director Lustro reported that Code Enforcement is making headway on some of the long-running problem properties and included the updated list of problem properties in the agenda packet for the Committee's reference and asked if there were any questions. Discussion followed.

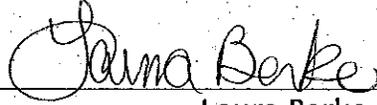
VIII. NEXT MEETING

The next Code Enforcement Committee meeting is scheduled for Monday, May 20, 2013, at 6:00 p.m. in the City Hall Conference Room.

IX. ADJOURNMENT

At 6:29 p.m., Council Member Paulitz adjourned the Code Enforcement Committee.

Submitted for Code Enforcement
Committee approval,

A handwritten signature in cursive script, appearing to read "Laura Berke", is written over a horizontal line.

Laura Berke
Administrative Secretary

MINUTES OF THE REGULAR MEETING OF THE
MONTCLAIR PERSONNEL COMMITTEE HELD ON
MONDAY, JUNE 3, 2013, AT 7:50 P.M. IN THE
CITY ADMINISTRATIVE OFFICES, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Pro Tem Ruh called the meeting to order at 7:50 p.m.

II. ROLL CALL

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

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of May 20, 2013

Moved by City Manager Starr, seconded by Council Member Raft, and carried unanimously to approve the minutes of the regular Personnel Committee meeting of May 20, 2013.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

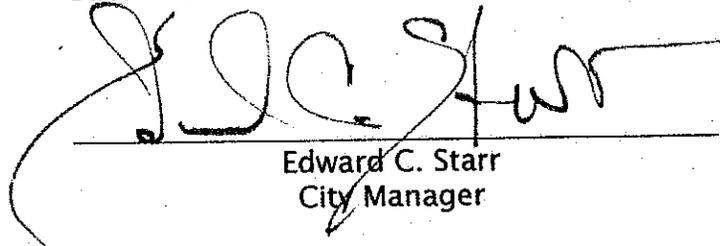
At 7:51 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

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