

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

August 5, 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**

- A. Introduction of New Employees

VI. **PUBLIC COMMENT**

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

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

- VII. **PUBLIC HEARINGS** – None

VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Minutes of the Regular Joint Council/Successor Agency Board/ MHC Board/MHA Commission Meeting of July 15, 2013 [CC/SA/MHC/MHA]

B. Administrative Reports

1. Consider Setting a Public Hearing for the Following:

Adoption of Resolution No. 13-2996 Amending the Land Use Element of the General Plan

Adoption of Ordinance No. 13-935 Amending Chapters 11.22, 11.78, and 11.90 of the Montclair Municipal Code Related to Development Standards and Requirements in the R-3 (Residential Medium-High Density) Zoning District [CC]

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2. Consider Setting a Public Hearing to Consider Ordinance No. 13-936 Adding Chapter 9.12.190 to the Montclair Municipal Code Related to Barbecues, Fire Pits, and Open Fires in City Parks [CC]

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3. Consider Designation of Voting Delegate and Alternate Voting Delegates to the League of California Cities 2013 Annual Conference & Expo, September 18-20, 2013, Sacramento, California [CC]

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4. Consider Declaring Certain City Property and Unclaimed Property in Police Custody as Surplus and Available for Auction [CC]

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

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C. Agreements

1. Consider Approval of Agreement No. 13-53 With Vermont Systems, Inc., to Purchase and Implement a Recreation Software Program [CC]

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2. Consider Approval of Agreement No. 13-56 With Ontario-Montclair School District to Administer an Immunization Program and Provide Health Services to Students and Their Families [CC]

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3. Consider Approval of Agreement No. 13-57 With Kaiser Foundation Hospitals to Fund the Montclair Por La Vida Program [CC]

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4. Consider Approval of Agreement No. 13-58 With Incredible Edible Community Garden to Provide Services to Support the Healthy Cities Project in Montclair [CC]

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5. Consider Approval of Agreement No. 13-62 With the City of West Covina for Mobile Data Computer Connectivity Data Processing Equipment, Software, and Service of Computer-Aided Dispatch and Records Management Software Programs [CC]

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D. Resolutions

- | | |
|--|-----|
| 1. Consider Adoption of Resolution No. 13-2995 Supporting California State Assembly Bill 300 (Perea) Funding Local Emergency Services [CC] | 96 |
| 2. Consider Adoption of Resolution No. 13-2997 Authorizing the Salaries and Classification Titles for City Employees Represented by the San Bernardino Public Employees Association [CC] | 100 |
| 3. Consider Adoption of Resolution No. 13-2998 Authorizing the Salaries and Classification Titles for City Employees Represented by the Montclair Police Officers Association [CC] | 106 |
| 4. Consider Adoption of Resolution No. 13-2999 Authorizing the Salaries and Classification Titles for City Employees Represented by the Montclair Fire Fighters Association [CC] | 109 |
| 5. Consider Adoption of Resolution No. 13-3000 Authorizing the Salaries and Classification Titles for Management Employees Represented by the City Manager [CC] | 114 |
| 6. Consider Adoption of Resolution No. 13-3001 Authorizing the Salaries and Classification Titles for Part-Time City Employees Represented by the City Manager [CC] | 119 |
| 7. Consider Adoption of Resolution No. 13-3002 Authoring Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Accounts [CC] | 123 |
| 8. Consider Approval of Agreement No. 13-60, Administering Agency-State Master Agreement No. 00435S With the California Department of Transportation for the Monte Vista Avenue Roadway Widening Project [CC] | 134 |
| <p style="margin-left: 20px;">Consider Approval of Agreement No. 13-61, Program Supplement Agreement No. OL63 With the California Department of Transportation for the Monte Vista Avenue Roadway Widening Project [CC]</p> <p style="margin-left: 20px;">Consider Adoption of Resolution No. 13-3003 Authorizing Mayor Paul M. Eaton to Sign Administering Agency-State Agreement No. 00435S (City Agreement No. 13-60) and Program Supplement Agreement No. OL63 (City Agreement No. 13-61) [CC]</p> | |
| 9. Consider Adoption of Resolution No. 13-04 Authorizing Investment of Surplus Montclair Housing Authority Funds With the Local Agency Investment Fund [MHA] | 159 |
| 10. Consider Adoption of Resolution No. 13-05 Authorizing Investment of Surplus Successor Agency Funds With the Local Agency Investment Fund [SA] | 162 |
| 11. Consider Adoption of Resolution No. 13-06 Approving Agreement No. 13-59, an Engagement Agreement Between the Successor Agency to the City of Montclair Redevelopment Agency and Edward Z. Kotkin to Serve as Counsel to the Oversight Board [SA] | 165 |

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney

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

Agency: City of Montclair

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

B. City Manager/Executive Director

C. Mayor/Chairman

D. Council/MHC Board

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

- 1. Minutes of the Code Enforcement Committee Meeting of July 15, 2013 181
- 2. Minutes of the Personnel Committee Meeting of July 15, 2013 183
- 3. Minutes of the Public Works Committee Meeting of July 18, 2013 184

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 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, August 19, 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 August 1, 2013.

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING FOR THE FOLLOWING:	DATE: August 5, 2013
ADOPTION OF RESOLUTION NO. 13-2996 AMENDING THE LAND USE ELEMENT OF THE GENERAL PLAN	SECTION: ADMIN. REPORTS
ADOPTION OF ORDINANCE NO. 13-935 AMENDING CHAPTERS 11.22, 11.78, AND 11.90 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO DEVELOPMENT STANDARDS AND REQUIREMENTS IN THE R-3 (RESIDENTIAL MEDIUM-HIGH DENSITY) ZONING DISTRICT	ITEM NO.: 1
	FILE I.D.: GPL250
	DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: Amendments to the General Plan and Municipal Code require public hearing review and approval by the City Council.

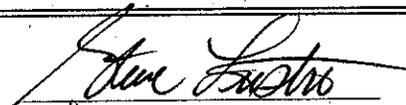
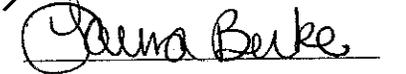
BACKGROUND: On September 19, 2011, the City Council adopted Resolution No. 11-2922 approving a General Plan Amendment adopting the 2006-2014 Housing Element Update. The "Policy Program" chapter of the adopted Housing Element sets forth 25 Policy Actions that are required to be undertaken by the City to successfully implement the adopted Housing Element. The Policy Actions being addressed by this agenda item include the following:

Policy Action 3.7 requires staff to "examine the existing (minimum) unit size requirements and amend the City's Zoning Code, as appropriate, to ensure unit size thresholds do not constrain the provision of affordable housing;"

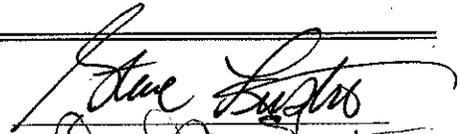
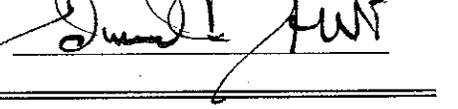
Policy Action 3.9 states, "To ensure the City's parking requirements are not a constraint to residential development, especially new housing units affordable to lower and moderate income households, the City shall review the existing parking requirements, particularly the two-space 'garage' multi-family requirement, and revise the requirements, as appropriate;" and

Policy Action 4.2 requires that "the City shall investigate increasing the maximum permitted density on parcels where the lot configuration, size, and adjacent zoning are such that the parcel is suitable for development at a higher density than currently permitted. Based on its findings, the City shall amend the density and other development standards as appropriate."

Prepared by:

Reviewed and
Approved by:

Proofed by:

Presented by:

The Land Use Element of the General Plan, adopted in 1999, identifies the following four residential land use types:

- "Residential—Very Low Density Single-Family (0-2 units per acre)"
- "Residential—Low Density Single-Family (3-7 units per acre)"
- "Residential—Medium Density (8-14 units per acre)"
- "Senior Housing"

Staff proposes to add a fifth housing category to the Land Use Element of the General Plan: "Residential—High Density (15-30 units per acre)."

Pursuant to Government Code Section 65860, the City's Zoning Code is required to be consistent with the adopted General Plan in order to implement its goals and policies. Accordingly, staff is also proposing to amend Chapters 11.22, 11.78, and 11.90 of the Montclair Municipal Code to achieve this required consistency.

Staff notes that this is the first of several General Plan and/or Municipal Code amendments related to implementation of the Policy Actions contained in the adopted Housing Element that are intended to be submitted to the Planning Commission and City Council for consideration. As the Council is aware, staff is currently working with RBF Consulting on the 2014-2021 Housing Element Update. In order for the latest update to be considered for certification by the California Department of Housing and Community Development (HCD), the City must have completed or be in the process of implementing the Policy Actions from the previous Housing Element Update cycle.

Proposed Resolution No. 13-2996 related to the General Plan Amendment and proposed Ordinance No. 13-935 amending Chapters 11.22, 11.78, and 11.90 of the Montclair Municipal Code are attached to this report for reference.

FISCAL IMPACT: The cost to publish a Notice of Public Hearing in the *Inland Valley Daily Bulletin* related to this agenda item should not exceed \$400.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, August 19, 2013, at 7:00 p.m. in the City Council Chambers to consider adoption of Resolution No. 13-2996 amending the Land Use Element of the General Plan and to consider adoption of Ordinance No. 13-935 amending Chapters 11.22, 11.78, and 11.90 of the Montclair Municipal Code related to development standards and requirements in the R-3 (Residential Medium-High Density) zoning district.

RESOLUTION NO. 13-2996

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR APPROVING AN
AMENDMENT TO THE LAND USE ELEMENT
OF THE GENERAL PLAN**

A. Recitals.

WHEREAS, the Land Use Element is one of seven statutorily-required elements of the General Plan; and

WHEREAS, Section 65358 of the California Government Code allows the City Council to amend all or part of an adopted General Plan if it deems such amendment to be in the public interest; and

WHEREAS, Section 65358(b) of the Government Code allows each mandatory element of the General Plan to be amended up to four times during any calendar year; and

WHEREAS, the City, through its consultant, RBF Consulting, prepared the 2006-2014 Housing Element, as an update to its previously adopted Housing Element in compliance with State law; and

WHEREAS, on September 19, 2011, the City Council adopted Resolution No. 11-2922 approving a General Plan Amendment, adopting the 2006-2014 Housing Element Update; and

WHEREAS, the "Policy Program" chapter of the adopted Housing Element sets forth 25 Policy Actions that are required to be undertaken by the City to successfully implement the adopted Housing Element; and

WHEREAS, Policy Action 4.2 requires that "the City shall investigate increasing the maximum permitted density on parcels where the lot configuration, size, and adjacent zoning is such that the parcel is suitable for development at a higher density than currently permitted. Based on its findings, the City shall amend the density and other development standards as appropriate"; and

WHEREAS, pursuant to Government Code Section 65860, the Zoning Code of the City of Montclair is required to be consistent with the adopted General Plan in order to implement its goals and policies; and

WHEREAS, the Land Use Element of the General Plan, which was adopted in 1999, identifies the following four residential land use types:

"Residential—Very Low Density Single-Family (0-2 units per acre)"

"Residential—Low Density Single-Family (3-7 units per acre)"

"Residential—Medium Density (8-14 units per acre)"

"Senior Housing"; and

WHEREAS, Ordinance No. 13-935 amending various development standards of the R-3 (Residential Medium-High Density) Zone proposes to increase the maximum density within the R-3 Zone to 30 units per acre; and

WHEREAS, in order to achieve consistency between the General Plan and Zoning Code, staff proposes to add a fifth housing category to the Land Use Element of the General Plan: "Residential—High Density (15-30 units per acre)"; and

WHEREAS, upon adoption of this Resolution, the official General Plan Land Use Map of the City of Montclair shall be amended as depicted in Exhibit "A"; and

WHEREAS, the City has prepared an Initial Study/Negative Declaration (IS/ND) in compliance with the California Environmental Quality Act (CEQA); and

WHEREAS, the minimum 30-day public review period for the IS/ND commenced on June 24, 2013 and concluded on August 12, 2013; and

WHEREAS, on June 24, 2013, the Notice of Availability of the IS/ND was filed with the San Bernardino County Clerk of the Board; and

WHEREAS, copies of the IS/ND were available during the public review period at the Community Development counter at City Hall; and

WHEREAS, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on June 28, 2013; and

WHEREAS, on August 12, 2013, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with the General Plan Amendment were heard and said application was fully studied; and

WHEREAS, the Planning Commission reviewed and considered the amendment to the Land Use Element, along with the information contained in the IS/ND, comments received during the public review period, and responses to comments; and

WHEREAS, the Planning Commission, as the responsible agency, reviewed and considered the environmental assessment based upon the findings in the Initial Study prepared for the project, and determined that there will be no significant impact on the environment as a result of the proposed amendments to the General Plan Land Use Element and Montclair Municipal Code; and

WHEREAS, the Planning Commission also adopted a Negative Declaration and a finding that there will be a DeMinimis impact on fish and wildlife; and

WHEREAS, based on its review and independent judgment, the City Council finds that the amendment to the Land Use Element of the General Plan will not have a significant effect on the environment; and

WHEREAS, on August 19, 2013, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the City Council conducted a public hearing at which time all persons wishing to testify in connection with the General Plan Amendment were heard, and said application was fully studied.

B. Resolution.

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

Section 1. The City Council hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

Section 2. The City Council hereby approves the amendment to the Land Use Element of the General Plan associated with Case No. 2013-5, adding a new housing category of "Residential—High Density (15-30 units per acre)."

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. 13-2996 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:

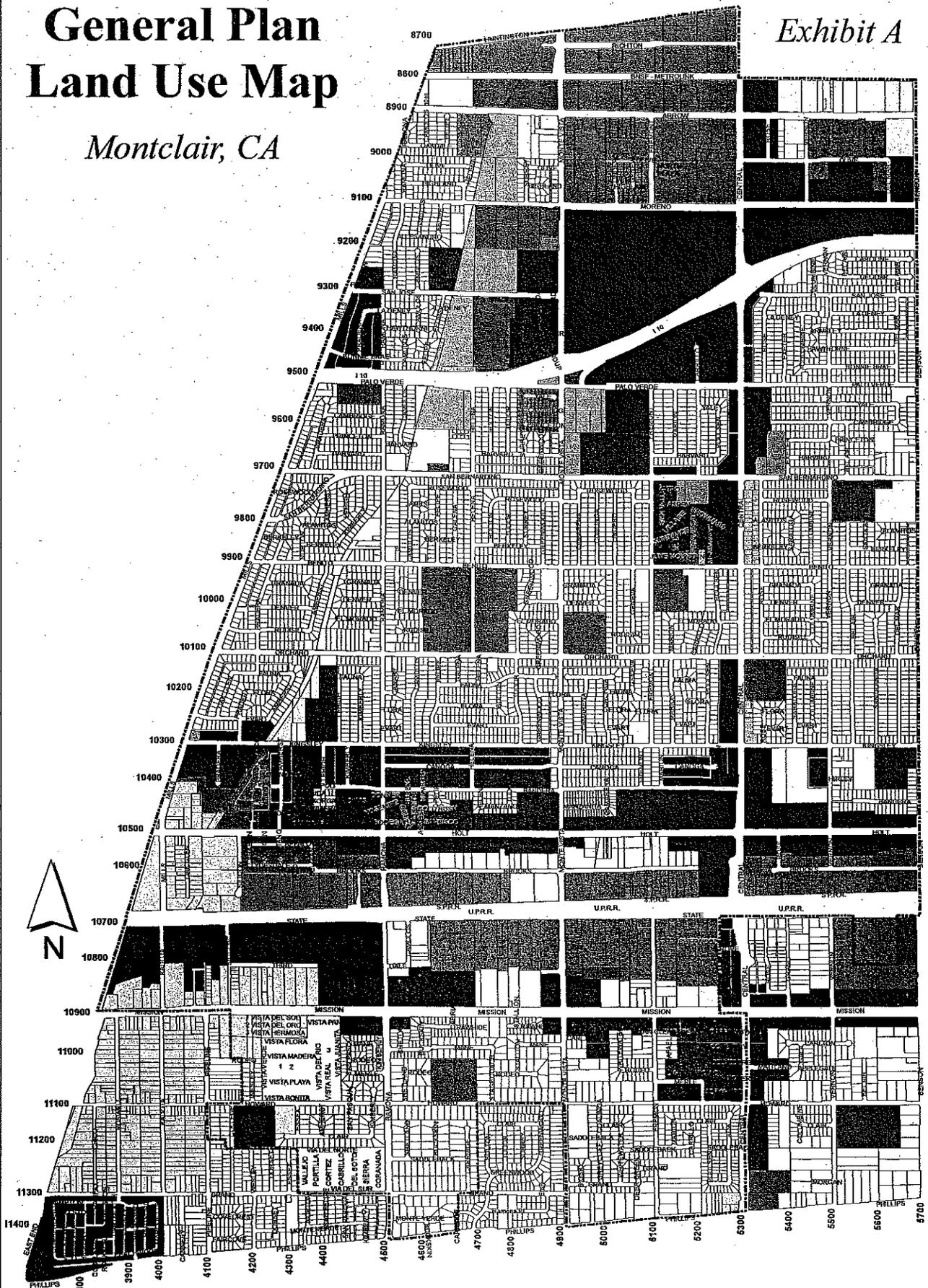
AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Yvonne L. Smith
Deputy City Clerk

General Plan Land Use Map

Montclair, CA

Exhibit A



General Plan Land Use

Very Low, 0-2 units/acre	Senior Housing	Regional Commercial	Public/Quasi Public	Planned Development
Low, 3-7 units/acre	Office Professional	Business Park	Neighborhood Park	Medical Center
Medium, 8-14 units/acre	Neighborhood Commercial	Industrial Park	Conservation Basins	City Boundary
High, 15-30 units/acre	General Commercial	Limited Manufacturing	Community Plan	

ORDINANCE NO. 13-935

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTERS 11.22, 11.78, AND 11.90 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO DEVELOPMENT STANDARDS AND REQUIREMENTS IN THE R-3 (RESIDENTIAL MEDIUM-HIGH DENSITY) ZONING DISTRICT (CASE NO. 2013-5)

WHEREAS, the Housing Element is one of seven statutorily-required elements of the General Plan; and

WHEREAS, the California Government Code requires cities to review and update their Housing Element according to a schedule set forth by the State's Housing and Community Development Department (HCD); and

WHEREAS, the City, through its consultant, RBF Consulting, prepared the 2006-2014 Housing Element, as an update to its previously adopted Housing Element in compliance with State law; and

WHEREAS, in April 2011, HCD has provided the City with a letter of substantial compliance, indicating that upon adoption by the City Council, the Housing Element would fully comply with State law; and

WHEREAS, on September 19, 2011, the City Council adopted Resolution No. 11-2922 approving a General Plan Amendment, adopting the 2006-2014 Housing Element Update; and

WHEREAS, the "Policy Program" chapter of the adopted Housing Element sets forth 25 Policy Actions that are required to be undertaken by the City to successfully implement the adopted Housing Element; and

WHEREAS, Policy Action 3.7 requires staff to "examine the existing (minimum) unit size requirements and amend the City's Zoning Code, as appropriate, to ensure unit size thresholds do not constrain the provision of affordable housing"; and

WHEREAS, Policy Action 3.9 states, "To ensure the City's parking requirements are not a constraint to residential development, especially new housing units affordable to lower and moderate-income households, the City shall review the existing parking requirements, particularly the two-space 'garage' multi-family requirement, and revise the requirements as appropriate"; and

WHEREAS, Policy Action 3.13 states in part. "To ensure the City's permitting requirements are not a constraint to residential development, especially new housing units affordable to low- and moderate-income households, the City shall amend the Zoning (Code) to remove the conditional use permit requirement for development in the R-3 Zone that is three or more acres in size, two or more stories in height, or senior housing" and

WHEREAS, Policy Action 4.2 requires that "the City shall investigate increasing the maximum permitted density on parcels where the lot configuration, size, and adjacent zoning is such that the parcel is suitable for development at a higher density than currently permitted. Based on its findings, the City shall amend the density and other development standards as appropriate."

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

SECTION I. Amendment of Code.

Section 11.22.020 ("Uses permitted") of the Montclair Municipal Code is hereby repealed and replaced as follows:

11.22.020 Uses permitted.

Except as specifically provided elsewhere in this Title, any and every building, premises and/or land in the R-3 Zone shall be used for, or occupied, and every building shall be erected, constructed, established, altered, enlarged, maintained and moved into or within such R-3 Zone, exclusively and only in accordance with the provisions set forth in this Chapter, and subject to the approval of a Precise Plan of Design submitted and reviewed in accordance with the provisions of Chapter 11.80 of this Title.

A. The following shall be permitted as primary uses:

1. Planned residential developments, subject to the provisions set forth in Chapter 11.90 of this Title;
2. Apartments, subject to the provisions set forth in Sections 11.22.050 through 11.22.070 of this Chapter;
3. Mobile home parks; subject to the provisions set forth in Chapter 11.62 of this Title;
4. Residential care facilities for six or fewer persons;
5. Senior citizen housing.

B. The following shall be permitted as accessory uses:

1. Those uses permitted in Sections 11.18.030(D), (F), and (H) of this Title;
2. Signs, subject to the provisions of Chapter 11.72 of this Title;
3. Parking lots;
4. Home occupations, subject to the provisions of Chapter 11.58 of this Title.

SECTION II. Amendment of Code.

Section 11.22.030 ("Uses permitted subject to a conditional use permit") of the Montclair Municipal Code is hereby repealed and replaced as follows:

11.22.030 Uses permitted subject to a conditional use permit.

The following uses may be permitted subject to the issuance of a conditional use permit in accordance with the provisions of Chapter 11.78 of this Title:

- A. Those uses permitted in Section 11.18.030(A), (E) and (K), and Section 11.20.020(B) of this Title;
- B. Convalescent centers, skilled nursing facilities and assisted living facilities.

SECTION III. Amendment of Code.

Section 11.22.050 ("Property development standards") of the Montclair Municipal Code is hereby repealed and replaced as follows:

11.22.050 Property development standards.

The following property development standards shall apply to all land and buildings in the R-3 Zone; provided, however, where a lot has a width, depth or area less than that required by the provisions of this Title and was held under separate ownership or was of official City record prior to June 30, 1984, such lot may be occupied by any use permitted in the R-3 Zone.

A. Lot Area. The net lot area shall be a minimum of 10,000 square feet, except that property developed pursuant to Chapter 11.90 of this Title ("Residential Developments-Planned") shall have a minimum net lot area of one acre.

B. Lot Dimensions.

1. Width. The width of the lot shall be a minimum of 70 feet at the front lot line. However, if lots are located at the end of a cul-de-sac or another location that results in a wedge-shaped lot, the minimum width at the front building line shall be not less than 50 feet, provided the average width of the lot is not less than 70 feet.

2. Depth. The depth of the lot shall be a minimum of 120 feet when fronting on a local or collector street and 140 feet when fronting on a major or secondary roadway as designated in the Circulation Element of the adopted General Plan.

C. Maximum Dwelling Unit Density. The maximum dwelling unit densities stated in this subsection are not automatically by-right; projects shall also be required to meet all applicable development standards contained in this Title.

1. The maximum dwelling unit density for market-rate courtyard, garden, rowhouse or stacked dwelling multifamily developments shall be 25 units per net acre.

2. The maximum dwelling unit density for courtyard, garden, rowhouse or stacked dwelling multifamily developments where a minimum of 50 percent of the dwelling units are reserved and deed restricted as affordable for very low-, low-, and/or moderate-income individuals or families shall be 30 units per net acre.

D. Building Height. The maximum building height shall be 50 feet with a maximum of four floors, except that any portion of a building within 200 feet of the boundary of any R-1 Zone shall be limited to 38 feet and a maximum of three floors. "Building height" as defined herein means the vertical distance from the average contact ground level of the building to the highest point of the parapet wall of a flat roof or the mean height level between the eaves and ridges for a gable or hip roof.

E. Building design.

1. Structures having dwelling units attached side-by-side shall have an offset or articulation in the front building line of at least four feet (4') for every two dwelling units within such structure. Similar architectural enhancement alternatives may be approved subject to a Precise Plan of Design approved by the Planning Commission.

2. Structures having dwelling units attached side-by-side or stacked above one another shall provide at least one-third of the total number of units within such development as a flat or one-story unit.

F. Lot Coverage. Buildings and structures shall not cover more of a lot than would be permitted when satisfying all yard, open space, parking and access requirements.

G. Minimum Floor Area of Dwelling Units. Multifamily dwelling units shall contain the following minimum floor areas:

1. For studio or one-bedroom units, 700 square feet.
2. For two-bedroom units, 900 square feet.
3. For three-bedroom units, 1,100 square feet.
4. For four-bedroom units, 1,400 square feet.

Said floor areas shall be exclusive of patios, balconies, carports and garages.

H. Minimum Room Sizes. The minimum size of rooms shall comply with the currently adopted California Building Code, except that all bedrooms shall have a minimum area of 110 square feet and a minimum dimension of 9 feet.

I. Yards and Setbacks. Developments in the R-3 Zone shall have and maintain the following minimum yards and setbacks (see Sections 11.38.050 and 11.38.060 of this Title for additional requirements). Building setbacks shall be measured from the front property line.

1. Front Yards.

a. For buildings with three stories or less, a 25-foot minimum front yard setback shall be required.

b. For buildings with four stories, a 35-foot minimum front yard setback shall be required.

c. Notwithstanding the required front yard setbacks indicated herein, covered or uncovered porches and balconies that are open on three sides may encroach up to 7 feet into the required front yard setback.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building, its relationship to the adjacent street(s) and/or to ensure compatibility with contiguous land uses.

e. No portion of the required front yard setback area shall be used for parking. Driveways of the minimum width necessary for vehicular access shall be permitted to traverse the front yard setback area.

2. Street Side Yards.

a. For buildings with three stories or less, a 25-foot minimum street side yard setback shall be required.

b. For buildings with four stories, a 35-foot minimum street side yard setback shall be required.

c. Notwithstanding the required street side yard setbacks indicated herein, covered or uncovered porches and balconies that are open on three sides may encroach up to 7 feet into the required street side yard setback.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building, its relationship to the adjacent street(s) and/or to ensure compatibility with contiguous land uses.

e. No portion of the required street side yard setback area shall be used for parking. Driveways of the minimum width necessary for vehicular access shall be permitted to traverse the street side yard setback area.

3. Interior Side Yards.

a. For buildings with three stories or less, a 10-foot minimum interior side yard setback shall be required.

b. For buildings with four stories, a 15-foot minimum interior side yard setback shall be required.

c. Open patios on the first floor shall be permitted to encroach a maximum of 5 feet into any required interior side yard setback. Open patios above the first floor shall not be permitted to encroach into any required interior side yard setbacks.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building and/or to ensure compatibility with contiguous land uses.

e. Interior side yard setback areas may be used for parking subject to approval of a Precise Plan of Design and provided that required fire lane access is maintained at all times.

4. Rear Yards.

a. For buildings with three stories or less, a 10-foot minimum rear yard setback shall be required.

b. For buildings with four stories, a 15-foot minimum rear yard setback shall be required.

c. Notwithstanding the required rear yard setbacks indicated herein, covered or uncovered porches and balconies that are open on three sides may encroach up to 7 feet into any required rear yard setback.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building and/or to ensure compatibility with contiguous land uses.

e. Rear yard setback areas may be used for parking subject to approval of a Precise Plan of Design and provided that required fire lane access is maintained at all times.

J. Open Space. Each development shall provide outdoor open space for recreation and leisure activities within the development site in the following manner:

1. Common open/recreational space shall comprise not less than 35 percent of the net acreage. Public or private driveways, parking spaces or other areas designed for operational functions are not considered open space. Common open/recreational space improvements shall be provided as follows:

a. Developments of ten units or less shall provide at least two of the following amenities:

i. Permanent barbecue facilities with at least two grills and two table/bench arrangements;

ii. Playground and/or tot lot with permanently installed play equipment;

iii. Swimming pool or spa.

b. Developments of 11 to 30 units shall provide at least two of the amenities listed in subsection (a) of this Section plus at least one of the following amenities:

i. Sports court (tennis, volleyball, basketball, etc.);

ii. Community building with at least one full kitchen and a minimum of two rooms for meetings, games, activities, etc.

c. Developments of 31 to 100 units shall provide at least one of each of the five amenities in subsections (a) and (b) of this Section.

d. Developments of greater than 100 units shall provide at least one of each of the five amenities in subsections (a) and (b) of this Section plus at least two of the following:

i. A passive, open turf area (natural or synthetic), measuring at least 100 feet by 100 feet, for unstructured recreational activities;

ii. A fitness parcours of at least one-quarter mile in length and a minimum of six (6) activity stations;

iii. A media screening room/theater with a seating capacity of at least 20 and permanently installed audiovisual equipment, which may be a part of the community building or constructed as a stand-alone facility.

e. For projects of greater than 100 units, the Director of Community Development may require the developer to increase the size, number and/or capacity of one or more required amenities to adequately serve the number of residents in the development.

2. Private porches, patios and balconies attached to individual dwelling units may be included in the required outdoor open space calculation provided the minimum dimension is at least 10 feet and the minimum area is 150 square feet.

3. Swimming pools, spas, ponds, lakes, streams, and other water features provided for the common use or enjoyment of all residents may be constructed as part of the required outdoor open space; however, such facilities shall not comprise more than 50 percent of the required outdoor open space.

4. The outdoor open spaces created pursuant to the provisions of this Title shall remain open and available for such use for the life of the development.

K. Private Open Space. Each dwelling unit shall have a minimum private open space of 100 square feet with a minimum dimension of 7 feet. Such private open space shall be in the form of porches, patios and/or balconies.

L. Landscaping. The design, installation and maintenance of all landscape and hardscape areas shall be subject to approval of a Precise Plan of Design and shall fully comply with Chapter 11.60 of this Title.

M. Walls and Fences. The general development standards for walls and fences as provided in Sections 11.38.050(M), (N) and (O) of this Title shall apply; provided, however, that the Planning Commission may require additional walls and fences if necessary to protect adjacent properties.

N. Vehicular Circulation.

1. Streets. Primary and secondary streets shall be designed to meet the following standards:

a. Traffic lanes no less than 10 feet in width and no more than 12 feet in width.

b. Where on-street parallel parking is provided, the parking lane shall be 8 feet in width. Where 90-degree or angled parking is provided as part of the street design, parking stall dimensions shall be 9 feet in width by 20 feet in length. A maximum 2-foot overhang may be allowed into landscape areas or walkways with a dimension of 6 feet or greater.

2. Driveways Serving Only Garages. If a private driveway serves only garages, and the driveway is posted as a fire lane and/or to prohibit all other parking, the driveway may be constructed with a minimum width of 20 feet; provided, however, that if the driveway is double-loaded with garages on both sides, a minimum distance of 26 feet shall be provided as measured from building wall to building wall.

3. Access and On-Site Circulation.

a. Vehicular access to all developments shall be from a public street.

b. The design of all on-site vehicular circulation, including roadway widths, turning radii and turnarounds shall be subject to approval by the Fire Department.

c. There shall be a minimum vertical clearance of 14 feet along all driveways and vehicular paths that provide access for emergency response vehicles.

O. Pedestrian Circulation. A pedestrian circulation system shall be incorporated into the residential development for the purpose of providing direct access to all dwelling units, trash enclosures, parking areas, recreation areas and outdoor open space. The circulation system shall include the following:

1. A public sidewalk shall be constructed adjacent to all public streets bordering the project site with a minimum width of 5 feet in accordance with City standards.

2. An on-site walkway system of pedestrian walks and paths that fully complies with all disabled-accessibility standards with respect to surface material, width, grades, ramps, curbs, railings and signage.

P. Parking Requirements.

1. Resident Parking. Each dwelling unit shall be provided with resident parking as indicated below. A minimum of one required parking space for each unit shall be within a carport or enclosed garage. Every effort shall be made to locate the required parking space(s) for each unit within 200 feet of the unit to which they are assigned.

a. Studio - 1 parking space.

b. 1-2 bedrooms - 2 parking spaces.

c. 3 or more bedrooms - 3 parking spaces.

2. Guest Parking. On-site parking for guests shall be provided at a ratio of one parking space for every 3 units, regardless of unit size. Guest parking shall be reasonably distributed throughout the development site.

3. Parking Space Dimensions.

a. Enclosed Garages. The minimum, clear inside dimensions of each parking space within an enclosed garage shall be 10 feet in width and 20 feet in length.

b. Carports. The minimum, clear dimensions of each parking space within a carport shall be 9 feet in width by 20 feet in length; provided, however, that a 2-foot overhang may be allowed into landscape areas or walkways with a dimension of 6 feet or greater. Where a structural support post occurs for a

carport, an additional 2 feet in width shall be added to each parking space on either side of the structural member.

c. Uncovered Parking. The minimum dimensions of each uncovered parking space shall be 9 feet by 20 feet in length; provided, however, that a 2-foot overhang may be allowed into landscape areas or walkways with a dimension of 6 feet or greater.

4. Automatic garage door openers shall be required for each enclosed garage.

5. Parking Lot Striping. Striping for uncovered parking spaces or those within carports shall be double-stripe or "hairpin" style, with the 9-foot dimension being measured to the center of the "hairpin."

6. Tandem Parking. Tandem parking shall only be permitted within enclosed garages and only when both spaces serve the same unit.

7. On-street parking on public streets shall not be used to satisfy any of the parking requirements contained herein.

Q. Signs. The general development standards for signs as set forth in Chapter 11.72 of this Title shall apply, in addition to the following:

1. Permitted Signs.

a. Wall Signs. One illuminated or nonilluminated wall sign with the name of the development shall be permitted on each street frontage. Individual or script copy in durable materials is strongly encouraged. Externally illuminated signs shall be via wall-mounted fixtures that are complementary to the architecture of the development and do not create any nuisance light spill or glare to any of the residential units or the public right-of-way. Internally illuminated signs shall be limited to halo illumination only.

b. Address Signs. One illuminated or nonilluminated wall sign with the numerical address or numerical address and street name of the development shall be permitted on each building on each street frontage. Where a building also fronts on an internal private driveway or parking lot, additional numerical address(es) may be permitted to be displayed for safety and security purposes. Individual or script copy in durable materials is strongly encouraged. Externally illuminated signs shall be via wall-mounted fixtures that are complementary to the architecture of the development and do not create any nuisance light spill or glare to any of the residential units or the public right-of-way. Internally illuminated signs shall be limited to halo illumination only. Address and address/street name signs shall be a minimum of 8 inches in height and a maximum of 10 inches in height. Where more than one address sign is attached to multiple frontages of a single building as described above, the design, size and color of each sign shall be identical.

c. Freestanding Monument Signs. One illuminated or nonilluminated freestanding monument sign shall be allowed for developments with a minimum of 150 feet of continuous frontage on the same street.

i. Height. Monument signs shall be limited to a maximum height of 5 feet as measured from the grade of the adjacent public sidewalk.

ii. Sign Area. The sign face of monument signs shall be limited to a maximum of 40 square feet in size, not including the optional, detachable sign rider described in Subsection (c)(2) below.

1. Design and Illumination. Monument signs shall be of a high quality architectural design and be constructed of durable materials. If illumination is desired, it shall be via at-grade, flush-mounted fixtures to minimize nuisance

glare to the adjacent public right-of-way. As an alternative, above-grade fixtures may be used if it can be demonstrated that the light source will not be directly visible to the public right-of-way or neighboring properties.

2. Sign Copy. The purpose of monument signs is to identify the development by its name and address. No additional sign copy, such as phone numbers, website addresses or other forms of advertising, shall be permitted. A detachable rider to the sign containing sign copy such as "Now Leasing," "Now Renting," "Vacancy," "No Vacancy" or the like, shall be permitted so long as its design is complementary to the main sign. Such sign riders shall be no greater than 8 square feet in size.

3. Location. Monument signs shall be located within a fully landscaped area and set back a minimum of 5 feet from the back edge of the adjacent public sidewalk. In order to eliminate sight-distance obstructions, monument signs shall be located no less than 30 feet away from any vehicular driveway on the same side of the street, whether the driveway serves the subject development or an adjacent property.

d. Unit Signs. One illuminated or nonilluminated sign identifying the unit number, letter, or designation, not to exceed 1 square foot in size, shall be required and maintained for each dwelling unit.

e. Directional Signs. One or more pedestrian and/or vehicular-oriented directional signs, no larger than 6 square feet in size and 4 feet in height may be permitted within residential developments of 2 acres or greater, subject to administrative review and approval by the Director of Community Development.

2. Prohibited Signs. All signs not expressly permitted herein shall be prohibited, including those signs identified in Section 11.72.120 of this Title.

R. Operational Standards. In order to provide adequate management, maintenance and oversight for multifamily developments, the following operational standards shall be required for projects constructed after July 1, 2013:

1. For developments of 30 units or less, an on-site manager having the authority to perform or contract for emergency and nonemergency maintenance and repairs shall reside full-time in one of the dwelling units on the subject property.

2. For developments of greater than 30 units, the following requirements shall apply:

a. A permanent rental/leasing office shall be established and maintained on-site and staffed daily during regular business hours.

b. The property owner shall be required to contract with a professional property management company that is on-call 24 hours a day and shall be responsible for all landscape, common area and building maintenance.

SECTION IV. Amendment of Code.

Section 11.22.060 ("Other general development standards") of the Montclair Municipal Code is hereby repealed and replaced as follows:

11.22.060 Other general development standards.

A. Trash Collection Areas. Each trash collection area shall be located within 200 feet of the farthest unit it is intended to serve. Such collection areas

shall be designed and situated so as to minimize noise and visual intrusion on the subject property, adjacent properties, as well as to not create a fire hazard to nearby structures. Said trash collection areas shall be provided with a minimum illumination level of 500 lumens and designed to City standards to comply with stormwater runoff regulations.

B. Mail Collection Areas. Mail delivery service shall be provided within centrally located areas with easy accessibility from an internal driveway or parking area. Mail collection areas shall be located within a fully enclosed building, covered breezeway, or other similar area that is adequately protected from inclement weather, and shall be provided with a minimum illumination level of 500 lumens.

C. Utility Service and Television Service. All utility services to multifamily residential developments, including, but not limited to electrical, telephone, cable and satellite television, and broadband service shall be installed underground and within building walls. Should exterior antennas and/or satellite dishes be allowed, the project shall be designed to provide areas on each building for such equipment that are not visible to public rights-of-way or neighboring properties.

D. Lighting. Multifamily residential developments shall comply with the following standards and requirements regarding illumination:

1. Site Lighting. A professionally prepared photometric analysis demonstrating that all parking areas, driveways, private streets, walkways, and other outdoor public spaces shall be illuminated to an adequate level for security and safety during all hours of darkness shall be required to be submitted for review and approval by the Community Development Department.

2. Garages. Fully enclosed garages shall be wired to include a fixture or fixtures that has/have the capacity to support light sources providing a minimum of illumination level of 1,500 lumens. Said illumination shall be in addition to any lighting that may be provided by the required automatic garage door opener.

SECTION V. Amendment of Code.

Section 11.22.070 ("Special development criteria") of the Montclair Municipal Code is hereby repealed and deleted in its entirety.

SECTION VI. Amendment of Code.

Section 11.78.030 ("Permitted uses"), Subsection (A), of the Montclair Municipal Code is hereby amended to read as follows:

11.78.030 Permitted uses.

In addition to those uses specifically identified in Chapters 11.22 through 11.30 of this Title as requiring a conditional use permit, the Planning Commission may grant a conditional use permit for any use listed in this Section as a permitted use subject to a conditional use permit:

- A. Residential Uses.
 - 1. Assisted living facilities (AP, C-2, C-3)
 - 2. Convalescent care (AP, C-2, C-3)
 - 3. Conversions of apartments to condominiums (R-3)

4. Student housing, dormitories, group quarters (AP, C-2, C-3)

SECTION VII. Amendment of Code.

The Table of Contents for Chapter 11.90 of the Montclair Municipal Code is hereby repealed and replaced as follows:

Chapter 11.90

**RESIDENTIAL DEVELOPMENTS-
PLANNED**

Sections:

- 11.90.010 Findings, intent and purpose.
- 11.90.020 Objectives and purposes.
- 11.90.030 Application of chapter.
- 11.90.040 Authorization.
- 11.90.050 Permits required.
- 11.90.060 Preliminary review.
- 11.90.070 Precise plans required.
- 11.90.080 Application requirements.
- 11.90.090 Information to be submitted.
- 11.90.100 Development standards.
- 11.90.110 Site area.
- 11.90.120 Maximum density.
- 11.90.130 Site coverage.
- 11.90.140 Building design.
- 11.90.150 Building height.
- 11.90.160 Yards and setbacks.
- 11.90.170 Minimum floor area.
- 11.90.180 Common open/recreational space.
- 11.90.190 Vehicular circulation-private streets.
- 11.90.200 Pedestrian circulation.
- 11.90.210 Parking requirements.
- 11.90.220 Vehicular storage.
- 11.90.230 Landscaping.
- 11.90.240 Lighting.
- 11.90.250 Utility service and television service.
- 11.90.260 Laundry areas.
- 11.90.270 Trash collection areas.
- 11.90.280 Private storage areas.
- 11.90.290 Signs.
- 11.90.300 Operational standards.
- 11.90.310 Walls and fences.
- 11.90.320 Fire hydrant system.
- 11.90.330 Sewer and water systems.
- 11.90.340 Mail delivery.
- 11.90.350 Common areas.
- 11.90.360 Appearance standards.
- 11.90.370 Miscellaneous development standards.
- 11.90.380 Covenants, Conditions and Restrictions (CC&Rs)

SECTION VIII. Amendment of Code.

Section 11.90.050 ("Permits required") of the Montclair Municipal Code is hereby repealed and replaced as follows:

11.90.050 Permits required.

A. Planned residential development projects are permitted in the R-3 Zones subject to approval of a tentative and/or final tract maps as may be required by law. This requirement is in addition to other permits or certificates required by law.

B. No person shall construct, sell, lease, rent, convey, maintain or use a planned residential development project within the City without complying with the provisions of this Title.

SECTION IX. Amendment of Code.

Section 11.90.080 ("Application requirements") and Section 11.90.090 (Information to be submitted") of the Montclair Municipal Code are hereby repealed and replaced as follows:

11.90.080 Application requirements.

After the preliminary review, the applicant may file a development review application for a planned residential development and shall include the information required by this Chapter and any other information that may be required to adequately consider such proposal. A Precise Plan of Design and tentative tract map as required by the Chapter shall be submitted concurrently to the Planning Division for the purpose of review and formulation of a recommendation to the Planning Commission. Precise Plan of Design and tentative map applications, filed pursuant to this Chapter, shall be processed simultaneously.

11.90.090 Information to be submitted.

The information to be filed in conjunction with a planned residential development, in addition to the applicable requirements of Chapters 11.60, 11.80 and 11.86 of this Title, shall include the following:

A. A site plan depicting the following:

1. The arrangement and location of all buildings, structures and improvements proposed to be retained and constructed and the gross floor area and ground floor area of each unit and/or building type;

2. All off-site improvements, including street improvements, lighting, traffic signals, signage, and utility undergrounding;

2. The location and design of on-site circulation, including pedestrian paths, on-site parking and loading areas;

3. The location of all landscaped areas, surface water retention devices and improvements, fences, walls, trash enclosures and utility vaults and structures.

B. Landscape plans pursuant to Chapter 11.60 of this Title.

C. Detailed architectural drawings and renderings illustrating all elevations and floor plans of the proposed structures as they will appear upon

completion. All exterior surface materials shall be specified by manufacturer and color and/or product name and samples provided on a color and material board.

D. Scaled drawings of all signs and exterior lighting specifying the size, location, colors, materials, copy, luminaire cut sheets and illumination source and intensity.

E. Preliminary grading plans when necessary to ensure that development will properly relate to the site and to surrounding properties and structures.

F. Calculations indicating the land area devoted to each proposed use in the planned residential development and its percentage of the total area.

G. Calculations of the required and proposed amounts of open space, usable common open space, private open space and active recreational areas, on a per unit and aggregate basis.

H. A map indicating any proposed division of land within the planned residential development site.

I. A preliminary title report showing the vested ownership and all covenants, conditions, restrictions and reservations of record.

J. For planned residential developments to be built in multiple phases, a phasing and access plan.

K. Any other drawings or additional information necessary to adequately consider the drawings required by this Section and determine compliance with the purpose and intent of this Title.

SECTION X. Amendment of Code.

Section 11.90.110 ("Site area") and Section 11.90.120 ("Maximum density") of the Montclair Municipal Code are hereby repealed and replaced as follows:

11.90.110 Site area.

The minimum net site area within an R-3 Zone, when developed pursuant to this Chapter, shall be one acre, except that sites with lesser area may be permitted when contiguous to an existing planned residential development or constitute a logical extension in the arrangement of buildings, facilities and open space.

11.90.120 Maximum density.

The maximum dwelling unit densities stated in this subsection are not automatically by-right; projects shall also be required to meet all applicable development standards contained in this Title.

1. The maximum dwelling unit density for market-rate courtyard, garden, rowhouse or stacked dwelling multifamily developments shall be 25 units per net acre.

2. The maximum dwelling unit density for courtyard, garden, rowhouse or stacked dwelling multifamily developments where a minimum of 50 percent of the dwelling units are reserved and deed restricted as affordable for very low-, low-, and/or moderate-income individuals or families shall be 30 units per net acre.

SECTION XI. Amendment of Code.

Section 11.90.140 ("Distance between units"), Section 11.90.150 ("Building height") and Section 11.90.160 ("Yards and setbacks") are hereby repealed and replaced as follows:

11.90.140 Building design.

1. Structures having dwelling units attached side-by-side shall have an offset or articulation in the front building line of at least four feet (4') for every two dwelling units within such structure. Similar architectural enhancement alternatives may be approved subject to a Precise Plan of Design approved by the Planning Commission.

2. Structures having dwelling units attached side-by-side or stacked above one another shall provide at least one-third of the total number of units within such development as a flat or one-story unit.

11.90.150 Building height.

The maximum building height shall be 50 feet with a maximum of four floors, except that any portion of a building within 200 feet of the boundary of any R-1 Zone shall be limited to 38 feet and a maximum of three floors.

"Building height" as defined herein means the vertical distance from the average contact ground level of the building to the highest point of the parapet wall of a flat roof or the mean height level between the eaves and ridges for a gable or hip roof.

11.90.160 Yards and setbacks.

Planned residential developments in the R-3 Zone shall have and maintain the following minimum yards and setbacks (see Sections 11.38.050 and 11.38.060 of this Title for additional requirements). Building setbacks shall be measured from the front property line.

1. Front Yards.

a. For buildings with three stories or less, a 25-foot minimum front yard setback shall be required.

b. For buildings with four stories, a 35-foot minimum front yard setback shall be required.

c. Notwithstanding the required front yard setbacks indicated herein, covered or uncovered porches and balconies that are open on three sides may encroach up to 7 feet into the required front yard setback.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building, its relationship to the adjacent street(s) and/or to ensure compatibility with contiguous land uses.

e. No portion of the required front yard setback area shall be used for parking. Driveways of the minimum width necessary for vehicular access shall be permitted to traverse the front yard setback area.

2. Street Side Yards.

a. For buildings with three stories or less, a 25-foot minimum street side yard setback shall be required.

b. For buildings with four stories, a 35-foot minimum street side yard setback shall be required.

c. Notwithstanding the required street side yard setbacks indicated herein, covered or uncovered porches and balconies that are open on three sides may encroach up to 7 feet into the required street side yard setback.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building, its relationship to the adjacent street(s) and/or to ensure compatibility with contiguous land uses.

e. No portion of the required street side yard setback area shall be used for parking. Driveways of the minimum width necessary for vehicular access shall be permitted to traverse the street side yard setback area.

3. Interior Side Yards.

a. For buildings with three stories or less, a 10-foot minimum interior side yard setback shall be required.

b. For buildings with four stories, a 15-foot minimum interior side yard setback shall be required.

c. Open patios on the first floor shall be permitted to encroach a maximum of 5 feet into any required interior side yard setback. Open patios above the first floor shall not be permitted to encroach into any required interior side yard setbacks.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building and/or to ensure compatibility with contiguous land uses.

e. Interior side yard setback areas may be used for parking subject to approval of a Precise Plan of Design and provided that required fire lane access is maintained at all times.

4. Rear Yards.

a. For buildings with three stories or less, a 10-foot minimum rear yard setback shall be required.

b. For buildings with four stories, a 15-foot minimum rear yard setback shall be required.

c. Notwithstanding the required rear yard setbacks indicated herein, covered or uncovered porches and balconies that are open on three sides may encroach up to 7 feet into any required rear yard setback.

d. The Planning Commission may require greater setbacks pursuant to a Precise Plan of Design because of the dimensions or bulk of a building and/or to ensure compatibility with contiguous land uses.

e. Rear yard setback areas may be used for parking subject to approval of a Precise Plan of Design and provided that required fire lane access is maintained at all times.

SECTION XII. Amendment of Code.

Section 11.90.170 ("Building bulk") of the Montclair Municipal Code is hereby repealed in its entirety.

SECTION XIII. Amendment of Code.

Sections 11.90.180 through 11.90.320 of the Montclair Municipal Code are hereby repealed, renumbered and replaced as follows:

11.90.170 Minimum floor area.

A. Dwelling units within a planned residential development shall contain the following minimum floor areas:

1. For studio or one-bedroom units, 700 square feet.
2. For two-bedroom units, 900 square feet.
3. For three-bedroom units, 1,100 square feet.
4. For four-bedroom units, 1,400 square feet.

Said floor areas shall be exclusive of patios, balconies, carports and garages.

B. Minimum Room Sizes. The minimum size of rooms shall comply with the currently adopted California Building Code, except that all bedrooms shall have a minimum area of 110 square feet and a minimum dimension of 9 feet.

11.90.180 Common open/recreational space.

A. Each planned residential development shall provide outdoor open space for recreation and leisure activities within the development site in the following manner:

1. Common open/recreational space shall comprise not less than 35 percent of the net acreage. Public or private driveways, parking spaces or other areas designed for operational functions are not considered open space. Common open/recreational space improvements shall be provided as follows:

a. Developments of ten units or less shall provide at least two of the following amenities:

- i. Permanent barbecue facilities with at least two grills and two table/bench arrangements;
- ii. Playground and/or tot lot with permanently installed play equipment;
- iii. Swimming pool or spa.

b. Developments of 11 to 30 units shall provide at least two of the amenities listed in subsection (a) of this Section plus at least one of the following amenities:

- i. Sports court (tennis, volleyball, basketball, etc.);
- ii. Community building with at least one full kitchen and a minimum of two rooms for meetings, games, activities, etc.

c. Developments of 31 to 100 units shall provide at least one of each of the five amenities in subsections (a) and (b) of this Section.

d. Developments of greater than 100 units shall provide at least one of each of the five amenities in subsections (a) and (b) of this Section plus at least two of the following:

- i. A passive, open turf area (natural or synthetic), measuring at least 100 feet by 100 feet, for unstructured recreational activities;
- ii. A fitness parcourse of at least one-quarter mile in length and a minimum of six (6) activity stations;
- iii. A media screening room/theater with a seating capacity of at least 20 and permanently installed audiovisual equipment, which may be a part of the community building or constructed as a stand-alone facility.

e. For projects of greater than 100 units, the Director of Community Development may require the developer to increase the size, number and/or

capacity of one or more required amenities to adequately serve the number of residents in the development.

2. Private porches, patios and balconies attached to individual dwelling units may be included in the required outdoor open space calculation provided the minimum dimension is at least 10 feet and the minimum area is 150 square feet.

3. Swimming pools, spas, ponds, lakes, streams, and other water features provided for the common use or enjoyment of all residents may be constructed as part of the required outdoor open space; however, such facilities shall not comprise more than 50 percent of the required outdoor open space.

4. The outdoor open spaces created pursuant to the provisions of this Title shall remain open and available for such use for the life of the development.

B. Community and Recreational Facilities. Two or more of the following amenities shall be provided as an integral part of a planned residential development: swimming pool, playground, parcourse, outdoor cooking facilities, sports court, community building or similar facility/amenity to the satisfaction of the Director of Community Development. A community building shall be appropriately sized based on the number of units in the development and be capable of accommodating at least two of the following: meeting rooms, at least one having a full kitchen; fitness center; media screening room/theater; game room.

C. Private Open Space. Each dwelling unit shall have a minimum private open space of 100 square feet with a minimum dimension of 7 feet. Such private open space shall be in the form of porches, patios and/or balconies.

11.90.190 Vehicular circulation-private streets.

A. Streets. Primary and secondary streets shall be designed to meet the following standards:

1. Traffic lanes no less than 10 feet in width and no more than 12 feet in width.

2. Where on-street parallel parking is provided, the parking lane shall be 8 feet in width. Where 90-degree or angled parking is provided as part of the street design, parking stall dimensions shall be 9 feet in width by 20 feet in length. A maximum 2-foot overhang may be allowed into landscape areas or walkways with a dimension of 6 feet or greater.

B. Driveways Serving Only Garages. If a private driveway serves only garages, and the driveway is posted as a fire lane and/or to prohibit all other parking, the driveway may be constructed with a minimum width of 20 feet; provided, however, that if the driveway is double-loaded with garages on both sides, a minimum distance of 26 feet shall be provided as measured from building wall to building wall.

C. Access and On-Site Circulation.

1. Vehicular access to all developments shall be from a public street.

2. The design of all on-site vehicular circulation, including roadway widths, turning radii and turnarounds shall be subject to approval by the Fire Department.

3. There shall be a minimum vertical clearance of 14 feet along all driveways and vehicular paths that provide access for emergency response vehicles.

11.90.200 Pedestrian circulation.

A pedestrian circulation system shall be incorporated into the planned residential development for the purpose of providing direct access to all dwelling units, trash enclosures, parking areas, recreation areas and outdoor open space. The circulation system shall include the following:

A. A public sidewalk shall be constructed adjacent to all public streets bordering the project site with a minimum width of 5 feet in accordance with City standards.

B. An on-site walkway system of pedestrian walks and paths that fully complies with all disabled-accessibility standards with respect to surface material, width, grades, ramps, curbs, railings and signage.

11.90.210 Parking requirements.

A. Resident Parking. Each dwelling unit shall be provided with resident parking as indicated below. A minimum of one required parking space for each unit shall be within a carport or enclosed garage. Every effort shall be made to locate the required parking space(s) for each unit within 200 feet of the unit to which they are assigned.

1. Studio - 1 parking space.
2. 1-2 bedrooms - 2 parking spaces.
3. 3 or more bedrooms - 3 parking spaces.

B. Guest Parking. On-site parking for guests shall be provided at a ratio of one parking space for every 3 units, regardless of unit size. Guest parking shall be reasonably distributed throughout the development site.

C. Parking Space Dimensions.

1. Enclosed Garages. The minimum, clear inside dimensions of each parking space within an enclosed garage shall be 10 feet in width and 20 feet in length.

2. Carports. The minimum, clear dimensions of each parking space within a carport shall be 9 feet in width by 20 feet in length; provided, however, that a 2-foot overhang may be allowed into landscape areas or walkways with a dimension of 6 feet or greater. Where a structural support post occurs for a carport, an additional 2 feet in width shall be added to each parking space on either side of the structural member.

3. Uncovered Parking. The minimum dimensions of each uncovered parking space shall be 9 feet by 20 feet in length; provided, however, that a 2-foot overhang may be allowed into landscape areas or walkways with a dimension of 6 feet or greater.

D. Automatic garage door openers shall be required for each enclosed garage.

E. Parking Lot Striping. Striping for uncovered parking spaces or those within carports shall be double-stripe or "hairpin" style, with the 9-foot dimension being measured to the center of the "hairpin."

F. Tandem Parking. Tandem parking shall only be permitted within enclosed garages and only when both spaces serve the same unit.

G. On-street parking on public streets shall not be used to satisfy any of the parking requirements contained herein.

11.90.220 Vehicular storage.

Outdoor areas for the storage of vehicles, trailers, watercraft, recreational vehicles and the like shall be prohibited unless specially designated areas for the exclusive storage of such vehicles are approved by the City as part of the final development plan and provided for in the homeowners association's Covenants, Conditions and Restrictions (CC&Rs). If such areas are provided, they shall be enclosed and screened from view from neighboring properties and public rights-of-way by a decorative masonry wall, minimum 7'-6" in height, compatible and integrated with the architectural design of the development. Such storage areas shall be landscaped and illuminated to minimum levels during all hours of darkness. A vehicle wash area and/or RV wastewater disposal station may be provided within an approved vehicular storage area, subject to review and approval by the Director of Community Development and Director of Public Works.

11.90.230 Landscaping.

The design, installation and maintenance of all landscape and hardscape areas shall be subject to approval of a Precise Plan of Design and shall fully comply with Chapter 11.60 of this Title.

11.90.240 Lighting.

Planned residential developments shall comply with the following standards and requirements regarding illumination:

1. Site Lighting. A professionally prepared photometric analysis demonstrating that all parking areas, driveways, private streets, walkways, and other outdoor public spaces shall be illuminated to an adequate level for security and safety during all hours of darkness shall be required to be submitted for review and approval by the Community Development Department.

2. Garages. Fully enclosed garages shall be wired to include a fixture or fixtures that has/have the capacity to support light sources providing a minimum of illumination level of 1,500 lumens. Said illumination shall be in addition to any lighting that may be provided by the required automatic garage door opener.

3. Mail collection areas. Common mail collection areas shall be located within a fully enclosed building, covered breezeway, or other similar area that is adequately protected from inclement weather, and shall be provided with a minimum illumination level of 500 lumens.

11.90.250 Utility service and television service.

All utility services to planned residential developments, including, but not limited to electrical, telephone, cable and satellite television, and broadband service, shall be installed underground and within building walls. Should exterior antennas and/or satellite dishes be allowed, the project shall be designed to provide areas on each building for such equipment that are not visible to public rights-of-way or neighboring properties.

11.90.260 Laundry areas.

Laundry areas with plumbing connections meeting minimum building code standards shall be provided for in each residential unit within a planned residential development.

11.90.270 Trash collection areas.

Each trash collection area shall be located within 200 feet of the farthest unit it is intended to serve. Such collection areas shall be designed and situated so as to minimize noise and visual intrusion on the subject property, adjacent properties, as well as to not create a fire hazard to nearby structures. Said trash collection areas shall be provided with a minimum illumination level of 500 lumens and designed to City standards to comply with stormwater runoff regulations.

11.90.280 Private storage areas.

Units within a planned residential development that do not have a fully enclosed garage shall be provided with a minimum of 200 cubic feet of enclosed, secure private storage space that shall be provided within the planned residential development. The design and location of said storage spaces shall be integrated into the development to the satisfaction of the Director of Community Development.

11.90.290 Signs.

The general development standards for signs as set forth in Chapter 11.72 of this Title shall apply, in addition to the following:

A. Permitted Signs.

1. Wall Signs. One illuminated or nonilluminated wall sign with the name of the development shall be permitted on each street frontage. Individual or script copy in durable materials is strongly encouraged. Externally illuminated signs shall be via wall-mounted fixtures that are complementary to the architecture of the development and do not create any nuisance light spill or glare to any of the residential units or the public right-of-way. Internally illuminated signs shall be limited to halo illumination only.

2. Address Signs. One illuminated or nonilluminated wall sign with the numerical address or numerical address and street name of the development shall be permitted on each building on each street frontage. Where a building also fronts on an internal private driveway or parking lot, additional numerical address(es) may be permitted to be displayed for safety and security purposes. Individual or script copy in durable materials is strongly encouraged. Externally illuminated signs shall be via wall-mounted fixtures that are complementary to the architecture of the development and do not create any nuisance light spill or glare to any of the residential units or the public right-of-way. Internally illuminated signs shall be limited to halo illumination only. Address and address/street name signs shall be a minimum of 8 inches in height and a maximum of 10 inches in height. Where more than one address sign is attached to multiple frontages of a single building as described above, the design, size and color of each sign shall be identical.

3. Freestanding Monument Signs. One illuminated or nonilluminated freestanding monument sign shall be allowed for developments with a minimum of 150 feet of continuous frontage on the same street.

a. Height. Monument signs shall be limited to a maximum height of 5 feet as measured from the grade of the adjacent public sidewalk.

b. Sign Area. The sign face of monument signs shall be limited to a maximum of 40 square feet in size, not including the optional, detachable sign rider described in Subsection (3)(d) below.

c. Design and Illumination. Monument signs shall be of a high quality architectural design and be constructed of durable materials. If illumination is desired, it shall be via at-grade, flush-mounted fixtures to minimize nuisance glare to the adjacent public right-of-way. As an alternative, above-grade fixtures may be used if it can be demonstrated that the light source will not be directly visible to the public right-of-way or neighboring properties.

d. Sign Copy. The purpose of monument signs is to identify the development by its name and address. No additional sign copy, such as phone numbers, website addresses or other forms of advertising, shall be permitted. A detachable rider to the sign containing sign copy such as "Now Leasing," "Now Renting," "Vacancy," "No Vacancy" or the like, shall be permitted so long as its design is complementary to the main sign. Such sign riders shall be no greater than 8 square feet in size.

e. Location. Monument signs shall be located within a fully landscaped area and set back a minimum of 5 feet from the back edge of the adjacent public sidewalk. In order to eliminate sight-distance obstructions, monument signs shall be located no less than 30 feet away from any vehicular driveway on the same side of the street, whether the driveway serves the subject development or an adjacent property.

4. Unit Signs. One illuminated or nonilluminated sign identifying the unit number, letter or designation, not to exceed 1 square foot in size, shall be required and maintained for each dwelling unit.

5. Directional Signs. One or more pedestrian and/or vehicular-oriented directional signs, no larger than 6 square feet in size and 4 feet in height may be permitted within residential developments of 2 acres or greater, subject to administrative review and approval by the Director of Community Development.

B. Prohibited Signs. All signs not expressly permitted herein shall be prohibited, including those signs identified in Section 11.72.120 of this Title.

11.90.300 Operational standards.

In order to provide adequate management, maintenance and oversight for planned residential developments, the following operational standards shall be required for projects constructed after July 1, 2013:

1. For developments of 30 units or less, an on-site manager having the authority to perform or contract for emergency and nonemergency maintenance and repairs shall reside full-time in one of the dwelling units on the subject property.

2. For developments of greater than 30 units, the following requirements shall apply:

a. A permanent rental/leasing office shall be established and maintained on-site and staffed daily during regular business hours.

b. The property owner shall be required to contract with a professional property management company that is on-call 24 hours a day and shall be responsible for all landscape, common area and building maintenance.

11.90.310 Walls and fences.

The general development standards for walls and fences as provided in Sections 11.38.050(M), (N) and (O) of this Title shall apply; provided, however,

that the Planning Commission may require additional walls and fences if necessary to protect adjacent properties.

Section XIV. Amendment of Code.

Sections 11.90.330 through 11.90.340 of the Montclair Municipal Code are hereby renumbered as follows:

- 11.90.320 Fire hydrant system.**
- 11.90.330 Sewer and water systems.**

SECTION XV. Amendment of Code.

Section 11.90.350 of the Montclair Municipal Code is hereby repealed and replaced as follows:

11.90.340 Mail delivery.

Mail delivery service shall be provided within centrally located areas with easy accessibility from an internal driveway or parking area. Mail collection areas shall be located within a fully enclosed building, covered breezeway, or other similar area that is adequately protected from inclement weather, and shall be provided with a minimum illumination level of 500 lumens.

SECTION XVI. Amendment of Code.

Sections 11.90.360 through 11.90.370 of the Montclair Municipal Code are hereby renumbered as follows:

- 11.90.350 Common areas.**
- 11.90.360 Appearance standards.**

SECTION XVII. Amendment of Code.

Sections 11.90.380 through 11.90.390 of the Montclair Municipal Code are hereby repealed, renumbered and replaced as follows:

11.90.370 Miscellaneous development standards.

The following development standards shall be applicable to planned residential developments in addition to those required elsewhere in this Chapter:

A. Grading: Notification of Completion and Written Certification Required. The permittee or his/her agent shall notify the Building Official when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, stormwater retention facilities and all erosion control measures have been completed in accordance with the final approved grading plan and the required reports have been submitted, including written certification that the work completed is in accordance with the final approved grading plan.

B. Landscaping: Notification of Completion and Written Certification Required. The permittee or his/her agent shall notify the Director of Community

Development when the final landscaping installation is ready for inspection. Final approval shall not be given until all work, including installation of plant material and an automatic irrigation system, has been completed in accordance with the approved landscape plan, and the permittee has submitted written certification by a licensed professional that the work has been completed in accordance with the final approved landscape plan and all requirements of Chapter 11.60 of this Title.

C. Energy Conservation. The project shall be designed to meet or exceed all state and local energy conservation standards in effect at the time of construction.

D. Fire Detection System. Smoke and carbon monoxide detectors shall be installed in all habitable spaces as required by state and local ordinances at the time of construction.

E. Fire Suppression System. An automatic fire sprinkler system shall be installed in all dwelling units, and in all covered or enclosed nonhabitable spaces, such as garages, carports and trash enclosures as required by local ordinance at the time of construction.

F. Sound Attenuation. Planned residential developments shall be designed to comply with state noise attenuation standards and local building requirements in effect at the time of construction.

G. Solar Energy Systems. The goals and objectives of the General Plan encourage and promote an enhanced residential park-like environment through the implementation of aesthetically pleasing development and design standards of this Title. However, it is recognized that there is a need to encourage and promote awareness in the community of alternative means of conserving energy resources. It is further recognized that the use of solar energy can be a cost-effective means of water heating and space heating and cooling, but that the use of such systems may be inconsistent with the goals and objectives of the community and the aesthetic character of the City's residential neighborhoods.

The Planning Commission, in granting approval of a solar energy system, may impose conditions that are necessary and desirable to carry out the purposes of this Chapter and that are consistent with the policies, principles, regulation, criteria and standards applied to other properties, uses and developments in similar circumstances. Further, in considering a solar energy system, the Planning Commission shall impose conditions in order to provide a balance between the goals and objectives of the community and the General Plan, and the recognize desire to allow solar energy systems as an alternative energy source.

11.90.380 Covenants, conditions and restrictions (CC&Rs).

In order to ensure proper maintenance of all streets, parking areas, landscaping and other improvements within the common areas of a planned residential development, the following provisions shall be contained in the Covenants, Conditions and Restrictions (CC&Rs). No such CC&Rs shall be acceptable until approved by the Director of Community Development as to the adequacy and suitability for the proposed use and maintenance of all common areas, and by the City Attorney as to legal form and effect. These provisions shall include, but not be limited to, the following:

A. The final CC&Rs, upon approval by the City, shall be recorded with the final map.

B. The City shall be made a party to the CC&Rs and further provide that the City shall approve any changes or amendments to the CC&Rs.

C. The City shall be granted the power to enforce all provisions of the CC&Rs, including, but not limited to, the maintenance of all streets, parking areas, landscaping and other improvements within the common areas of the development.

D. The City shall be granted the express power to enforce all laws and ordinances of the State of California and/or the City of Montclair on the private streets, alleys and parking areas within the project. Nothing within the CC&Rs shall be construed as imposing an obligation or requiring the City to enforce any provision of the CC&Rs.

E. The City shall be entitled to prior written notice of any proposed amendment to the CC&Rs. Such notice shall be given by mailing a copy of the precise language of the proposed amendment to the City, in care of the City Clerk, together with a letter of transmittal explaining the proposed change in general terms. The City shall have an opportunity to review and comment upon the proposed amendment for a period of not less than 45 days prior to the effective date of any such proposed amendment.

F. Right of Entry. The City, through its duly authorized agents or employees, shall have the right to enter upon the common areas for the following purposes:

1. Inspection, maintenance and repair of the landscaping and private street components of the common areas where such maintenance and repair is required;

2. Enforcement of local traffic and/or parking regulations. All privately owned and maintained streets, alleys, driveways and parking areas shall be open for the use of the public for purposes of vehicle traffic and are so connected with highways and streets that provisions of the Vehicle Code of the State of California may be applied to them in their entirety. Whenever by this provision, or any other law of the City, parking is restricted or prohibited and signs are erected giving notice thereof, duly authorized representatives of the City of Montclair may cause the vehicles in violation thereof to be towed away and stored at the expense of the owner, operator or person to whom the vehicle is entitled to be released, and the vehicle shall not be released except upon payment of the towing and storage costs. In tow-away zones, the Public Works Department shall cause to be posted appropriate signs giving notice thereof.

G. Reimbursement of City Expenditures by the Association. All costs and expenses incurred by the City arising out of its maintenance and repair of the common areas, as provided in subsection (F)(1) and (2) of this Section, shall be charged as an expense of the homeowners association and shall be paid within 30 days of receipt of an invoice for same.

H. Assessments and Lien Rights of the City. If City maintenance costs are not paid within 30 days from the date due, said unpaid costs and expenses shall become a special assessment against the property, and upon hearing and confirmation by the City Council, shall be collected in the same manner as real property taxes and shall be subject to the same penalties, procedures and sale in case of delinquency as is provided for real property taxes.

SECTION XVIII. 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 XIX. Effective Date.

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

SECTION XX. 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. 13-935 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 SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 13-936 ADDING CHAPTER 9.12.190 TO THE MONTCLAIR MUNICIPAL CODE RELATED TO BARBECUES, FIRE PITS, AND OPEN FIRES IN CITY PARKS	DATE: August 5, 2013 SECTION: ADMIN. REPORTS ITEM NO.: 2 FILE I.D.: PRK020 DEPT.: PUBLIC WORKS
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REASON FOR CONSIDERATION: The City currently has no Ordinance regulating the use of fires and barbecues in City Parks. City staff recognizes that barbecues in parks are an acceptable use of park areas provided they are used in a safe manner. To provide for their safe use, certain regulations are necessary and are established through the Ordinance process. Ordinances require City Council consideration and approval.

BACKGROUND: The City owns or leases and maintains 12 park sites within the City ranging in size from about 2,000 square feet to five acres. Some park sites, like the Kingsley ball fields, are leased from Ontario-Montclair School District and used exclusively for sports. Some, like Alma Hofman Park, combine both active and passive uses. And others, like the unnamed mini park at Highland Street and Helena Avenue, are simply passive-use picnic areas.

The use of barbecues at any of these parks is currently unregulated. Any barbecue from a small hibachi grill to a trailer-mounted Super Cooker could be legally used at any park site in the City. Trailer-mounted barbecues often take up too much parking area, inconveniencing other park users, or are towed onto turf areas, damaging grass and irrigation systems. Live coals or briquettes from the smaller, portable barbecues are sometimes dumped in trash cans or on the ground causing fires and other damage.

Proposed Ordinance No. 13-936 does not prohibit the use of barbecues in any City park but does limit the type of barbecue that may be used. The proposed Ordinance bans the use of towed and all nonliquid propane gas (LPG) barbecues, limits the size of grills of LPG barbecues to 1,000 square inches or less, and requires the barbecue be placed no closer than 25 feet to adjacent properties, walls, playground equipment, or other facilities where such use might constitute a hazard or inconvenience. It also prohibits open fires for obvious safety reasons. A violation of the proposed Ordinance would be considered an infraction under Chapter 1.12.10 of the Montclair Municipal Code, with fines ranging from \$100 for a first offence to \$500 for a third offence within a 12-month period.

FISCAL IMPACT: Publication costs for the legal notice required for this public hearing is not expected to exceed \$1,000.

Prepared by: *Masche*
Proofed by: *Ally*

Reviewed and Approved by: *Masche*
Presented by: *David Q. Jones*

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, August 19, 2013, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 13-936 adding Chapter 9.12.190 to the Montclair Municipal Code related to barbecues, fire pits, and open fires.

ORDINANCE NO. 13-936

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR ADDING
CHAPTER 9.12.190 TO TITLE 9 OF THE
MONTCLAIR MUNICIPAL CODE RELATED
TO USE OF BARBECUES IN CITY PARKS

THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES HEREBY ORDAIN AS
FOLLOWS:

Section I.

Chapter 9.12.190 of the Montclair Municipal Code is hereby added as follows:

Chapter 9.12.190 Barbecues, Fire Pits, Open Fires

A. It is unlawful for any person to violate any provision or fail to comply with any requirements of this section. In addition to other remedies provided by law, any person violating any provision of this section or failing to comply with any of the requirements of this section is deemed guilty of an infraction within the manner provided in Montclair Municipal Code Section 1.12.010.

B. Fire pits, fire rings, campfires, and all other open fires within any City-owned, -leased, or -maintained park are prohibited, except as herein permitted below as a barbecue.

C. The use of nonliquid propane gas (LPG) barbecues and grills is prohibited in all City-owned, -leased, or -maintained parks. This prohibition includes, but is not limited to, charcoal-, wood-, briquette-, and natural gas-fired barbecues.

D. LPG grills and/or barbecues shall be a patio size barbecue with a grill area not exceeding 1,000 square inches. No large barbecues or cookers that are towed behind vehicles are permitted. Barbecues shall be fully self-contained with a grill area, burners, and frame for mounting LPG tank.

E. No barbecue otherwise permitted by this section shall be placed within 25 feet of any adjacent property, playground equipment, buildings, fences, walls, or at the Alma Hofman Park Skate Park or Splash Pad facilities.

F. Exceptions: City-sponsored or special events shall be exempt from these restrictions upon approval by the City Manager, Deputy City Manager, Public Works Director, or Director of Public Safety.

Section II. 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 III. Effective Date.

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

Section IV. 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 Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 13-936 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 Smith
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER DESIGNATION OF VOTING DELEGATE AND ALTERNATE VOTING DELEGATES TO THE LEAGUE OF CALIFORNIA CITIES 2013 ANNUAL CONFERENCE & EXPO, SEPTEMBER 18-20, 2013, SACRAMENTO, CALIFORNIA	DATE: August 5, 2013
	SECTION: ADMIN. REPORTS
	ITEM NO.: 3
	FILE I.D.: LCC050
	DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: It is necessary that the City Council designate the voting delegate and up to two alternate voting delegates to the League of California Cities (LCC) 2013 Annual Conference & Expo.

BACKGROUND: The LCC 2013 Annual Conference & Expo is scheduled for September 18 through 20, 2013, in Sacramento, California. An important part of the event is the Annual Business Meeting scheduled for 12:00 p.m. on Friday, September 20, 2013.

Participating cities will be given a vote at the Annual Business Meeting if a voting delegate and alternate are determined in advance. Montclair has traditionally designated our Mayor and Mayor Pro Tem as the respective voting delegate and alternate. Beginning in 2010, cities are now eligible to appoint up to two alternate voting delegates; and staff recommends Mayor Pro Tem Ruh and Council Member Paulitz be designated as alternates.

FISCAL IMPACT: The City Council's designation of a voting delegate and two alternates to the LCC Annual Conference would create no fiscal impact to the City's General Fund.

RECOMMENDATION: Staff recommends Mayor Eaton be designated Montclair's voting delegate and Mayor Pro Tem Ruh and Council Member Paulitz be designated as alternate voting delegates to the League of California Cities 2013 Annual Business Meeting to be held Friday, September 20, 2013, at the Sacramento Convention Center.

Prepared by:

Gyome L Smith

Reviewed and
Approved by:

Proofed by:

Andrew Paulitz

Presented by:

[Signature]

AGENDA REPORT

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

DATE: August 5, 2013

SECTION: ADMIN. REPORTS

ITEM NO.: 4

FILE I.D.: EQS051/052

DEPT.: POLICE

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

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

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

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

Prepared by:

Sharon Agapian
Kathy B...

Reviewed and
Approved by:

R. [Signature]

Proofed by:

Presented by:

[Signature]
[Signature]

MONTCLAIR POLICE DEPARTMENT
 SURPLUS PROPERTY LIST
 JUNE 27, 2013

TAG NO.	QTY	DESCRIPTION	SERIAL NO.	CR #
1	1	(1) DIAMOND EARRING (25Q)		10-5116
2	1	PANASONIC LUMINIX DMC-FX8 DIGITAL CAMERA (299H)		07-1519
3	1	OLYMPUS STYLUS VERVE 4.0 MEGA PIXEL DIGITAL CAMERA (299H)		07-1519
4	1	ANALOG WRIST WATCH "JF" (337C)		12-1387
5	1	BLACK HANDGUN CASE (338B)		12-4683
6	4	PINNACLE TIRES WITH CHROME WHEELS (338A)		12-2077
7	4	NITRO TIRES WITH RIMS (338B)		12-2077
8	1	PINK SCHWIN BIKE (310A)		12-5586
9	1	GREEN NEXT BIKE (241A)		12-5006
10	1	BLUE NEXT BIKE (325A)		12-5867
11	1	BLACK BEACH CRUISER (328B)		12-5899
12	1	PEACH BEACH CRUISER (338A)	MB05A06843	12-1548
13	1	BLACK BEACH CRUISER (208A)	SL08147118	12-4396
14	1	RUST NEXT BIKE (335A)	99332555	12-2681
15	1	FOLDING LADDER (268A)		12-5451
16	1	AUDIO PHONICS AMP (297A)		10-5648
17	1	RED AMP (297B)		10-5648
18	1	LEXMARK PRINTER/COPIER (131A)	02500164689	12-5727
19	1	BLACK BACKPACK (303B)		07-6311
20	1	BLACK COACH PURSE (303A)		07-6311
21	1	CANNON CAMERA WITH BAG (264C)	2421400271	13-0545
22	1	VHC RECORDER (25A)	002725350	12-0715
23	2	MOTOROLA RADIOS P100 (309C)		11-0618
24	1	CRAFTSMAN POWER DRILL (309D)		11-0618
25	1	"M" 12" CAR SPEAKER (303D)		12-5575
26	1	KOLE AUDIO AMP (303E)		12-5575
27	1	NITRO AMP (303F)	21000610	12-5575
28	1	NISSAN SPEAKER (303G)		12-5575
29	1	CRAFTSMAN HEDGE TRIMMER	01200N60062	08-0267
30	1	"RYOBI" MITER SAW	N050916674	08-0267

AGENDA REPORT

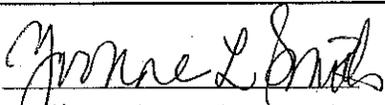
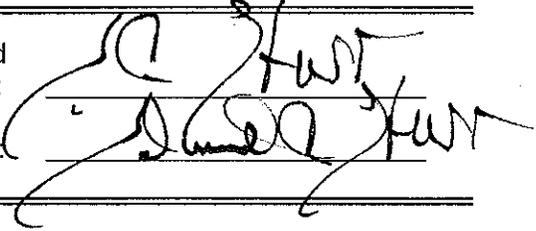
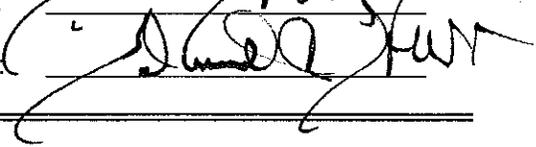
SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: August 5, 2013
	SECTION: ADMIN. REPORTS
	ITEM NO.: 5
	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Ruh has examined the Warrant Register dated August 5, 2013, and Payroll Documentation dated June 16, 2013; finds them to be in order; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated August 5, 2013, totals \$1,505,139.55. The Payroll Documentation dated June 16, 2013, totals \$757,885.21, with \$515,736.87 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 APPROVAL OF AGREEMENT NO. 13-53 WITH VERMONT SYSTEMS, INC., TO PURCHASE AND IMPLEMENT A RECREATION SOFTWARE PROGRAM

DATE: August 5, 2013

SECTION: AGREEMENTS

ITEM NO.: 1

FILE I.D.: HSV020

DEPT.: ADMIN SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-53 with Vermont Systems, Inc., for the purchase and implementation of a recreation software program that would improve the current inadequate system of pen-and-paper hard copy registration. The program would grow with our programs and encourage additional participation from the community.

A copy of proposed Agreement No. 13-53 is attached for the City Council's review and consideration pursuant to the City of Montclair Purchasing Manual related to professional service contracts.

BACKGROUND: It has become apparent in recent years that the current recreation registration and program management does not meet our needs and does not allow for online registration. A recent survey of 12 surrounding communities found that Montclair is the only city that does not offer online registration. Staff attended a Southern California recreation program expo in April 2012 and described our program needs to five different vendors. Staff met with ten different area cities in November 2012 to address recreation software programs; and in January 2013, the same group met to hear presentations by four different recreation software vendors. Staff interviewed three different vendors between May 2013 and July 2013. Below is a list of the vendors and their fees:

<i>Vendor</i>	<i>Fee for Program Registration Software, Online Registration Software, and Training and Installation</i>
ActiveNet	\$ 6,800 - however, there is a 2 to 6.5 percent fee for every transaction made in the software
RecTrac by Vermont Systems, Inc.	\$19,807
SportsMan SQL by Peak Software	\$11,811

Prepared by: Michelle Castillo

Reviewed and Approved by: M. Richter

Proofed by: Christine Smidley

Presented by: David Stewart

Based on interviews, staff eliminated the following two vendors for the reasons stated:

ActiveNet

Paying per transaction would result in many additional fees that would vary throughout the year for both the City and public registering for our programs. Many other area cities are also very displeased with ActiveNet because the company announced in 2012 that it would be discontinuing a major recreation software module, requiring cities to purchase their new software program.

SportsMan SQL by Peak Software

The company is too small for the City's needs. It only serves one other city in Southern California and has not integrated with Springbrook, Montclair's finance software program, which the Finance Division requires.

Based on these findings and conversations with representatives from other cities, including Diamond Bar and La Quinta that currently have RecTrac software, staff decided RecTrac would best serve Human Services Division's needs. Vermont Systems, Inc., does not charge a per transaction fee, has successfully integrated the RecTrac program with Springbrook software, and has a strong presence in Southern California cities that are quite pleased with the product including Baldwin Park, Chino Hills, Diamond Bar, and La Quinta.

The term of proposed Agreement No. 13-53 is one year from the date of installation.

FISCAL IMPACT: Total costs associated with the RecTrac software program is \$23,446. This amount would be funded by grants already received from the Inland Empire United Way, Kaiser Foundation Hospitals, and the Ontario-Montclair School District to promote and support healthy community programs.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-53 with Vermont Systems, Inc., to purchase and implement a recreation software program.

VERMONT SYSTEMS, INC.
SOFTWARE LICENSE, MAINTENANCE AND SUPPORT AGREEMENT-9/12/12

This SOFTWARE LICENSE, MAINTENANCE AND SUPPORT AGREEMENT ("Agreement"), is made and entered into on Duke Install, by and between Vermont Systems, Inc., a Vermont corporation (hereinafter "VSI" or "Licensor", and City of Montclair, CA (hereinafter "Customer" or "Licensee"), collectively referred to herein as the "Parties" or singularly as "Party".

ARTICLE 1 – Software License

- 1.1 VSI shall provide the Licensee and the Licensee agrees to accept a perpetual, non-transferable, and non-exclusive right to use the Licensed Software and Related Materials, as described in the attached Exhibit B price quote. The Licensed Software includes Related Materials, such as User Reference Manuals, Reports Manuals, Installation Planning Guides, Installation Instructions, On-Line Help, and Sample Database with Tutorials.
- 1.2 VSI uses the Progress OpenEdge V10 Development software to develop its' applications and deploys using the OpenEdge Deployment software that includes Client Networking, Web Client, Load Balancer, and Personal, Workgroup, or Enterprise RDBMS (embedded database) with RDBMS support for 4GL, SQL, ODBC, JDBC, and Enterprise Cluster Manager Integration, and OpenEdge Application Server, Basic and Enterprise Editions with Replication. Therefore, Progress software with RDBMS is required to operate the application software by platform type, and they are included in the attached Exhibit B.
- 1.3 The license granted herein authorizes the Customer to install the Licensed Software on the designated computer platform for live processing and on testing/disaster recovery systems without incurring additional license charges. Further, the Customer can make copies of the Licensed Software for safe keeping purposes only. If VSI is providing complete hosting services, Item 1.3 does not apply.
- 1.4 At any time, the Customer can add software and users under the terms of this Sales Agreement by paying the additional license and maintenance fees. The total number of authorized user workstations permitted to use the Licensed Software is limited to the number listed in Exhibit B.
- 1.5 If WebTrac is included in the Sales Agreement, it requires a web server, either in-house or hosted, to link the Customer's database and transaction server with the internet. If the Customer selects the VSI hosting option, then the fees for this option will be included in Exhibit B. Further, the web server hosting requirements are listed in Exhibit C and the full web and database hosting requirements are listed in Exhibit D.

ARTICLE 2 – Annual Software Maintenance and Support Services

- 2.1 VSI shall provide the Licensee with Software Maintenance and Software Support services for the Licensed Software in accordance with VSI standard Sales and Support Policies, as described in Exhibit A. The extent of support services being provided are specifically listed in Exhibit B.
- 2.2 The Annual Software Maintenance support shall include distribution of product update releases, including software repairs and enhancements subsequent to the initial purchase. Annual software updates will be distributed in accordance with VSI standard Sales and Support Policies, as described in Exhibit A, while periodic program only updates are available at any time. If VSI is providing complete hosting services, VSI will provide software installation and upgrade services and coordinate both with each Licensee.
- 2.3  The Software Maintenance and Support fee will be billed annually, and it becomes effective on the first day of your January 1st, May 1st, July 1st, or October 1st fiscal year for one year (*Please Note*). New customers will be charged on a prorated basis from the first day of the installation month through the end of the current fiscal year.
- 2.4 The required Software Maintenance and Support Agreement will automatically renew annually, unless the Licensee notifies VSI in writing that the Licensee is terminating VSI Maintenance Support. VSI reserves the right to increase the annual maintenance fees annually. Customers can contact VSI in advance to obtain a firm quote for the next fiscal year.

KWJ VSI Initials _____ Customer Initials

ARTICLE 3 – Software Training and Installation Services

- 3.1 Training is offered at the Customer site, at VSI (12 Market Place, Essex Junction, Vermont), and remotely based on a daily rate, as described in the VSI standard Sales and Support Policies, Exhibit A.
- 3.2 Any training services and estimated charges for each Licensee, including the number of training days, and travel, lodging, meals, and other expenses, are itemized in Exhibit B. All training dates must be mutually agreed upon by VSI and the Licensee. The Licensee can request a change of training dates and number of training days. However, if a change is made after travel arrangements have been completed, the Licensee will be responsible for any additional costs incurred as a result of the changes.
- 3.3 If VSI is providing other Installation Services, such as hardware and network operating system installation and setup services, they will be listed in Exhibit B, as well.
- 3.4 The Licensee is responsible for reimbursing VSI for all reasonable expenses, such as travel, lodging, meals, and other expenses necessary to complete the training, as requested by the Customer. While the estimated out-of-pocket expenses are listed in Exhibit B, only the actual expenses will be billed to the Customer, unless the Customer requires a fixed price in advance.

ARTICLE 4 – VSI Hosting Services

- 4.1 If the WebTrac software is being licensed, it requires a web server, either in-house or hosted, to link the Customer's transaction server with the internet. If the Customer selects the VSI hosting option for a minimum of one year, the fee will be included in Exhibit B and it will be billed annually in advance. New customers will be charged on a prorated basis from the first day of the installation month through the end of the current fiscal year. Exhibit C web server hosting does not apply to this Sales Agreement.
- 4.2 If the Customer selects complete VSI hosting services, whereby the VSI application software and Progress software are installed on VSI servers at the Tech Vault data center, the monthly fee for this option will be included in Exhibit B. Since VSI will not be providing complete hosting services for City of Montclair, CA Exhibit D hosting services specifications does not apply to this Sales Agreement.

ARTICLE 5 – Charges and Payment

- 5.1 Customer On-Premise Hosted Software – if the Customer is installing the software on its own servers, the Licensed Software charges will be billed to the Customer when shipped or following the initial training session, based on circumstances, and will be due within 30 days.
- 5.2 VSI Hosted Software: if VSI is providing complete Hosting Services, VSI will install the software on the Customer's servers at the Tech Vault data center. The Licensed Software charges will be billed to the Customer when the software applications become available for Customer use or following the initial training session, and will be due within 30 days.
- 5.3 For Customer On-premise Hosted Software, the initial Software License fee includes ground shipping of the DVD that contains the software and electronic copies of all documentation. If special shipping is requested, the Customer shall pay all associated additional charges. VSI shipping terms for third party hardware and software are FOB Origin.
- 5.4 The Customer shall pay all applicable sales, consumer use, and other taxes required by law, unless it is exempt from any or all of these taxes. If tax-exempt, the Licensee must provide a tax exemption certificate.
- 5.5 VSI will invoice the Customer for training and installation services, along with travel and other expenses, immediately following the completion of each occurrence of training or other services.
- 5.6 VSI Hosting Services fees will be due on the first day of each month or fiscal year.

 VSI Initials _____ Customer Initials

ARTICLE 6 – Security of Programs

- 6.1 The Customer shall be solely responsible for the supervision and control of the licensed Customer hosted software to ensure that it is stored in a secure location for Customer use only and that no unauthorized and unlicensed third party gains access to it. VSI is responsible for the security of all VSI hosted software.
- 6.2 Under no circumstances shall the Customer be authorized to perform Reverse Engineering of the software object code in order to illegally generate source code.

ARTICLE 7 – Warranties

- 7.1 VSI warrants that it has the right to license the Licensed Software, and that there are no pending liens, claims, or encumbrances against the software.
- 7.2 VSI warrants that the software shall conform to its published specifications in the Related Materials, including, but not limited to, the Capabilities Summary, On-Line Help, Reports Manual, User Reference Manual, and Training Tutorials. VSI warrants that the software is merchantable, in that it will properly install and operate according to the specifications herein.
- 7.3 VSI warrants to the Customer that it is solvent, not in bankruptcy proceedings or receivership, nor is it engaged in any proceedings, which would have an adverse effect on its ability to perform its obligations under this Agreement.
- 7.4 VSI warrants that there has been no violation of copyrights or patent rights in connection with the Licensed Software in this Agreement. VSI shall indemnify and save harmless the Licensee from any suit or proceeding brought against the Licensee by reason of any such infringement or any wrongful use. VSI will defend or settle any such claim, although the Licensee shall be entitled to be independently represented by counsel of its own choice.

ARTICLE 8 – Limitation of Liability

- 8.1 Except for the warranties specified in Section 7, VSI grants no warranties, expressed or implied, including, but not limited to any implied warranties of fitness for a particular purpose. Notwithstanding anything to the contrary in this Agreement, it is expressly agreed that neither VSI nor the Customer shall be liable to the other Party for special, incidental, indirect, or consequential damages, or for any loss or claim by either Party.
- 8.2 The Parties agree that the laws of the State of Vermont will govern this Agreement, and that the venue for legal resolution shall be in Chittenden County, Vermont.

ARTICLE 9 – Risk of Loss

- 9.1 For Customer hosted installations, the risk of loss or destruction, regardless of the cause, shall be the responsibility of VSI until the Licensed Software and Related Materials have been delivered to the Customer's premises. For VSI hosted installations, VSI will be responsible for the risk of loss or destruction.
- 9.2 For Customer hosted installations, the Customer shall be responsible for verifying that the Licensed Software and Related Materials have been received, installed on the designated computer(s), and are operational, unless the Agreement specifies that VSI will install the Licensed Software as part of the on-site training. For VSI hosted installations, VSI will be responsible for installing the software on the Customer's servers.

ARTICLE 10 – Application Source Code

- 10.1 The Source Code for all VSI application software, along with a list of licensed customers, is held in escrow by VSI's Escrow Agent, Kolvoord, Overton, & Wilson, Attorneys, at 6 Joshua Way, Suite B, Essex Junction, Vermont 05452, Attn: Jason Ruwet 802-878-3346, jfr@essexvlaw.com. The source code held in escrow is updated after each software release. If VSI defaults in providing software maintenance support due to company failure, or discontinuance of said service by VSI or VSI's bankruptcy, then the source code will be made available to the Customer within thirty days of written notice by the Escrow Agent for Customer support use only.

KWJ VSI Initials _____ Customer Initials

ARTICLE 11 – Independent Contractor

11.1 In performing the work under this Agreement, VSI acts as an Independent Contractor and is solely responsible for necessary and adequate workers' compensation insurance, as well as personal injury and property damage insurance.

ARTICLE 12 – Change Orders or Extensions

12.1 The Customer may require changes in the scope of services to be performed by VSI. Such changes, including any increase or decrease in compensation amount, must be mutually agreed upon in writing by the Licensee and VSI. VSI shall be compensated for all authorized changes in services.

ARTICLE 13 – Authorization and Entire Agreement

13.1 Each party represents and warrants that it has the power and ability to enter into this Agreement, to grant the rights stated herein, and to perform the duties and obligations described herein.

13.2 This Agreement and the attached Exhibits A and B constitute the entire Agreement between Vermont Systems and the Licensee.

13.3 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced, then all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect.

Vermont Systems, Inc.



Authorized Signature

Kate W. Mitchell, Vice President

Printed Name and Title

6/22/13

Date

Licensee: City of Montclair

Authorized Signature

Paul M. Eaton, Mayor

Printed Name and Title

Date

ATTEST:

Yvonne Smith
Deputy City Clerk

Date: _____

EXHIBIT A
Customer Sales and Support Policies 9-12-12

1. SOFTWARE LICENSE:

The application software license is a one-time fee, which provides for the perpetual use of the software. While a deposit will not be required, the full software license fee is due for all accounts within 30 days of completion of the first training session. The Progress OpenEdge V10 Application Server software and Personal, Workgroup, or Enterprise Relational Database Management System (RDBMS imbedded database) software licenses are also required to operate the VSI Windows WebClient/Client application software.

1. ANNUAL SOFTWARE MAINTENANCE AND SUPPORT:

The required annual maintenance support fee is prorated from the first day of the installation month to the end of the first fiscal year, and thereafter, it is due annually on the first day of each new fiscal year. This fee includes the following: Worldwide telephone (800 US & Canada) and web support for VSI and Progress software five (5) days/week, Monday-Friday, 8am-8pm ET, and availability of chargeable Extended Hours Pager Support Monday - Friday, 8pm-10pm ET, and Saturday, Sunday, & Holidays 8am-5pm ET. Further, Pre-Arranged Non-Standard Hours Pager Support is also available, as described in Section 4 below. The following are included:

- Maintenance and repair of application software malfunctions with an acknowledgement response, as described in the Call Process, Section 5 below.
- One major application software upgrade every two years, along with multiple optional periodic updates. Major upgrades usually require a database conversion, while other periodic updates are program only. Enhancements are based primarily on user requests, but they also include an extensive number of VSI initiated improvements, all of which are added at the discretion of VSI. In its' quarterly newsletter, VSI notifies all Customers regarding the status and availability of all software releases. The same data is available on the VSI web site at all times. Customers must request all major software upgrades, which are distributed on a DVD with standard ground shipping. Program only updates can be downloaded via VSI's web page www.vermontsystems.com under Support or by requesting the update DVD at any time.
- One biennial database conversion by VSI via FTP or WebEx during standard VSI business hours. VSI FTP/WebEx database conversion services are only chargeable, if started and/or completed during non-standard VSI business hours (before 8am and after 5pm ET, Monday through Friday and on weekends and holidays). Please note that all non-production database conversions are billable at standard VSI support rates.
- Federal and State regulatory requirement changes.
- User ID and Password login access to Customer Support and Downloads sections on VSI web site.
- Phone support to explain how to configure database, how system works, and how to prepare for implementation of certain functions, such as those listed below under Extended Dedicated Support.
- Updates to financial and other interfaces due to VSI application software modifications and not due to application software modifications by other vendors.

Any of the following costs associated with customer support are not included:

- Actual usage of Extended Hours Pager/Telephone Support at rates listed in Section 4 below.
- Pre-Arranged Non-Standard Extended Hours Pager/Telephone Support is chargeable with a minimum of four hours, which can be nonconsecutive, as described in Section 4 below.
- Any associated travel and out-of-pocket expenses for installation and training services.
- Installation and configuration of product enhancements or releases, database repairs, and more than one bi-annual database conversion are chargeable, unless VSI is providing hosted services..
- Telephone support related to computer hardware, operating systems, networking, and reinstallation and configuration of application software is chargeable. If the hardware and software configurations are modified after VSI has completed on-site or telephone installation services, additional requested support services are chargeable.
- Telephone training, as a substitute for on-site training or classroom training at VSI, as well as for untrained operators, is chargeable. Refer to Sections 6 and 7 below for hourly pricing.
- VSI application software WAN Client access configuration.
- Customized print programs and updates are chargeable at the rate listed under Section 6 below.
- Interfaces to export or import data from or to other application software databases are chargeable.
- Extended Dedicated Support to implement or change certain functions, such as 1) Switching from Cash to Accrual Accounting; 2) Reinstall WebTrac software on server; 3) Customize Splash Page; 4) Create Web Bypass Links; 5) WebTrac Style Sheets changes; and, 6) Database Support to analyze and correct out-of-balance condition.

3. PROGRAMMING ENHANCEMENTS:

Although our policies provide for charging for special programming, we generally do not charge for individual enhancement requests. All approved enhancements and repairs are automatically included in all updates as part of the annual maintenance fee.

4. **VSI EXTENDED HOURS PAGER/TELEPHONE SUPPORT SERVICES PRICING:**

Standard Extended Hours Pager/Telephone Support

Monday - Friday 8pm - 10pm ET, and Saturday, Sunday, & Holidays 8am-5pm ET. If extended hours support is actually provided, it is chargeable at \$100/hour with a minimum of \$50 per call or multi-call issue.

Pre-Arranged Non-Standard Extended Hours Pager/Telephone Support

Non-Standard Extended Hours support may be pre-arranged by calling VSI at least one full business day in advance. While the stand-by rate is \$50/hour with a minimum of 4 hours, the actual extended pager support is chargeable at \$150/hour with a minimum of \$75 per issue, which could involve multiple phone calls. VSI reserves the right to modify these extended hours pager rates at any time.

5. **SUPPORT CALL PROCESS:**

To provide high quality support and to effectively assign resources to incoming calls, three types of call priorities are identified as follows: Priority 1 is considered Urgent or High Priority, Priority 2 is classified as Medium Priority, and Priority 3 is deemed to be Low Priority. The criteria used to establish guidelines for these priorities are as follows:

Priority 1 - High

Consists of errors that cause unrecoverable loss or corruption of data or loss of essential software functionality that prevents Customer processing, and there is no workaround. Generally, the system would be down.

Priority 2 - Medium

Consists of errors that cause loss of essential software functionality that prevents Customer processing, but has a workaround, or loss of non-essential software functionality that does not have a workaround. Generally, the system is not down, but the problem is causing staff inconvenience.

Priority 3 - Low

Consists of errors that may be causing loss of non-essential software functionality, but have a workaround. While the system is not down generally, the Customer's operational questions need to be resolved.

Response Times

VSI will respond to Priority 1-3 support calls in accordance with The Table of Service below, and all time references are clock hours or calendar days, unless otherwise specified. The Customer will use the VSI telephone number or support email address during standard VSI business hours, as described in Section 2, or the VSI pager number during standard pager support hours, as described in Section 4. The Customer can also call the pager number to request support during pre-arranged non-standard pager support hours, as described in Section 4. The Customer and VSI support person may also use cell phones for more efficient responses.

All issues or questions reported to support are tracked via a logged support call that contains at a minimum the Customer name, contact person, software product and version, module and/or menu selection, nature of issue, detailed description of the question or issue, and any other pertinent information. The support person will provide the Customer with a call number to track each call issue. Each call will be stored in a queue and the first available support representative will be assigned to the next call issue.

While reviewing the call issue, the assigned support person will contact the Customer, if additional information is needed. The VSI support person will either resolve the issue with the Customer or advise the Customer regarding the status and the course of action being taken to resolve it. All correspondence and actions associated with a call are tracked in the support database. If the issue needs to be escalated to a development resource, the Customer will be informed. While issues escalated to development will be scheduled for resolution, they may not be resolved immediately depending on the nature and complexity of the issue. The Customer may contact the support department at its convenience for a status update on development issues.

Escalation Process

In the event that VSI is unable to provide either a permanent or a mutually acceptable temporary resolution within the applicable timeframes set forth in the Table of Service below, VSI will initiate escalation procedures at VSI's sole expense, except if due to hardware malfunctions, utility failures, air conditioning malfunctions, non VSI software problems, communications malfunctions, environmental problems, user errors or any other cause outside VSI's reasonable control, in which case VSI may charge the Customer at the hourly rates listed in Sections 4, 6, & 7. However, VSI will continue to assist the Customer to resolve the problem, even when VSI and Customer may not agree on the cause of the problem.

Table of Service Requirements.

The table below lists the service level required by the three Priority levels described above:

Service Level Required	Priority 1	Priority 2	Priority 3
	(time measured from initial call to VSI)		
Initial Response Due	1 hour	4 hours	5 days
Correction identified and a mutually agreeable correction plan will be developed within	24 hours	7 days	As mutually agreed
Escalation Stage 1 (Support Managers)	12 hours	7 days	N/A
<i>Stage 1 Status Report Intervals</i>	Every 4 hours during standard business hours	daily	N/A
Escalation Stage 2 (Vice President of Support)	24 hours	7 days	N/A
<i>Stage 2 Status Report Intervals</i>	Every 4 hours during standard business hours	daily	N/A
Escalation Stage 3 (President)	72 hours	10 days	N/A

6. VSI SUPPORT SERVICES PRICING (Non-Military)

The on-site training rate is \$720 per 8-hour day, plus out-of-pocket travel expenses. The VSI classroom-training rate is \$720 per 8-hour day for up to two trainees and \$150 per day for each additional trainee. Other services include 800 telephone training at \$100/hour, programming, hardware, and network configuration support services at \$1040/day or \$130/hour. Any hours in excess of eight are chargeable. Travel time is charged at \$360 daily plus travel expenses. VSI reserves the right to modify these rates at any time.

7. VSI WEEKEND SUPPORT SERVICES PRICING (Non-Military):

The weekend training rate is \$1,080/day, while the hourly rate is \$150 with a two-hour minimum. If the Customer asks the VSI Trainer to stay over a weekend, in order to save on travel costs, and no training is provided, the rate is \$250/day, plus all normal travel expenses. VSI reserves the right to modify these rates at any time.

8. ON-SITE TRAINING SHORT NOTICE CANCELLATION PENALTY:

If scheduled on-site training is cancelled with less than 3 weeks' notice, the Customer will be responsible for any travel expenses losses, as well as a \$300 penalty to partially offset VSI Trainer rescheduling costs.

9. TRAINING CANCELED DURING SCHEDULED ONSITE TRAINING WEEK:

If the Customer cancels training for any reason (weather, trainee sickness, etc) while the VSI Trainer is onsite, Customer must still pay VSI daily rates for training and travel expenses.

10. TELEPHONE SUPPORT:

Telephone support worldwide, during VSI standard business hours, is included in the Annual Software Maintenance and Support fee, provided that VSI has previously trained the individuals being supported. Otherwise, chargeable telephone or on-site training must be completed.

11. APPLICATION SOFTWARE SOURCE CODE:

The Source Code for the VSI application software, along with a list of licensed customers, is held in escrow by VSI's Escrow Agent, Kolvoord, Overton, & Wilson, Attorneys, at 6 Joshua Way, Suite B, Essex Junction, Vermont 05452, Attn: Jason Ruwet, 802-878-3346, jfr@essexvtlaw.com. If VSI defaults in providing software maintenance support due to company failure, discontinuance of support services, or VSI's bankruptcy, the Escrow Agent will make the source code available to the Customer within thirty days of written notice by the Escrow Agent. The source code can only be used to support each VSI licensed customer.

12. DOCUMENTATION:

All documentation is provided electronically on a DVD by application and it includes the User Reference Manual, Installation Planning Guide, Reports Manual, Installation Instructions, On-Line Help, and Sample Database with Tutorial. Customers can print any number of copies needed to train their staffs and manage their operations. Hard copy manuals are available at \$75 each and this amount is subject to change.

13. INSTALLATION PLANNING:

The installation planning process begins with the placing of your order. We will assist you to develop a plan, which will assign Customer and VSI responsibilities for the various elements required to successfully complete the installation and training.

14. THIRD PARTY VENDOR GENERAL LEDGER/CASH RECEIPTS INTERFACE PROCEDURES:

The VSI Trainer will configure RecTrac/GolfTrac software for the appropriate vendor interface and will show the Customer how to generate the batch export file that contains the summary or detailed transactions for the day (or any date range). At this point, it is the Customer's responsibility to contact the financial software vendor to arrange for assistance to import the daily batch file for automatic posting to the cash receipts or general ledger system. The VSI trainer is not responsible for importing the batch files into any third party application software or for contacting the vendor.

15. HARDWARE PAYMENT & WARRANTY:

Full payment for the hardware and systems software is due following delivery, after verification of the order. The verification process must be completed, so that all payments can be made within 30 days of delivery. The VSI supplied hardware includes Warranties from the manufacturers or distributors for specified periods. Please review the Warranty chart provided by VSI. After the warranty period or add-on warranty period, hardware vendors also provide time and materials maintenance support. Warranty and Maintenance Contract service provided on a Depot Basis can require several days to complete. Therefore, plan your purchases to include spare critical units, in order to provide your users with uninterrupted operations.

16. VSI POS HARDWARE SUPPORT:

To support our POS software applications, VSI offers a broad range of hardware computers and peripherals that we have evaluated, qualified, and configured to function properly with our software. This requires an extensive investment of resources including labor and the purchase of one or more of each type hardware product. Further, these hardware products are essential to support our customers and for testing each software upgrade. Most customers appreciate the availability of these qualified products, since it saves them from experiencing the same expensive process.

Our priority is to offer only high quality products with extended warranties at competitive prices, but not necessarily at the lowest prices. A qualified product that is competitively priced is much more important than the lowest price. More often than not a lower priced, unqualified product will eventually cost much more for all concerned. VSI hardware support policies are as follows:

Qualified POS Hardware Purchased from VSI – Full Support:

VSI will be responsible for ordering the properly configured hardware with the correct cables and other features, delivery, installation and configuration assistance, toll free telephone support, and warranty service arrangements, as needed.

Qualified POS Hardware Purchased from Another Source – Partial Support:

VSI is not responsible for resolving problems resulting from incorrectly ordered hardware, resulting installation and configuration problems, and warranty service arrangements. However, VSI will provide limited guidance and support, during the installation of the hardware. If issues are not resolved within a few minutes, then VSI will continue to provide 800 phone assistance at the standard VSI rate of \$100 per hour.

Non-Qualified POS Hardware Purchase from another Source – Limited Support:

VSI does not support non-VSI qualified POS hardware using our 800 support lines. However, if a customer calls for assistance and the VSI support person determines that the request is for a non-qualified product, he/she will discuss options as follows: 1) Select qualified hardware on the VSI price list, or 2) Discuss qualifying a new product with VSI management. If a customer requests VSI to consider qualifying a non-qualified product, we will evaluate the circumstances, and if justified, will attempt to qualify. In order to proceed, the customer must send an evaluation unit to VSI and we will attempt to qualify it at the rate of \$100/hour. The customer must specify a qualifying spending limit. If successful, VSI may or may not add the product to our price list. If added, VSI will continue to support the product, as described under qualified hardware options. If not, any on-going qualifying that might be required, as a result of hardware or software upgrade changes, will be chargeable at \$100/hour.

POS Hardware Onsite Installation Support:

If you expect the VSI Trainer to install POS hardware during an onsite training trip, you must allocate sufficient time in the schedule to complete the software training and the hardware installation and configuration. The time allocated will vary based on the three situations described above, but the most time-consuming will involve hardware that VSI has not qualified. The time allocated will also vary depending on the number units to be installed. If the VSI Trainer installs and configures the hardware during a normal 8-hour workday, then this would be included in the previously approved onsite training fee. If the VSI Trainer is required to work in excess of 8 hours on any given day, in order to complete the hardware setup and software training during the scheduled onsite visit, then the Customer will be billed for overtime fees.



EXHIBIT B

Please See Detail Breakdown
on Following Pages

Description: Updated VSI Software Pricing - June 2013
 Prepared For: City of Montclair, Montclair, CA
 Contact Name: Michelle Castillo, Senior Human Services Spvr
 Contact Email: mcastillo@cityofmontclair.org
 Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
 Fax Number:
 Quote Date: 06/21/2013

Description	Purchase Price	Annual Maint/Svs	Estimated Shipping	Total Price
RecTrac - Workgroup Multi-User Software				
Application Software	\$3,000.00	\$960.00	\$0.00	\$3,960.00
Progress OpenEdge Software	\$600.00	\$192.00	\$0.00	\$792.00
VSI-Add ons	\$1,683.00	\$150.00	\$0.00	\$1,833.00
Support Services - Training & Travel Expenses	\$4,840.00	\$0.00	\$0.00	\$4,840.00
Total RecTrac:	\$10,123.00	\$1,302.00	\$0.00	\$11,425.00
WebTrac - Basic Edition				
Application Software	\$3,175.00	\$685.00	\$0.00	\$3,860.00
Progress OpenEdge Software	\$635.00	\$137.00	\$0.00	\$772.00
VSI-Add ons	\$1,250.00	\$0.00	\$0.00	\$1,250.00
Support Services - Training & Travel Expenses	\$2,500.00	\$0.00	\$0.00	\$2,500.00
Total WebTrac:	\$7,560.00	\$822.00	\$0.00	\$8,382.00
PayTrac - Application Software & Hardware				
Application Software	\$750.00	\$150.00	\$0.00	\$900.00
Magstripe Readers	\$900.00	\$0.00	\$24.00	\$924.00
Total PayTrac:	\$1,650.00	\$150.00	\$24.00	\$1,824.00
Hardware - (VSI Qualified)				
Signature Pad	\$1,785.00	\$0.00	\$30.00	\$1,815.00
Total Hardware:	\$1,785.00	\$0.00	\$30.00	\$1,815.00
VSI TOTALS				
Application Software	\$6,925.00	\$1,795.00	\$0.00	\$8,720.00
Progress OpenEdge Software	\$1,235.00	\$329.00	\$0.00	\$1,564.00
Magstripe Readers	\$900.00	\$0.00	\$24.00	\$924.00
VSI-Add ons	\$2,933.00	\$150.00	\$0.00	\$3,083.00
Support Services - Training & Travel Expenses	\$7,340.00	\$0.00	\$0.00	\$7,340.00
Signature Pad	\$1,785.00	\$0.00	\$30.00	\$1,815.00
Grand Totals:	\$21,118.00	\$2,274.00	\$54.00	\$23,446.00

(plus tax where applicable)



EXHIBIT B

Please See Detail Breakdown
on Following Pages

Description: Updated VSI Software Pricing - June 2013
 Prepared For: City of Montclair, Montclair, CA
 Contact Name: Michelle Castillo, Senior Human Services Spvr
 Contact Email: mcastillo@cityofmontclair.org
 Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
 Fax Number:
 Quote Date: 06/21/2013

Installment Purchase Plan Options - No Interest Charges

<i>(Total Software License Figure Used For Installment Calculation)</i>		\$11,093.00
Two Year Payment Plan Purchase Option <i>(Software License Portion Of Installment Amount)</i> \$5,547.00		
Year 1	(Includes One Half The Software License + All Training + All Travel Expense + All Shipping + Annual Maintenance)	\$17,900.00
Year 2	(Includes One Half The Software License + Annual Maintenance)	\$7,821.00
Year 3+	(Annual Maintenance Only)	\$2,274.00
Three Year Payment Plan Purchase Option <i>(Software License Portion Of Installment Amount)</i> \$3,698.00		
Year 1	(Includes One Third The Software License + All Training + All Travel Expense + All Shipping + Annual Maintenance/Services)	\$18,051.00
Year 2	(Includes One Third The Software License + Annual Maintenance/Services)	\$5,972.00
Year 3	(Includes One Third The Software License + Annual Maintenance/Services)	\$5,972.00
Year 4+	(Annual Maintenance/Services Only)	\$2,274.00



RecTrac Workgroup Multi-User Software
Recreation Tracking Software
VSI Quote Number: 35796

EXHIBIT B

Please Review Notes on Last Page
 Software Pricing is Valid For 120 Days
 Hardware Pricing is Subject to Change

Description: Updated VSI Software Pricing - June 2013
 Prepared For: City of Montclair, Montclair, CA
 Contact Name: Michelle Castillo, Senior Human Services Spvr
 Contact Email: mcastillo@cityofmontclair.org
 Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
 Fax Number:
 Quote Date: 06/21/2013

Qty	Unit	Description	Unit Price	Extended Price	Annual Maint/Svs
Application Software					
1	Each	Activity Registration (V-RT-MU-AR)	\$2,450.00	\$2,450.00	\$440.00
1	Each	Incident Processing and Reporting (V-RT-MU-IC)	\$0.00	\$0.00	\$0.00
1	Each	Systems Administration (required) (V-RT-MU-SA)	\$400.00	\$400.00	\$400.00
3	Each	Additional Users Over 2 (5 total concurrent) (V-RT-MU-AU)	\$300.00	\$900.00	\$120.00
1	Each	VSI "New Account" Discount (VSI-DISCOUNT WRKGRP)	\$750.00	\$750.00	\$0.00
Total Application Software:				\$3,000.00	\$960.00
Progress OpenEdge Software					
1	Each	OpenEdge Workgroup Appl Server & RDBMS (T-PG-MU-OE)	\$600.00	\$600.00	\$192.00
Total Progress OpenEdge Software:				\$600.00	\$192.00
VSI-Add ons					
1	Each	Local Taxes (8%) (X-S-PGM-01)	\$933.00	\$933.00	\$0.00
1	Each	RecTrac General Ledger Interface (to Springbrook) (V-RT-IN-GL)	\$750.00	\$750.00	\$150.00
Total VSI-Add ons:				\$1,683.00	\$150.00
Support Services - Training & Travel Expenses					
3	Day(s)	Installation/Training, On-Site/Day (X-S-TNG-01)	\$720.00	\$2,160.00	\$0.00
1	Day(s)	Travel time (X-S-TNG-09)	\$360.00	\$360.00	\$0.00
4	Each	Travel expenses - per day (estimated) (X-X-EXP)	\$330.00	\$1,320.00	\$0.00
1	Each	Airfare for travel (estimated) (X-X-AIR)	\$1,000.00	\$1,000.00	\$0.00
Total Support Services - Training & Travel Expenses:				\$4,840.00	\$0.00

Total Software, Hardware and Support Services	\$10,123.00	\$1,302.00
Grand Total - RecTrac:		\$11,425.00
<small>(plus tax where applicable)</small>		



EXHIBIT B

WebTrac Basic Edition
 Real-Time Internet Software
 VSI Quote Number: 35796
 Please Review Notes on Last Page
 Software Pricing Is Valid For 120 Days
 Hardware Pricing Is Subject to Change

Description: Updated VSI Software Pricing - June 2013
 Prepared For: City of Montclair, Montclair, CA
 Contact Name: Michelle Castillo, Senior Human Services Spvr
 Contact Email: mcastillo@cityofmontclair.org
 Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
 Fax Number:
 Quote Date: 06/21/2013

Qty	Unit	Description	Unit Price	Extended Price	Annual Maint/Svs
Application Software					
1	Each	WebTrac Internet Software 1-5 RecTrac Users (V-WT-SU-IS-5)	\$1,850.00	\$1,850.00	\$370.00 5
1	Each	WebTrac Activity Registrations (V-WT-SU-AR)	\$950.00	\$950.00	\$190.00 6
1	Each	25 WebTrac Agents (V-WT-SU-AU)	\$625.00	\$625.00	\$125.00 7
1	Each	VSI New Account Discount (V-WT-SU-DSC)	\$250.00	\$250.00	\$0.00
Total Application Software:				\$3,175.00	\$685.00
Progress OpenEdge Software					
1	Each	OpenEdge V10 Application Server & RDBMS (T-PG-SU-WB)	\$635.00	\$635.00	\$137.00 8
Total Progress OpenEdge Software:				\$635.00	\$137.00
VSI-Add ons					
1	Each	WebTrac First Style Sheet Service Initial & Major (V-WT-IN-SS-1)	\$750.00	\$750.00	\$0.00 9
1	Each	Standard Splash Page Options (V-WT-CP-SP)	\$500.00	\$500.00	\$0.00 10
Total VSI-Add ons:				\$1,250.00	\$0.00
Support Services - Training & Travel Expenses					
2	Day(s)	Installation/Training, On-Site/Day (with RecTrac Trip) (X-S-TNG-01)	\$720.00	\$1,440.00	\$0.00
2	Each	Travel expenses - per day (estimated) (X-X-EXP)	\$330.00	\$660.00	\$0.00 11
4	Hour(s)	Phone/Webex Setup & Training/Hr. (estimated) (X-S-TNP-01)	\$100.00	\$400.00	\$0.00
Total Support Services - Training & Travel Expenses:				\$2,500.00	\$0.00
Total Software, Hardware and Support Services				\$7,560.00	\$822.00
Grand Total - WebTrac:				\$8,382.00 <small>(plus tax where applicable)</small>	



PayTrac Application Software & Hardware
Credit and Debit Card, Electronic Check, & Gift Card Interface
VSI Quote Number: 35796

EXHIBIT B

Please Review Notes on Last Page
 Software Pricing Is Valid For 120 Days
 Hardware Pricing Is Subject to Change

Description: Updated VSI Software Pricing - June 2013
 Prepared For: City of Montclair, Montclair, CA
 Contact Name: Michelle Castillo, Senior Human Services Spvr
 Contact Email: mcastillo@cityofmontclair.org
 Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
 Fax Number:
 Quote Date: 06/21/2013

Qty	Unit	Description	Unit Price	Extended Price	Estimated Shipping	Annual Maint/Svs
Application Software						
1	Each	VSI Credit Card External Redirect Interface (Plug'n Pay) (V-PT-IN-ERI)	\$750.00	\$750.00	\$0.00	\$150.00 12
Total Application Software:				\$750.00	\$0.00	\$150.00
Magstripe Readers						
3	Each	Magtek IPAD PCI Encrypted Pinpad PnP,USB,Display (H-MSR-MT-10)	\$300.00	\$900.00	\$24.00	\$0.00 13
Total Magstripe Readers:				\$900.00	\$24.00	\$0.00
Total Software, Hardware and Support Services				\$1,650.00	\$24.00	\$150.00
Grand Total - PayTrac:					\$1,824.00	
						<small>(plus tax where applicable)</small>

Note - see attached additional support document - VSI Electronic Payment Processing - for additional information on options for Credit card processing thru VSI applications.



EXHIBIT B

Hardware (VSI Qualified)
VSI Quote Number: 35796
 Please Review Notes on Last Page
 Software Pricing is Valid For 120 Days
 Hardware Pricing is Subject to Change

Description: Updated VSI Software Pricing - June 2013
 Prepared For: City of Montclair, Montclair, CA
 Contact Name: Michelle Castillo, Senior Human Services Spvr
 Contact Email: mcastillo@cityofmontclair.org
 Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
 Fax Number:
 Quote Date: 06/21/2013

Qty	Unit	Description	Unit Price	Extended Price	Estimated Shipping	Annual Maint/Svs
Signature Pad						
3	Each	Topaz, Signature Gen, Transaction Terminal, USB (H-SIG-TP-01)	\$595.00	\$1,785.00	\$30.00	\$0.00
Total Signature Pad:				\$1,785.00	\$30.00	\$0.00
Total Software, Hardware and Support Services				\$1,785.00	\$30.00	\$0.00
Grand Total - Hardware:					\$1,815.00	
						<small>(plus tax where applicable)</small>

EXHIBIT B

Please See Detail Breakdown
 on Following Pages

Description: Updated VSI Software Pricing - June 2013
 Prepared For: City of Montclair, Montclair, CA
 Contact Name: Michelle Castillo, Senior Human Services Spvr
 Contact Email: mcastillo@cityofmontclair.org
 Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
 Fax Number:
 Quote Date: 06/21/2013

- 1 The Workgroup System is quoted for those organizations with 2-39 concurrent users. The pricing for the actual number of licensed concurrent users is found on the RecTrac quote page under the Application Software section. Two concurrent users are included with the purchase of the first RecTrac module. Additional concurrent users are priced as Additional Users Over 2 (concurrent).
- 2 VSI uses 4GL Progress V10 OpenEdge software to develop and deploy its' Release 10 software applications. The Progress software includes Client Networking, WebClient, SQL Client Access, ODBC/JDBC Drivers, & AppServer Internet Adapter. VSI also embeds the required Progress OpenEdge Workgroup RDBMS (Relational Database Management Software) with its' applications.
- 3 You can select any of the current nearly 100 standard GL interfaces and 4 AP interfaces at this price. If a custom interface is needed, VSI will provide a quote, after reviewing the requirements. The implementation procedures for all interfaces are as follows: The VSI trainer will select (default) the appropriate vendor interface in RecTrac/GolfTrac and show customer how to generate the batch export file that contains the summary or detailed transactions for the day (or any date range). At this point, it is the customer's responsibility to contact the financial software vendor to arrange for assistance to import the batch file for posting to the cash receipts or general ledger system.
- 4 The included expenses are ESTIMATED for airfare, lodging, meals, and rental vehicle (for non-flying trips, car rental can be more due to tolls and gasoline usage). Actual expenses are billed after each trip.
- 5 WebTrac enables your customers to process RecTrac transactions real-time using a browser via the internet.

 The WebTrac module does NOT include hosting services, which are priced separately. However, if needed VSI does offer two types of hosting services: Web Server Only or Web Server & Database. If you need Web Server Only hosting and your IT department or your off-premise web hosting vendor doesn't allow third party software to be installed on its servers, then VSI can offer Web Server Only hosting with a monthly fee, which is billed on annual basis. If you need full Web Server & Database hosting services, VSI will provide by installing your software on its servers at its TechVault data center with monthly billing.
- 6 WebTrac modules require respective RecTrac licensed modules in order to process web transactions.
- 7 The 25 Agents are required for processing Web transactions. Each Agent can service multiple requests to process hundreds of simultaneous transactions.
- 8 VSI uses the Progress Application Development & Deployment software to develop and deploy our Web applications that provide real-time Web transaction processing in RecTrac and GolfTrac.
- 9 VSI will customize the WebTrac stylesheet to match the appearance of your web site as closely as possible. After you have finalized your WebTrac page specifications, you will be asked to sign an approval form. VSI will provide the stylesheet programming services and then you will be asked to verify that the results match your specs. If you asked for additional changes following the completion of the initial styling then each major change request is priced at \$750.00. Minor & Seasonal change requests are priced at \$375.00 each.
- 10 The Standard Splash Page Option gives you the choice of one of 10 Standard Spash page options. Our 10 standards are available on our website to "try out", helping you to decide which option is best for your organization.

 The \$500 fee includes our support personnel assisting in the implementation of the template on your site. This typically takes 2-4 hours. Any time over 4 hours due to changes the customer asks for, will be charged at \$100/hr. If you want design changes to any of the standard templates that require the VSI Development team, we will provide you a quote for Custom Programming @ \$130/hour.
- 11 The included expenses are ESTIMATED for airfare, lodging, meals, and rental vehicle (for non-flying trips, car rental can be more due to tolls and gasoline usage). Actual expenses are billed after each trip. For states with Cashless Tolls, there may be a delay in billing these charges as we sometimes don't get these bills from the car rental companies until weeks after a trip is complete.
- 12 Depending on the Gateway you select, there could be setup fees charged by the Gateway up to \$150 per merchant account. There also could be transaction fees up to .075 cents per transaction.



EXHIBIT B

Proposal Summary Pricing
VSI Quote Number: 35796

Please See Detail Breakdown
on Following Pages

Description: Updated VSI Software Pricing - June 2013
Prepared For: City of Montclair, Montclair, CA
Contact Name: Michelle Castillo, Senior Human Services Spvr.
Contact Email: mcastillo@cityofmontclair.org
Approved By: David Wirtz, Sales Manager (davew@vermontsystems.com)

Phone Number: (909)625-9451
Fax Number:
Quote Date: 06/21/2013

-
- 13 IPAD Pin Entry Device, HID, Keypad, PCI Secure MSR, Black Rubber, Display, 3DES Plug n'Pay Encryption Specific to VSI, 8ft Cord, USB 2.0, 8ft Cord, USB 2.0, 5VDC.

Expect 3-4 weeks for delivery



Vermont Systems, Inc.
12 Market Place
Essex Junction, VT 05452

800-377-7427 Toll Free
877-883-8757 Toll Free
802-879-6993 Local
802-879-5368 Fax
www.vermontsystems.com

June 26, 2013

City of Montclair
Michelle Castillo
Human Services Division
5111 Benito Street
Montclair, CA 91763

Dear Michelle:

Thank you for making Vermont Systems your choice for application software and support services. We look forward to working closely with you and your staff.

Enclosed please find two original sets of the VSI Software License, Maintenance and Support Agreement and Exhibits.

If this Agreement meets with your approval, please complete the following:

1. Page 1 of the Agreement. Enter the executed date.
2. Page 1 of the Agreement, Article 2.3. Please check your preference for your annual maintenance cycle. If your fiscal year does not fall on any of the dates listed, please choose the one that best fits your cycle.
3. Sign the signature page
4. Initial each page as noted
5. Fill out the Tax Exempt Form and indicate your taxable status
6. Return one set to VSI.

Laurie Valley, our Customer Support/Training Manager (lauriev@vermontsystems.com or ext 3006), will be contacting you to schedule your installation and training, as soon as we receive the signed Agreement. The software, Users Reference Manual, Reports Manual and Installation/Planning Guide will be shipped shortly. Once your primary trainer has been assigned, he/she will contact you to review the planning guide and begin the process of preparing for the training.

If you should have any questions, please contact us at your convenience.

Sincerely,

Kate W. Mitchell
Vice President/ Business Manager

Vermont Systems, Inc.

Resale & Exempt Organization
Certificate of Exemption

Suppliers Name:
Vermont Systems, Inc.
12 Market Place
Essex Junction, VT 05452

Description of Purchased Articles: Software

Please Check Applicable Lines:

- Purchase by Retailer, Wholesaler for Resale
 Purchase by 501C which is Religious, Educational or Scientific
 Direct Purchase by Governmental Unit
 Purchase by Volunteer Fire Dept, Ambulance Co., Rescue Squad

Are you considered a taxable entity by your state for sales tax? Yes or No

Name/Address of Purchaser:

Michelle Castillo
City of Montclair
Human Services Division
5111 Benito Street
Montclair, CA 91763

Federal ID Number _____

Purchaser's Primary Business: _____

I Certify that I am authorized to sign this certificate of exemption and that, to the best of my knowledge and belief, it is true and correct and made in good faith.

Signature: _____ Title _____

Name: _____ Date: _____

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-56 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT TO ADMINISTER AN IMMUNIZATION PROGRAM AND PROVIDE HEALTH SERVICES TO STUDENTS AND THEIR FAMILIES

DATE: August 5, 2013

SECTION: AGREEMENTS

ITEM NO.: 2

FILE I.D.: HSV044

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-56 with the Ontario-Montclair School District (OMSD) to continue an immunization program for students and their families and to provide health care services at the Montclair Medical Clinic to families referred by OMSD staff.

A copy of proposed Agreement No. 13-56 is attached for the City Council's review and consideration.

BACKGROUND: The Montclair Community Collaborative (MCC) was organized in 1996 to collectively strengthen the community. The mission of MCC is "to guarantee a progressive quality community for all by working together as diverse, committed individuals and organizations." As a result of the ongoing strategic planning process, MCC identifies resources and develops services for children, youth, and adults.

The immunization program has been provided through the Montclair Medical Clinic and serves students qualifying for the Vaccine for Children (VFC) Program. Volunteer Medical Director James M. Lally, D.O., would continue to administer the VFC Program. The contract with OMSD includes funding for a part-time Licensed Vocational Nurse (LVN) and a part-time Medical Clinic Coordinator to administer and coordinate the Clinic and VFC Program. The funding also includes all supplies not provided through the VFC Program.

The term of proposed Agreement No. 13-56 is for a three-year period from July 1, 2013, through June 30, 2016.

FISCAL IMPACT: OMSD would pay a total of \$70,000 per each year of the Agreement in ten monthly installments. Should the City Council approve proposed Agreement No. 13-56, the funding would provide supplies and allocate a part-time LVN and a part-time Medical Clinic Coordinator in the Human Services Division Fiscal Years 2013-2016 Budgets.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-56 with the Ontario-Montclair School District to administer an immunization program and provide health care services to students and their families.

Prepared by:

M. Richter

Reviewed and
Approved by:

James M. Lally

Proofed by:

Christine Smedley

Presented by:

James M. Lally

(c) **DISTRICT** will provide **CONSULTANT** with forms, which **CONSULTANT** will use to request payment under this Agreement. For each month of service, the "Request For Payment" form must be returned to **DISTRICT** in triplicate and must include **CONSULTANT's** signature and social security number or tax identification number.

(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 Teacher's 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, 2016, 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) If the box to the left is checked, **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 assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning **CONSULTANT** or any employee and shall further indemnify, pay for the defense of, and hold harmless **DISTRICT** of and from any such payment or liability arising out of or in any manner connected with **CONSULTANT's** performance under this Agreement.

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

(g) **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, 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 **CONSULTANT**, its officers, employees, agents or staff.

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 **DISTRICT**, 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.

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) **DISTRICT** and **CONSULTANT** mutually agree that any written material or any copyrightable work of any nature created by **CONSULTANT** pursuant to this Agreement shall be considered a "work made for hire" and **DISTRICT** the "copyright owner" thereof as those terms are defined in Title 17 of the United States Code, Section 101, and that **DISTRICT** shall own all of the rights comprised in the copyright of said written material or copyrightable work.

(c) 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 dollar amounts;
2. Administrative changes; and
3. Changes as required by law.

(d) 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.

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

(f) 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.

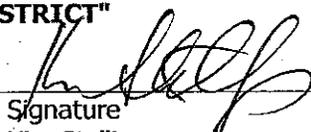
(g) Each person executing this Agreement warrants that he or she has the authority to so execute this Agreement and that no further approval of any kind is necessary to bind the parties hereto.

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

"DISTRICT"

"CONSULTANT"

By: _____



Signature
Kim Stallings
Printed Name

Deputy Superintendent
Title

Signature
Paul Eaton

Printed Name

Mayor
Title

Contract C-134-061

ATTEST:

Signature
Yvonne L. Smith
Printed Name

Deputy City Clerk
Title

Date: 6/7/2013

Date: _____

Date of Governing Board's Approval: June 6, 2013

Appendix A
Ontario-Montclair School district
Agreement for Services
City of Montclair

Services to be initiated through the attached agreement will be performed through the health services portion of the Montclair Community Collaborative, a partnership between the City of Montclair, Ontario-Montclair School District, and other community partners. The following description of services specifies the scope of work for the contracted "Health Services" which include:

1. Coordinated services with the Ontario-Montclair School District Health Services.
2. Provide supervision for nursing services through the City of Montclair, Human Services Division office as needed.
3. Follow all protocols, mandates and confidentiality laws while providing services under this contract.
4. Administer immunizations as requested by OMSD for all students qualifying for the Vaccine For Children (VFC) Program.
5. Provide parent with copy of immunizations provided.
6. Administer Hepatitis B vaccination series to OMSD employees as referred by OMSD.
7. Provide Health Care Services at the Medical Clinic to families referred by OMSD.
8. Document nursing activities, including maintaining a vaccine inventory and other pertinent services, as appropriate.
9. Maintain vaccine records in accordance with State Immunization Standards.
10. Administer TB Screening to staff, families and students of OMSD
11. Maintain TB screening logs.
12. Refer individuals with Positive TB screenings according to Public Health policies.
13. Assist with, provide advice on, and complete head lice screenings and treatments (targeting individual students with chronic problems not remedied by usual school nurse interventions).
14. Order and maintain supplies as appropriate (e.g., vaccines, syringes, lice shampoo and lice combs)

Appendix B
Ontario-Montclair School district
Agreement for Services
City of Montclair

CONSULTANT COMPENSATION

Upon receipt of an invoice and monthly report as required under the terms of this agreement, Ontario-Montclair School District will pay **ten monthly installments of \$7,000 for three years (not to exceed \$70,000 per year)** as follows:

August, 2013
September, 2013
October, 2013
November, 2013
December, 2013
January, 2014
February, 2014
March, 2014
April, 2014
May, 2014

August, 2014
September, 2014
October, 2014
November, 2014
December, 2014
January, 2015
February, 2015
March, 2015
April, 2015
May, 2015

August, 2015
September, 2015
October, 2015
November, 2015
December, 2015
January, 2016
February, 2016
March, 2016
April, 2016
May, 2016

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 13-57 WITH KAISER FOUNDATION
HOSPITALS TO FUND THE MONTCLAIR
POR LA VIDA PROGRAM

DATE: August 5, 2013

SECTION: AGREEMENTS

ITEM NO.: 3

FILE I.D.: HSV044

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-57 with Kaiser Foundation Hospitals in support of expansion of the Montclair Por La Vida Program to reduce and prevent local obesity and overweight health issues.

A copy of proposed Agreement No. 13-57 is attached for the City Council's review and consideration.

BACKGROUND: Kaiser Foundation Hospitals' social mission is to improve the health of its local communities and has donated \$10,000 to the Human Services Division for the Montclair Por La Vida Program. The program increases access to health education services by implementing the following objectives:

- At least eight promotoras would be recruited and trained using a 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.
- Promote other community health activities.

The term of proposed Agreement No. 13-57 is October 1, 2013, through October 1, 2014.

FISCAL IMPACT: Should the City Council approve proposed Agreement No. 13-57, Kaiser Foundation Hospitals would donate \$10,000 to the Human Services Division for the Montclair Por La Vida Program.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-57 with Kaiser Foundation Hospitals to fund the Montclair Por La Vida Program.

Prepared by:

M. Richter

Reviewed and
Approved by:

SC Just

Proofed by:

Christine Smolky

Presented by:

Dunde Just

LETTER OF AGREEMENT
KAISER FOUNDATION HOSPITALS, ONTARIO
COMMUNITY BENEFIT CHARITABLE CONTRIBUTIONS PROGRAM

This Letter of Agreement (hereinafter "Agreement") is entered into by and between Kaiser Foundation Hospitals, a California nonprofit, public benefit corporation (hereinafter "KFH") and City of Montclair, for benefit of Montclair Medical Clinic, a charter city organized in the State of California and not subject to federal or state income tax.

This Agreement sets forth the understanding of the parties hereto as to the terms and conditions under which KFH shall donate funds in the amount of \$10,000.00 for a one year funding period beginning October 1, 2013 through October 1, 2014 for Montclair Por La Vida Program. Such terms and conditions are as follows:

1. **Tax Exemption Status:** Grantee represents that at all times relevant herein, it is a charter city organized in the State of California and not subject to federal or state income tax.
2. **Purpose of Grant.** Grantee shall use entire Grant to support the specific goals, objectives, activities, and outcomes as stated in the Grant Summary.
3. **Expenditure of Funds.** This Grant (together with any income earned upon investment of grant funds) is made for the purpose outlined in the Grantee's Evaluation Plan and may not be expended for any other purpose without KFH's prior written approval.
4. **Prohibited Uses.** In no event shall Grantee use any of the funds from this Grant to (a) support a political campaign, (b) support or attempt to influence any government legislation, except making available the results of non-partisan analysis, study or research, or (c) grant an award to another party or for any purpose other than one specified in Section 170(c)(2)(b) of the Internal Revenue Code of 1986 as amended.
5. **Return of Funds.** KFH reserves the right to discontinue, modify or withhold payments to be made under this Agreement or to require a total or partial return of any funds, including any unexpended funds under the following conditions:
 - (a) If KFH, in its sole discretion, determines that the Grantee has not performed in accordance with this Agreement or has failed to comply with any term or condition of this Agreement.
 - (a) If Grantee loses its status as an eligible Grantee under Paragraph 1 above.
 - (b) Any portion of the funds is not used for the approved purpose
 - (c) Such action is necessary to comply with the requirements of any law or regulation applicable to Grantee or to KFH or to this Grant.
6. **Records, Audits and Site Visits.** KFH is authorized to conduct audits, including on-site audits, at any time during the term of this Grant and within four years after completion of the Grant. Grantee shall allow KFH and its representatives, at its request, to have reasonable access during regular business hours to Grantee's files, records, accounts, personnel and client or other beneficiaries for the purpose of making such audits, verifications or program evaluations as KFH deems necessary or appropriate

concerning this Grant. Grantee shall maintain accounting records sufficient to identify the Grant and to whom and for what purpose such funds are expended for at least four (4) years after the Grant has been expended.

7. No Assignment or Delegation. Grantee may not assign, or otherwise transfer, any rights or delegates any of Grantee's obligations under this Agreement without prior written approval from KFH.

8. Records and Reports. Grantee shall submit written progress report(s) to KFH in accordance with the due dates stated on the Grant Summary (Attachment).

Grantee shall be primarily responsible for the content of the evaluation report. If KFH determines IRB approval is necessary, as part of the evaluation process, Grantee shall follow KFH IRB approval processes and procedures.

9. Required Notification. Grantee is required to provide KFH with immediate written notification of any change in Grantee's tax exempt status or when Grantee is unable to expend the grant funds for the approved purposes described in the Evaluation Plan.

10. Identification of KFH. Grantee shall identify KFH as a supporting organization in all published material relating to the subject matter of this Grant. Whenever possible and appropriate, Grantee shall publicly acknowledge KFH for this Grant.

11. Equal Employment Opportunity. Grantee agrees to comply with and be bound by the nondiscrimination and affirmative action clauses contained in: Executive Order 11246, as amended, relative to equal opportunity for all persons without regard to race, color, religion, sex or national origin; the Vocational Rehabilitation Act of 1973, as amended, relative to the employment of qualified handicapped individuals without discrimination based upon their physical or mental handicaps; the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, relative to the employment of disabled veterans and veterans of the Vietnam Era, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60 of the Code of Federal Regulations (CFR).

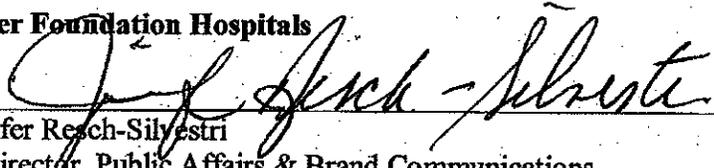
12. Immigration Act Requirements. Grantee shall comply during the term of this Agreement with the provisions of the Immigration Reform and Control Act of 1986 and any regulations promulgated thereunder. Grantee hereby certifies that it has obtained a properly completed Employment Eligibility Certificate (INS Form I-9) for each worker performing services related to the program described in the Evaluation Plan.

13. Licensing and Credentials. Grantee agrees to maintain, in full force and effect, all required governmental or professional licenses and credentials for itself, its facilities and for its employees and all other persons engaged in work in conjunction with this Grant.

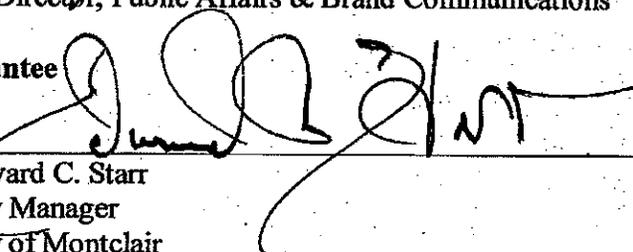
14. Payment of Grant. First payment by KFH will be contingent upon a signed Agreement between KFH and Grantee. Subsequent payments (if any) are contingent upon compliance with this Agreement, including timely receipt of reports as outlined in Paragraph 8 above.

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

Kaiser Foundation Hospitals

By: 
Jennifer Resch-Silyestri
Sr. Director, Public Affairs & Brand Communications

7-8-2013
Date

Grantee
By: 
Edward C. Starr
City Manager
City of Montclair

7/22/2013
Date

LETTER OF AGREEMENT
Attachment

GRANT SUMMARY

GRANT NUMBER: 20630597	DATE AUTHORIZED: 6/21/2013
GRANTEE NAME: Montclair Medical Clinic	AMOUNT: \$10,000.00 over 12 months
FISCAL AGENT: City of Montclair	
CONTACT, TITLE: Mr. Miguel Garcia, Economic Development Coordinator	
TELEPHONE: (909) 625-9417	FAX: (909) 621-1584
CB PROJECT MANAGER: Martha Valencia, Sr. Community Benefit Specialist Phone: Email: Martha.R.Valencia@kp.org	
GRANT PURPOSE: Montclair Por La Vida Program	
GRANT OBJECTIVES:	
<ul style="list-style-type: none"> • The Montclair Por La Vida Program includes the following objectives: • • 1) By June 30, 2014, at least 8 promotoras will be recruited and trained using the Por La Vida -- Mujeres Decididas / Eating Smart Being Active curriculum series. • 2) By June 30, 2014, at least 500 targeted individuals* will participate in a 16-week series of beginning nutrition education classes. • 3) By June 30, 2014, at least 200 targeted individuals* will participate in an advanced nutrition activities including completing a five-week advanced nutrition class series and attending two half-day specialized nutrition workshops. • • *Targeted individuals include adults (18 -- 65+ years old) who reside in cities part of the west end of San Bernardino County and are of Hispanic/Latino descent and/or are low-income (at/below poverty level) and/or are female. 	
GRANT PERIOD:	
Start date: 10/1/2013	End Date: 10/1/2014

NARRATIVE AND FINANCIAL REPORTS DUE:

Requirement	Due Date
Final Report	October 31, 2014

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 13-58 WITH INCREDIBLE EDIBLE
COMMUNITY GARDEN TO PROVIDE
SERVICES TO SUPPORT THE HEALTHY
CITIES PROJECT IN MONTCLAIR

DATE: August 5, 2013

SECTION: AGREEMENTS

ITEM NO.: 4

FILE I.D.: HSV044

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-58 with Incredible Edible Community Garden (IECG) to provide services to support the Healthy Cities Project in Montclair. A copy of proposed Agreement No. 13-58 is attached for the City Council's review and consideration.

BACKGROUND: The Montclair Community Collaborative (MCC) was organized in 1996 as a partnership of the City of Montclair, Ontario-Montclair School District, nonprofit agencies, colleges, businesses, and residents to strengthen the community. The Collaborative works to provide "a quality community for all, by working together as diverse, committed individuals and organizations." It engages in ongoing strategic planning in order to identify resources and develop services for children, youth, and adults in the community.

The Montclair Community Collaborative's efforts resulted in the City of Montclair successfully obtaining a two-year competitive grant from First 5, The Children and Families Commission for San Bernardino County to fund a Healthy Cities Project for the community. The City Council approved Agreement No. 13-42 with First 5 at its meeting of June 17, 2013, to provide funding for this program. The Agreement requires the delivery of services through subcontracts to partner agencies.

Agreement No. 13-58 would provide funding to IECG, a partner agency, for the following services to support the Healthy Cities Project in the Montclair community:

- Provide planning meetings for the development of a Community Garden and Fruit Park
- Assist in the development, implementation, and coordination of a Community Garden and Fruit Park

The term of Agreement No. 13-58 is July 1, 2013, through June 30, 2015.

FISCAL IMPACT: IECG would be awarded a total of \$40,000 from the First 5 grant.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-58 with Incredible Edible Community Garden to provide services to support the Healthy Cities Project in Montclair.

Prepared by:

M. Richter

Reviewed and
Approved by:

[Signature]

Proofed by:

Christine Smiderly

Presented by:

[Signature]

**CITY OF MONTCLAIR
5111 BENITO STREET
MONTCLAIR, CALIFORNIA 91763
(909) 626-8571**

AGREEMENT FOR CONTRACTED SERVICES

THIS AGREEMENT is made and entered into this 1st day of July 2013, by and between the City of Montclair, hereinafter referred to as the "**CITY**," and Incredible Edible Community Garden, hereinafter referred to as the "**IECG**."

1. Services To Be Performed by IECG.

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

(b) **IECG** may, at **IECG's** own expense, employ such assistants as **IECG** deems necessary to perform the services required of **IECG** by this Agreement.

(c) **IECG** 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 **CITY** and **IECG** or any of **IECG's** agents or employees. **IECG** 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. **IECG**, its agents and employees, shall not be entitled to any rights and/or privileges of **CITY's** employees and shall not be considered in any manner to be **CITY's** employees.

2. Compensation.

(a) Except as otherwise provided in this Agreement, **CITY** agrees to compensate **IECG** for services rendered under this Agreement for a total of \$40,000, not to exceed \$20,000 annually, based on the Scope of Work, Attachment A.

(b) **CITY** will pay no additional amount for travel or other expenses of **IECG** under this Agreement.

(c) **CITY** will provide **IECG** with forms, which **IECG** will use to request payment under this Agreement unless **IECG** can provide such forms. For each one-month period of service, a "Request for Payment" form must be returned to **CITY** in triplicate.

(d) **CITY** will not withhold any federal or state income tax for payment made pursuant to this Agreement. **IECG** 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 July 1, 2013, through June 30, 2015. Termination is pursuant to the provisions of Section 6 of this Agreement. CITY shall not be obligated to pay IECG any additional consideration unless IECG undertakes additional services, in which instance the consideration shall be increased as CITY and IECG shall agree in writing.

4. Obligations of IECG.

(a) During the term of this Agreement, IECG agrees to diligently prosecute the work specified in the attached "Description of Services" to completion.

(b) At all times during the term of this Agreement, IECG agrees to provide workers' compensation insurance for IECG's employees and agents as required by law. IECG shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.

(c) IECG shall indemnify, pay for the defense of, and hold harmless CITY and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of IECG's negligent or willful acts and/or omissions in rendering any services hereunder. IECG shall assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning IECG or any employee and shall further indemnify, pay for the defense of, and hold harmless CITY of and from any such payment or liability arising out of or in any manner connected with IECG's performance under this Agreement.

5. Obligations of City.

(a) CITY agrees to comply with all reasonable requests by IECG and to provide access to all documents reasonably necessary for the performance of IECG's duties under this Agreement.

(b) CITY shall indemnify, pay for the defense of, and hold harmless IECG and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of CITY's negligent or willful acts and/or omissions in rendering any services hereunder.

6. Termination of Agreement.

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

(b) Should IECG default in the performance of this Agreement or breach any of its provisions, CITY may terminate this Agreement by giving written 30-day notification to IECG.

(c) If at any time during the performance of this Agreement CITY determines, at its sole discretion, to suspend indefinitely or abandon the work under this Agreement, CITY shall have the right to terminate the performance of IECG's services hereunder by giving written notification to IECG of its intention to terminate. At any time during the performance of this Agreement the IECG may terminate this Agreement by giving written 30-day notification to CITY.

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

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 CITY and IECG. 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 IECG 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 is 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 CITY may unilaterally amend the Agreement to accomplish the changes listed below:

- (1) Increase dollar amount
- (2) Administrative changes
- (3) Suspend funding in whole or in part if there is a reduction in availability of funds from the Children and Families Commission for San Bernardino County First 5
- (4) Changes as required by law or the Children and Families Commission for San Bernardino County First 5

(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 CITY, IECG, 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 or the State of California, at the request of CITY or as part of any audit of CITY, for a period of three (3) years after final payment is made under this Agreement. IECG 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.

"CITY"
5111 Benito Street
Montclair, CA 91763
(909) 626-8571

"IECG"
740 West 26th Street
Upland, CA 91784
(941) 276-1150

By: _____
Paul M. Eaton
Mayor

By: _____
Mary Petit
President

Date: _____

Date: _____

ATTEST:

Yvonne Smith
Deputy City Clerk

Date: _____

ATTACHMENT A

Scope of Work

Services to be provided:

- Host a minimum of two planning meetings that engage the community in the development of a Community Garden and Fruit Park in Montclair.
- Provide one community garden intern stationed at the Incredible Edible Community Garden office who will oversee development, implementation, and coordination of a Community Garden and Fruit Park.
- Provide ongoing supervision, training support, and evaluation of the assigned community garden intern.
- Participate in and provide support at upcoming scheduled Farmers' Markets in Montclair to promote the Community Garden and Fruit Park initiative.
- Participate in and attend quarterly Healthy Montclair Coalition meetings.
- By June 30, 2014, IECG will have successfully implemented the first Fruit Park in Montclair.
- By June 30, 2015, IECG will have successfully implemented a pilot Community Garden in Montclair.
- By September 30, 2015, IECG will have successfully implemented the completed Community Garden in Montclair.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-62 WITH THE CITY OF WEST COVINA FOR MOBILE DATA COMPUTER CONNECTIVITY, DATA PROCESSING EQUIPMENT, SOFTWARE, AND SERVICE OF COMPUTER-AIDED DISPATCH AND RECORDS MANAGEMENT SYSTEM PROGRAMS	DATE: August 5, 2013
	SECTION: AGREEMENTS
	ITEM NO.: 5
	FILE I.D.: PDT260
	DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 13-59 with the City of West Covina (West Covina) for Mobile Data Computer (MDC) connectivity, data processing equipment, software, and service of computer-aided dispatch (CAD) and Records Management System (RMS) programs, all of which are administered by the West Covina Police Department.

A copy of proposed Agreement No. 13-59 is attached for the City Council's review and consideration.

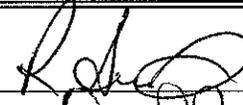
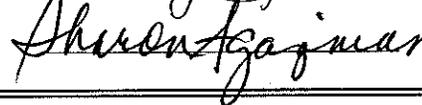
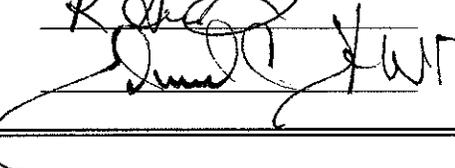
BACKGROUND: For many years, the Montclair Police Department has relied on the services of West Covina for data processing equipment, software, and support for the Police Department's CAD and RMS programs as well as MDC connectivity.

The services provided by West Covina offer the Police Department access to a comprehensive public safety information system without the day-to-day responsibility of system management and ongoing maintenance.

CAD is a computer-based module for accepting Police calls for service, dispatching public safety personnel, and tracking the status of available resources. The CAD system includes interfaces to RMS, MDCs, emergency telephone system (E9-1-1), and all available external law enforcement databases.

Multiple open windows allow dispatchers to perform varied tasks while still being aware of changes that take place with field units. From within CAD, dispatchers have full access to County databases, California Law Enforcement Telecommunications Systems, and the National Crime Information Center.

CAD software is fully integrated into the MDC system, which provides field officers with immediate access to extensive information. CAD is also fully integrated into RMS from which all available information is immediately transferred. Response time analysis, officer productivity, and free-time analysis report are all based on CAD data and provide an immediate and timely overview of efficiency.

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

RMS is a computer-based module that allows for easy data entry and retrieval of crime-related records; citation, field interview, and registrant information; and CAD information associated with crime and other incidents reported to the Communications Center. RMS also encompasses a crime analysis system with the capability of generating statistical reports, a useful tool in crime analysis. Both facets of the program are designed to assist law enforcement in effectively handling criminal investigations.

FISCAL IMPACT: The total cost of services proposed to be provided by the City of West Covina pursuant to Agreement No. 13-59 is \$78,366. Funding for this purpose is contained in the Police Department Fiscal Year 2013-14 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 13-59 with the City of West Covina for Mobile Data Computer connectivity, data processing equipment, software, and service of Computer-Aided Dispatch and Records Management System programs.

STANDARD AGREEMENT

DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT

This DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT is made this 1st day of July, 2013 by and between the City of West Covina, through its Police Department, an entity organized under the laws of the State of California ("West Covina Police") and the Montclair Police Department, organized under the laws of the State of California ("Client Agency").

Recitals

- A. Client Agency has requested to lease the West Covina application software.
- B. Client Agency desires to implement and use a comprehensive public safety information system without the responsibility for day-to-day central computer system management and West Covina Police has the available central computer system capacity, implementation and system management skills and ability to implement such a system and to provide on-going support and maintenance.

In consideration of an initial processing establishment fee and annual processing and software usage/support/maintenance fees to be paid by Client Agency to the West Covina Police, the parties agree as follows:

1. Sale of Equipment and Right To Use Software. Subject to the terms and conditions hereof, West Covina Police agrees to sell to Client Agency, and Client Agency agrees to purchase from West Covina Police, the equipment and the right to use the software products described herein (collectively referred to as the "System"). West Covina Police shall obtain for delivery at the address designated for Client Agency's use of the System (the "Installation Site"), the equipment, parts, and supplies identified in Attachment 1 hereto (the "Network Equipment").

Client Agency's right to use the system software products may not be transferred, leased, assigned, or sublicensed without West Covina Police's prior written consent, except for a transfer of the right-to-use in its entirety to a successor in interest of Client Agency's entire organization who assumes the obligations of this Agreement.

2. Network Equipment Installation. West Covina Police shall be responsible for complete installation of the System and Network Equipment identified in Attachment 1 hereto.

3. Training. Client Agency shall select personnel suitable to operate and use the System and confirm that such personnel demonstrate the competence necessary to manage and operate the System. West Covina Police shall, upon Client Agency's request, provide Client Agency's personnel with training and instruction concerning the operation and use of the System by conducting a training session(s) at a mutually convenient time at Client Agency's

facility. The cost and terms of payment for providing training at Client Agency's facility is contained in Attachment 1 of this Agreement.

4.Remote Computing Services. The West Covina Police shall provide Client Agency with the data processing services described in the Processing Schedule contained in Attachment 1. The Processing Schedule sets forth standards and procedures, including form of source data, programs to be used in processing, procedures for data storage, and form of return data and output, for such services. The West Covina Police may provide remote computing services to sort and analyze such data in order to produce the return data and output. Such data, as sorted and analyzed, shall be stored in a custom database file for Client Agency to access on a confidential, "password-restricted" basis through the West Covina Police's on-line communications network. The Processing Schedule also sets forth the equipment and computer programs provided for Client Agency's use, the quantity of data storage space reserved the communication protocols and terminal specifications for equipment on Client Agency's premises, and user identification and security procedures to be employed.

5.Processing. The West Covina Police will process work in a timely manner according to the processing schedule, including computer network availability times and scheduled downtime arrangements, to be developed from time to time by Client Agency and West Covina Police and documented in additions to the Processing Schedule signed by both parties hereto. West Covina Police acknowledges that maximum availability of the computer network so undertaken is necessary for Client Agency to meet Client Agency's internal operating requirements, but West Covina Police shall not be responsible for unscheduled computer network outages attributable to causes beyond its reasonable control, including but not limited to limitations on the availability of telephone transmission facilities, failures of other communications equipment, or Client Agency's failure to prepare data properly for input into equipment of West Covina Police.

6.Backup Services. If West Covina handles Client processing, West Covina Police shall maintain adequate back-up arrangements and equipment in order to maintain services hereunder in the event of the failure of West Covina Police's equipment. West Covina Police shall, at a minimum, perform daily incremental and weekly comprehensive backups of Client Agency's database files and shall rotate a current backup copy off-site from West Covina Police's premises weekly.

7.Priority Processing. West Covina Police shall afford priority to all data processing services provided with respect to public safety information systems and shall undertake all reasonable efforts to maximize computer network availability for such data processing for Client Agency prior to any non-priority processing.

8.Ownership of Systems, Materials and Database. All systems, programs, operating instructions, and other documentation prepared by West Covina Police shall be, and remain, the property of West Covina Police. All data and source documents provided by Client Agency and all output shall be, and remain, Client Agency's property. Upon termination of this Agreement, all of Client Agency's information retained by West Covina Police in Client Agency's custom database files shall be made available to Client Agency on computer readable media, of a type suitable for use on the specified equipment, and West Covina

Police shall return to Client Agency all documents and written records of transactions belonging to Client Agency. Client Agency's custom database files shall be supplied in either native West Covina application system format or in a flat file format with all data fields unpacked or not in computational or binary form. Costs to cover such final servicing and handling of materials and custom database files are deemed to be included in the processing establishment fee.

9. Duty of Care. West Covina Police agrees to employ due care and attention in maintaining Client Agency's custom database files. Client Agency acknowledges that data processing entails the likelihood of some human and machine errors, omissions, delays, and losses, including inadvertent loss of data or damage to media, which may give rise to loss or damage.

Operation of the System and use of the products and services identified in this Agreement are the sole responsibility of Client Agency. West Covina's sole undertaking is limited to providing the products and services outlined herein in accordance with the terms and conditions of this Agreement. The provision of products sold or leased and services performed by West Covina to Client Agency shall not be interpreted, construed, or regarded, either expressly or implied, as being for the benefit of or creating any obligation toward any third party or legal entity outside of West Covina and Client Agency; West Covina's obligations under this Agreement extend solely to Client Agency.

Client Agency is responsible for adopting reasonable measures to limit Client Agency's exposure with respect to such potential losses and damages, including (without limitation) examination and confirmation of results prior to use thereof, provision for identification and correction of errors and omissions, preparation and storage of backup data, replacement of lost or damaged data or media, and reconstruction of data. Client Agency agrees to maintain at all times alternative methods capable of substitution for West Covina Police's performance under this Agreement. Client Agency is also responsible for complying with all local, state, and federal laws including those pertaining to the use and disclosure of any data.

10. Confidential Treatment of Information. West Covina Police shall maintain in confidence, and shall not disclose to any third party, unless directed to do so in writing by Client Agency's Chief of Police, or designee, all data and materials furnished by Client Agency for processing hereunder, and West Covina Police agrees that such information shall not be used by West Covina Police for any purposes other than the provision of processing services pursuant to this Agreement. West Covina Police's obligation under this Paragraph 11 is limited to diligent compliance with the same methods and procedures that West Covina Police uses to protect its own confidential information from disclosure. West Covina Police further agrees to restrict access to the custom database files created for the output of its processing of Client Agency's data. West Covina Police shall furnish Client Agency with a description of such restrictions upon Client Agency's request, BUT CLIENT AGENCY ACKNOWLEDGES THAT ACCESS RESTRICTIONS, BY THEIR NATURE, ARE CAPABLE OF BYPASS AND WEST COVINA POLICE DOES NOT AND CANNOT GUARANTEE THAT SUCH OUTPUT CANNOT BE ACCESSED BY UNAUTHORIZED PERSONS CAPABLE OF OVERCOMING SUCH RESTRICTIONS.

11. Audits and Governmental Examination. West Covina Police agrees to permit auditors or consultants retained by Client Agency to audit or review the procedures for handling and processing of data hereunder upon reasonable notice and compliance with West Covina Police's security procedures. The parties also acknowledge that certain federal and state agencies may require access to facilities of West Covina Police to audit the performance of the services by West Covina Police for Client Agency under this Agreement, and West Covina Police will cooperate with respect to all such governmental audits. West Covina Police shall provide an annual financial accounting and report of data processing operations in writing to Client Agency.

12. Modification of Procedures. West Covina Police may make changes from time to time in its standards and procedures for performing data processing services, but no substantial changes will be implemented by West Covina Police until it has furnished Client Agency with written notice thereof and a reasonable opportunity to adapt Client Agency's operations to accommodate such changes. Substantial changes are those which would force Client Agency to make significant modifications to their standard operating procedures.

13. West Covina Maintenance. West Covina Police shall maintain the application software used by Client Agency at the time of the execution of this Agreement. West Covina Police shall use its best efforts to correct any reproducible error. Response to downed systems generally will be within four hours. Suspected error conditions will be investigated and corrected by West Covina Police personnel at West Covina offices to the extent possible although visits to the Client Agency's site shall be made when necessary pursuant to Paragraph 18 of this Agreement. West Covina Police may provide Client Agency with use of unsolicited error corrections or changes to the software which West Covina Police determines are necessary for proper operation of the software.

14. New Releases. West Covina Police is continually working on improvements to application software modules. During the term of this Agreement, as these improvements are released, Client Agency will receive the right-to-use these improvements. West Covina Police reserves the right to make final determination as to whether or not newly completed or acquired enhancements, modules and/or applications are deemed separately priced products or are to be included as no-cost enhancement/new releases for the maintenance-paying Client Agency.

15. Pricing. Network Equipment Costs, Processing Establishment, Installation and Training Fees shall be paid on a one-time only basis according to the payment schedule contained in Attachment 1 of this Agreement. Processing, Software Support and Usage and Maintenance fees are billed annually and are due and payable by July 1 of each year. The amount of these annual recurring fees is presented in Attachment 1. West Covina Police may increase the amount of the annual recurring fees each year, based upon budget requirements, to a maximum of 5% in any year. Client Agency will be notified of such annual recurring fees increases by April 1 of each year.

16. Taxes. Client Agency shall report and pay all applicable federal, state, and local taxes designated, levied, or based (1) upon the Purchase Price, Service Establishment, Processing Fees, or any other amounts payable under this Agreement; (2) on account of this Agreement; or (3) with respect to the System, the Network Equipment, or the use by Client Agency of the System or the Network Equipment.

Client Agency shall indemnify and hold harmless West Covina Police from all claims and liability resulting from Client Agency's failure to report or pay such amounts.

17. Delivery. West Covina shall deliver all equipment outlined in Attachment 1 to Client Agency's facility.

18. On-Site Assistance and Billing. If a problem cannot be resolved using remote diagnostics, with the Client Agency's authorization, West Covina Police shall send a specialist to the Client Agency's site under the following terms and conditions: (1) If the problem lies solely with Client Agency's equipment, Client Agency will be responsible for all expenses associated with the resolution of the problem, and (2) if the problem is Client Agency generated, Client Agency may be responsible for all fees and expenses and will be automatically billed on a net 30 basis at West Covina Police's then-current service rate plus cost of materials. The current service rate is indicated in Attachment 1 of this Agreement.

Nonpayment of billed services shall constitute a breach of Agreement and all remote computing services and maintenance shall be withheld until such time as all back payments plus applicable late penalties and interest have been fully repaid. Client Agency generated problems include any and all hardware and/or network failures that were caused by improper use, tampering or by intentional damage to the Client Agency's Network Equipment.

19. West Covina Service Group (WCSG). Calls to WCSG will be accepted during regular business hours from 7:00 a.m. PST to 5:00 p.m. PST on Monday through Thursday, excluding announced West Covina holidays. Responses from WCSG or other West Covina Police representatives will be provided during the same hours. West Covina Police will use its best efforts to resolve problems promptly. Client Agency will select no more than two (2) of its employees to serve as official representatives of Client Agency to use the WCSG hotline support. Client Agency may also appoint alternative representatives to act in place of the official representatives in their absence. The WCSG service is not to be considered a source of training or a source of consulting. It is Client Agency's responsibility to regulate and authorize the use of this service by its employees. All WCSG services shall be coordinated in advance with the West Covina Site Manager. Client Agency's representatives shall not call programming staff directly.

After-hours support services may be provided in coordination through the Site Manager. "After hours support services" means services between 5:00 p.m. - 7:00 a.m. Monday-Friday or on West Covina holidays or on weekends. Requests for emergency support services may originate only from the Client Agency's official representative(s). The charge for emergency services shall be on a time and materials basis at the rate indicated in Attachment 1 with a two (2) hour minimum.

West Covina shall designate a Site Manager under this Agreement.

20. Client Agency Responsibilities. Client Agency's responsibilities shall include the following:

- 1 Client Agency, at its expense and prior to delivery and installation of the System at Client Agency's address, shall prepare the Installation Site in an appropriate manner and shall

- cause the Installation Site to conform to any utility, climate control, and communication interface specifications that West Covina Police or the manufacturers or vendors of the Network Equipment may supply.
- 2 Client Agency shall promptly inspect the Network Equipment upon its arrival at the Installation Site and shall notify West Covina Police if Client Agency finds any damage or defect in the Network Equipment.
 - 3 Client Agency shall provide West Covina Police personnel with the work space necessary for the proper execution of its service obligations as necessary and required by West Covina Police.
 - 4 Client Agency will be responsible for maintaining the computer hardware, communications equipment, telephone lines, cabling, modems and all other hardware equipment as necessary to operate efficiently and to industry standards.
 - 5 Client Agency will make available network access time for the testing and maintenance of software as necessary and required by West Covina Police.

21. Terms of Agreement. This Data Processing Equipment and Services Agreement shall be effective until terminated as set out in paragraph 22, subject to changes in terms and conditions set out herein.

22. Termination. Either party shall have the right to terminate this Agreement without cause upon not less than one hundred eighty (180) days advance written notice.

23. Warranties.

- 1 West Covina Police warrants, for the benefit of Client Agency only, that at the time of completion of delivery and installation of the Network Equipment and Operating Programs at the Installation Site, the equipment shall be free of defects in materials or workmanship. West Covina Police's sole obligation, and Client Agency's exclusive remedy, for any defect or nonconformity in the Network Equipment and Operating Programs shall be to cooperate with Client Agency to provide it with the benefit, if any, of the warranty and support commitment of the third-party manufacturers and suppliers of Network Equipment and the Operating Programs. Client Agency may independently seek to obtain directly, from the manufacturers of the Network Equipment or the Operating Programs, maintenance or repair of the Network Equipment or the Operating Programs under any warranty or guarantee provided by such manufacturer. Client Agency acknowledges, unless Client Agency obtains separate service agreements with such manufacturers and suppliers or with a third-party maintenance vendor covering maintenance or repair of the Network Equipment and the Operating Programs at the Installation Site, that such manufacturers and suppliers may require Client Agency to deliver defective Network Equipment or Operating Programs to their authorized service centers for maintenance or repair.

2. THE CLIENT AGENCY UNDERSTANDS AND AGREES THAT EXCEPT FOR THE FOREGOING WARRANTY, NO WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO THE SOFTWARE UNDER THIS AGREEMENT, WHICH IS FOR MAINTENANCE AND SUPPORT ONLY. ALL IMPLIED WARRANTIES ARE HEREBY AND EXPRESSLY DISCLAIMED. West Covina's sole obligation for breach of this Agreement is limited to repairing and/or replacing, at Client Agency's option, the software components at West Covina's own expense, which shall be Client Agency's sole and exclusive remedy. The repair or replacement of any defective software under this warranty is conditioned upon the software not having been altered or repaired by any individual other than West Covina employees or agents, and West Covina shall not be responsible for any defects resulting from the mishandling, abuse, misuse, improper storage or improper operation, including use in conjunction with equipment which is electrically or mechanically incompatible with or of inferior quality to the System, as well as failure to maintain the environmental conditions specified by the manufacturer of the System.

24. Indemnification. Subject to the limitations set out herein each party shall indemnify and hold harmless the other party from and against claims, losses, damages, liabilities, demands, and lawsuits to the extent they arise from, or are alleged to arise from, negligent acts solely in connection with a party's performance (or failure to perform) under this Agreement or a party's use of, or operation of, the Product(s) sold, installed, and maintained under this Agreement. This indemnity extends solely to claims and lawsuits for personal injury, death, or destruction of tangible property

Notwithstanding any other provision in this Agreement, including without limitation Paragraphs 9,23,24, West Covina Police shall defend, indemnify and hold harmless the Client Agency and its elected officials, officers, employees and agents from and against any claims, losses, damages, liabilities, demands and lawsuits, of whatsoever kind or nature, including, without limitation, patent and/or copyright infringement claims arising out of or relating to West Covina Police's ownership and/or ability or right to sell or lease the software and database which are the subject of this Agreement.

25. Security and Privacy. West Covina Police agrees that to the extent allowed by law, none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the prior written consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. Client Agency shall be notified immediately upon receipt of any such order of court, pertaining to production of such information.

26. Changes to files and/or hardware configuration. Any changes to files and/or hardware which may affect software performance, including but not limited to changes to existing hardware configurations, network configurations, terminal and printer characteristics or modems without the prior written consent of West Covina Police may void this Agreement.

West Covina Police may provide requested support on a time and material basis only, until such time as the changes in configuration are resolved.

27. Independent Contractor. The parties hereto agree that West Covina Police Department and its employees, officers, and agents are independent contractors under this Agreement and shall not be construed for any purpose to be employees of Client Agency.

28. Notices. Any notices required or permitted under this Agreement shall be in writing and shall be effective when delivered in person or sent by registered or certified mail, return receipt requested, with proper postage affixed, or by personal courier to the address set forth in this Agreement or any more recent address of which the sending party has been apprised.

29. Governing Law/Miscellaneous. This agreement shall be governed by the laws of the State of California. It may be amended only in writing signed by both parties. No waiver of any term or condition of this Agreement shall be a continuing waiver thereof.

30. Entire Agreement. This Agreement, including Attachment 1 hereto, which is hereby incorporated herein by this reference, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any and all prior and contemporaneous representations, proposals, agreements, negotiations, advertisements, statements, or understandings, whether oral or written. No amendment to this Agreement shall be binding on either party unless such amendment is in writing and executed by authorized representatives of both parties to this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized representatives.

City of Montclair

City of West Covina

By: _____

By: _____

Name: Paul M. Eaton

Name: Paul LaCommare

Title: Mayor

Title: Interim Chief of Police

Date: _____

Date: _____

**DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT
NETWORK EQUIPMENT AND PROCESSING SCHEDULE – Attachment 1**

I. Description of Data-Processing Services:

A. Maintenance and Repair of Data Communications Lines:

All data communication lines between Client Agency and West Covina are supplied by the local telephone service company. The maintenance and repair of those lines remains the responsibility of the provider.

B. Maintenance and Repair of E-911 Connections:

All 911 communication lines are supplied by the local telephone service company. The maintenance and repair of those lines remains the responsibility of the provider.

C. Maintenance and Repair of External System Interfaces:

All external interface communication lines between Client Agency and the County or State are supplied by the County or the State. The maintenance and repair of those lines remains the responsibility of the provider.

D. Maintenance and Repair of West Covina Police supplied Third-Party Equipment:

All third party equipment provided by West Covina to Client Agency will be the property of the Client Agency. The maintenance and repair of that equipment will be the responsibility of West Covina. Any West Covina personnel costs will be billed to Client Agency at a time and materials rate of \$150 per hour.

E. Maintenance and Repair of Third-Party Software provided by West Covina Police:

All third party software provided by West Covina to Client Agency will be the property of the Client Agency. The maintenance and repair of that software will be the responsibility of West Covina. Any West Covina personnel costs will be billed to Client Agency at a time and materials rate of \$150 per hour.

F. Maintenance and Repair of West Covina Police Central Computer System:

West Covina will be responsible for all maintenance and repair of the Central Computer System with contracted maintenance coverage of 24 hours by 7 days per week, including holidays.

**DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT
NETWORK EQUIPMENT AND PROCESSING SCHEDULE – Attachment 1**

G. Client Agency copy of database backup:

At Client Agency direction, West Covina Police will rotate to Client Agency a comprehensive backup media on a monthly basis.

II. Standards and Procedures

A. Client Agencies Users' Group:

Client Agency will be a member of the West Covina User's Group and will be invited to attend all meetings of that group and will be asked to provide input into future software enhancements.

B. Procedures for Off-Site Data Storage:

West Covina will make daily backups of the entire Client Agency system. If asked to do so, West Covina will provide Client Agency, monthly, with a full backup media.

C. Network Availability Schedule:

24 hours daily, 7 days per week.

D. Scheduled Downtimes:

Downtimes are scheduled on an "as needed" basis and West Covina Police will provide, in most instances, at least one (1) day advance notice. Less notice may be provided for emergency system maintenance downtime.

E. Security Procedures:

Client Agency will have full authority and responsibility to assign passwords, terminal time-outs, user clearances, and other related security functions to all of their users on the system.

F. On-Site Assistance and Emergency Service Fees:

Normal On-Site Assistance rate is \$150.00 hour.

Emergency Services rate is \$300.00 hour.

Client Agency shall be invoiced for these services fees as they are incurred. The invoice shall indicate the date services were provided, the individual providing the services and amount of time incurred. Invoices are due and payable within 30 days.

**DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT
NETWORK EQUIPMENT AND PROCESSING SCHEDULE – Attachment 1**

Client Agency shall be invoiced for any software or hardware purchases made on their behalf, at the time of ordering. Invoices are due and payable within 30 days. Late payments are subject to a 3% monthly penalty.

The annual processing/usage fee is due and payable by July 1 of each year.

The software support and maintenance fee is due and payable by July 1 of each year.

**DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT
NETWORK EQUIPMENT AND PROCESSING SCHEDULE – Attachment 1**

ON-GOING ANNUAL FEES (due July 1st of each year, starting July 1, 2013)

ANNUAL CAD/RMS/EXTERNALS INTERFACE MAINTENANCE FEES	\$34,311.00
ANNUAL HOSTED LEASE/USAGE FEES	\$28,301.00
ANNUAL FRAME RELAY CONNECTION FEES	\$583.00
ANNUAL MDT INTERFACE MAINTENANCE FEES	\$6,010.00
ANNUAL CLETS FEES	\$4,244.00
ANNUAL PST RADCOM SERVER/CLIENT MAINTENANCE FEES	\$4,917.00
TOTAL WCSG ANNUAL FEES	\$78,366.00

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2995 SUPPORTING CALIFORNIA STATE ASSEMBLY BILL 300 (PEREA) FUNDING LOCAL EMERGENCY SERVICES.	DATE: August 5, 2013 SECTION: RESOLUTIONS ITEM NO.: 1 FILE I.D.: STG200 DEPT.: ADMIN. SVCS.
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REASON FOR CONSIDERATION: The existing Emergency Telephone Users Surcharge Act, first enacted in 1976, imposes a surcharge on phone bills to provide revenues to fund 911 emergency telephone system costs. Currently in California, there is no statewide mechanism to collect the same fees from prepaid wireless customers that are currently collected from postpaid or contract customers. Assembly Bill 300 (AB 300) introduced by Assembly Member Henry Perea would create a statewide point-of-sale collection for prepaid services administered by the Board of Equalization that is similar in cost to postpaid services.

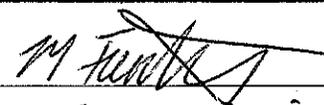
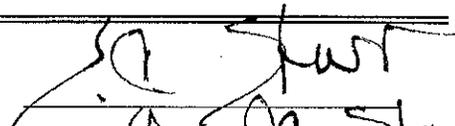
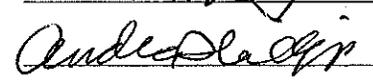
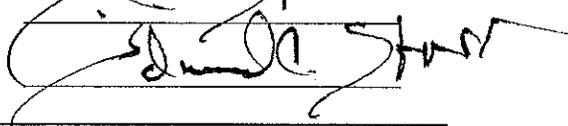
The City Council is requested to consider adoption of Resolution No. 13-2995 supporting AB 300. A copy of proposed Resolution No. 13-2995 is attached for the City Council's review and consideration.

BACKGROUND: In California, there are several state surcharges, taxes, and fees assessed on telecommunication services. These charges are collected by telephone service providers from their service customers and then paid to either the California Public Utilities Commission or the Board of Equalization.

Currently in California, there is no statewide mechanism to collect the same fees from prepaid wireless customers that are currently collected from postpaid customers. As a result, state and local governments lack reliable means for ensuring collection of these revenues.

Traditionally, carriers collect the required fees from postpaid customers by including these fees in customers' monthly bill. This mechanism does not occur for prepaid wireless customers given that they pay for telephone services prior to the services being used. As a result, prepaid wireless customers do not receive a monthly bill and are, therefore, not charged for emergency telephone costs. Roughly, 80 percent of prepaid wireless services are purchased from retailers who do not collect fees for emergency telephone costs.

Prepaid wireless services have been growing rapidly during the past several years along with the growth of voiceover Internet protocol (VOIP) services. Out of the 330 million U.S. wireless consumers, almost 20 percent use prepaid wireless services. The estimated growth rate of the industry is expected to increase 10 percent annually, and California's share of the national prepaid wireless market is around 12 percent. Under the parameters of AB 300,

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

prepaid wireless customers will be charged a surcharge when purchasing prepaid wireless services. This surcharge will allocate additional funds for 911 emergency services without an increased burden on phone companies. By creating a point-of-sale collection mechanism to collect the required fees from providers of prepaid wireless services, it would help create predictability and enhanced revenue for state and local governments.

It should be noted that in 2007, amendments were added to the Telephone Users Surcharge Act to include a surcharge for VOIP services. Arizona, Nebraska, Utah, North Carolina, and 25 other states have adopted similar measures.

FISCAL IMPACT: Currently, the inability to collect emergency telephone system costs from customers of prepaid wireless services leaves state and local governments without a reliable, predictable means for ensuring collection of these revenues, depriving state 911, local governments, and other public purpose programs of critical funding.

By modernizing and implementing a method of point-of-sale collection on prepaid wireless services, Assembly Bill 300 ensures revenue for 911 systems, local governments, and other public purpose programs. It would ensure that prepaid wireless customers pay the same existing taxes and fees that all other phone customers are currently required to pay. It is currently unknown what fiscal impact this Assembly Bill would have on the City, considering it is unknown how many prepaid wireless services are bought in the City.

Adoption of proposed Resolution No. 13-2995 would produce no significant fiscal impact.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2995 supporting California State Assembly Bill 300 (Perea) funding local emergency services.

RESOLUTION NO. 13-2995

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MONTCLAIR SUPPORTING CALIFORNIA
STATE ASSEMBLY BILL 300 (PEREA) FUNDING
LOCAL EMERGENCY SERVICES**

WHEREAS, in California there are several state surcharges, taxes, and fees assessed on telecommunication services; and

WHEREAS, currently in California, there is no statewide mechanism to collect the same fees from prepaid wireless customers that are collected from postpaid wireless customers; and

WHEREAS, as a result, state and local governments lack reliable means for ensuring collection of these revenues; and

WHEREAS, the inability to collect emergency telephone system costs from customers of prepaid wireless services leaves state and local governments without a reliable, predicable means for ensuring collection of these revenues, depriving state 911, local governments, and other public purpose programs of critical funding; and

WHEREAS, Assembly Bill 300 would ensure revenue for 911 systems, local governments, and other public purpose programs by implementing a method of point-of-sale collection on prepaid wireless services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby support California State Assembly Bill 300 (Perea) funding local emergency services.

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. 13-2995 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

August 5, 2013

The Honorable Henry T. Perea
Assembly Member 31st District
State Capitol, Room 4112
Sacramento, CA, 95814

RE: Support for AB 300 (Perea) Funding Local Emergency Services

Dear Assembly Member Perea:

This letter is to express support for AB 300 - which would ensure state and local governments receive the necessary resources for E911 programs by developing a statewide mechanism to include prepaid services in the already-established collection of fees applied to wireless communication services.

By creating a mechanism to collect the required fees from the prepaid wireless service, it would help create predictability and enhanced revenue for state and local governments. Programs and services that would receive additional revenue by modernizing collection of existing taxes and fees on prepaid wireless consumers include: state and local E911 call centers, California LifeLine, The California Teleconnect Fund, The Deaf and Disabled Telecommunications Program, The California High Cost Funds, The California Advance Services Fund, and the Public Utilities Commission Reimbursement Account.

AB 300 would create a uniform, statewide point-of-sale collection for prepaid services administered by the BOE that is uniformly administered and transparent to consumers, similar to postpaid services. It also requires that fees collected be distributed to the State 911 fund, CPUC Public Purpose Fund, and Local Governments.

I strongly support AB 300 (Perea), which would modernize the collection of existing wireless taxes and fees to maximize revenue and help fund critical programs.

Sincerely,

Paul M. Eaton
Mayor, City of Montclair

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2997 AUTHORIZING THE SALARIES AND CLASSIFICATION TITLES FOR CITY EMPLOYEES REPRESENTED BY THE SAN BERNARDINO PUBLIC EMPLOYEES ASSOCIATION

DATE: August 5, 2013

SECTION: RESOLUTIONS

ITEM NO.: 2

FILE I.D.: SBP500

DEPT.: ADMIN SVCS.

REASON FOR CONSIDERATION: For the purpose of ongoing transparency, the City Council is asked to annually review and authorize the wage provisions and classification titles for employees represented by the San Bernardino Public Employees Association (SBPEA). Proposed Resolution No. 13-2997 does not represent or contain any adjustment in salaries for SBPEA-represented employees. A copy of the proposed Resolution is attached for the City Council's review and consideration.

BACKGROUND: On June 4, 2007, the City Council adopted Resolution No. 07-2697 fixing the salaries for certain City employees represented by SBPEA. Resolution No. 07-2697 allowed for a 2 percent salary adjustment during Fiscal Year 2007-08 and represents the last general salary adjustment for SBPEA-represented employees. In subsequent years and as a result of the Great Recession and concurrent decline in local revenues, SBPEA-represented employees agreed to the implementation of various employee-related cost-reduction measures in lieu of layoffs.

Proposed Resolution No. 13-2997 reflects a few minor changes that have occurred since adoption of Resolution No. 07-2697, in June 2007. Minor modifications include certain changes to certain classification titles and development of positions related to City Council-approved reorganizations in various departments. These modifications have not, however, been presented in a comprehensive Salary and Classification Resolution for City Council consideration until now.

In the past, comprehensive Salary and Classification Resolutions were presented for City Council consideration at the conclusion of the labor negotiations process. However, because recent labor negotiations involved no definitive change in City Council-approved salaries, there existed no pressing need to present a comprehensive Salary and Classification Resolution for City Council consideration.

In view of recently reported corruption scandals in a few Southern California municipalities, staff believes it appropriate to establish and maintain openness and transparency related to wages and benefits for City of Montclair employees. Accordingly, the Administrative Services Department is adopting a policy of presenting for annual City Council consideration a comprehensive Salary and Classification Resolution for managers and each employee bargaining group.

Prepared by:

George E. Clark

Reviewed and Approved by:

J. A. Spurr

Proofed by:

George E. Clark

Presented by:

The current classification titles and salary ranges for SBPEA-represented employees are shown on Schedule "A" of proposed Resolution No. 13-2997. City of Montclair employee salaries are also available for public access on the State Controller's website at http://sco.ca.gov/compensation_search.html and on the City's website at www.cityofmontclair.org.

FISCAL IMPACT: The City Council's adoption of proposed Resolution No. 13-2997 would create no financial impact to the City.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2997 authorizing the salaries and classification titles for City employees represented by the San Bernardino Public Employees Association.

RESOLUTION NO. 13-2997

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING THE SALARIES AND CLASSIFICATION TITLES FOR CITY EMPLOYEES REPRESENTED BY THE SAN BERNARDINO PUBLIC EMPLOYEES ASSOCIATION

WHEREAS, pursuant to Government Code Section 3500, *et seq.*, City of Montclair representatives met and conferred with the representatives of the San Bernardino Public Employees Association (SBPEA) in 2007; and

WHEREAS, on June 4, 2007, the City Council adopted Resolution No. 07-2697 fixing the salaries for certain City employees represented by SBPEA, which was the last general salary adjustment; and

WHEREAS, in subsequent years and as a result of the Great Recession and concurrent decline in local revenues, SBPEA-represented employees agreed to the implementation of various employee-related cost-reduction measures; and

WHEREAS, since the adoption of Resolution No. 07-2697, a few minor changes have occurred to certain classification titles and development of positions related to City Council approved reorganizations; and

WHEREAS, for the purpose of ongoing transparency, the City Council has asked to annually review and authorize the wage provisions and classification titles for employees represented by SBPEA.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby find and determine that the salaries and classification titles of the City employees represented by SBPEA shall be as listed in Schedule "A" attached to this Resolution.

BE IT FURTHER RESOLVED that such salaries and classification titles shown in Schedule "A" shall remain in effect.

BE IT FURTHER RESOLVED that the Deputy City Clerk shall certify to the passage of this Resolution and the Mayor shall sign the same.

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. 13-2997 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

SCHEDULE "A"

Salary Adjustments for Classifications Represented by the San Bernardino Public Employees Association

<i>Classification</i>	<i>Present Range</i>
Accountant	\$3,736 - \$4,541
Accounting Specialist	\$3,184 - \$3,870
Accounting Supervisor	\$5,339 - \$6,489
Administrative Aide	\$3,622 - \$4,403
Administrative Analyst	\$4,396 - \$5,343
Administrative Secretary	\$3,214 - \$3,907
Administrative Specialist	\$3,214 - \$3,907
Assistant Planner	\$4,098 - \$4,981
Associate Planner	\$4,748 - \$5,771
Benefits Coordinator	\$3,793 - \$4,610
Building Inspector	\$4,107 - \$4,992
Building Maintenance Technician	\$3,300 - \$4,011
Code Enforcement Officer	\$3,861 - \$4,693
Community Health Education Coordinator	\$3,698 - \$4,495
Customer Service Rep./Office Specialist	\$2,739 - \$3,329
Departmental Secretary	\$3,546 - \$4,310
Deputy City Clerk	\$3,957 - \$4,810
Deputy Fire Marshall	\$5,380 - \$6,539
Diagnostic Specialist	\$3,632 - \$4,415
Economic Development Coordinator	\$5,175 - \$6,290
Environmental Control Specialist	\$3,772 - \$4,585
Environmental Manager	\$4,748 - \$5,771
Equipment Mechanic	\$3,280 - \$3,987
Finance Supervisor	\$4,904 - \$5,961
GIS Specialist	\$4,400 - \$5,348
Graffiti Abatement Worker	\$2,896 - \$3,520
Health Education Specialist	\$2,761 - \$3,356
Information Technology Technician	\$3,812 - \$4,634
Information Technology Specialist	\$4,400 - \$5,348
Information Technology Supervisor	\$5,647 - \$6,864
Junior Accountant	\$3,558 - \$4,325
Lead/Fire Equipment Mechanic	\$4,095 - \$4,978
Lead Mechanic	\$3,706 - \$4,505
Leadworker, Maintenance	\$3,342 - \$4,062
Learning Coordinator	\$2,866 - \$3,484
Maintenance Worker	\$2,896 - \$3,520
Motor Sweeper Operator	\$3,143 - \$3,820
National Pollutant Discharge Elimination System Coordinator	\$3,632 - \$4,415
National Pollutant Discharge Elimination/ Environmental Compliance Inspector Office Specialist	\$3,632 - \$4,415 \$2,739 - \$3,329

Personnel Services Coordinator	\$3,793 - \$4,610
Plans Examiner	\$5,011 - \$6,091
Police Dispatcher	\$3,586 - \$4,359
Police Dispatch Supervisor	\$4,248 - \$5,164
Police Officer Trainee	\$4,848 - \$4,848
Police Records Supervisor	\$4,578 - \$5,561
Police Services Specialist	\$2,838 - \$3,450
Project Manager	\$4,657 - \$5,660
Property Custody Clerk	\$2,703 - \$3,285
Public Works Inspector	\$4,028 - \$4,896
Receptionist/Office Specialist	\$2,675 - \$3,252
Recreation Coordinator	\$2,866 - \$3,484
Recreation Supervisor	\$3,473 - \$4,222
Resource Analyst	\$4,070 - \$4,947
Secretary	\$2,886 - \$3,508
Secretary to the City Manager	\$3,819 - \$4,642
Secretary to the Executive Director of Public Safety	\$3,819 - \$4,642
Senior Accountant	\$4,541 - \$5,519
Senior Building Inspector	\$4,657 - \$5,660
Senior Citizens Program Specialist	\$2,859 - \$3,475
Senior Code Enforcement Officer	\$4,324 - \$5,256
Senior Fire Inspector	\$4,324 - \$5,256
Senior Human Services Supervisor	\$4,098 - \$4,981
Senior Information Technology Specialist	\$4,935 - \$5,999
Senior Learning Coordinator	\$3,473 - \$4,222
Senior Recreation Supervisor	\$4,098 - \$4,981
Support Analyst	\$4,036 - \$4,906
Systems Specialist	\$2,859 - \$3,475

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2998 AUTHORIZING THE SALARIES AND CLASSIFICATION TITLES FOR CITY EMPLOYEES REPRESENTED BY THE MONTCLAIR POLICE OFFICERS ASSOCIATION	DATE: August 5, 2013
	SECTION: RESOLUTIONS
	ITEM NO.: 3
	FILE I.D.: MPO500
	DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: For the purpose of ongoing transparency, the City Council is asked to annually review and authorize the wage provisions and classification titles for employees represented by the Montclair Police Officers Association (MPOA). Proposed Resolution No. 13-2998 does not represent or contain any adjustment in salaries for MPOA-represented employees.

A copy of proposed Resolution No. 13-2998 is attached for the City Council's review and consideration.

BACKGROUND: On December 7, 2009, the City Council adopted Resolution No. 09-2882 fixing the salaries for certain City employees represented by MPOA. Resolution No. 09-2882 allowed for a 1 percent salary adjustment during Fiscal Year 2009-10 which represents the last general salary adjustment for MPOA-represented employees.

In view of recently reported corruption scandals in a few Southern California municipalities, staff believes it appropriate to establish and maintain openness and transparency related to wages and benefits for City of Montclair employees. Accordingly, the Administrative Services Department is adopting a policy of presenting for annual City Council consideration a comprehensive Salary and Classification Resolution for managers and each employee bargaining group.

The current classification titles and salary ranges for MPOA-represented employees are shown on Schedule "A" of proposed Resolution No. 13-2998. City of Montclair employee salaries are also available for public access on the State Controller's website at http://sco.ca.gov/compensation_search.html and on the City's website at www.cityofmontclair.org.

FISCAL IMPACT: The City Council's adoption of proposed Resolution No. 13-2998 would create no financial impact to the City.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2998 authorizing the salaries and classification titles for City employees represented by the Montclair Police Officers Association.

Prepared by: <u>Gary S. Chappell</u>	Reviewed and Approved by: <u>[Signature]</u>
Proofed by: <u>Grover L. Smith</u>	Presented by: <u>[Signature]</u>

RESOLUTION NO. 13-2998

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR AUTHORIZING
THE SALARIES AND CLASSIFICATION TITLES
FOR CITY EMPLOYEES REPRESENTED BY THE
MONTCLAIR POLICE OFFICERS ASSOCIATION**

WHEREAS, pursuant to Government Code Section 3500, *et seq.*, City of Montclair representatives met and conferred with the representatives of the Montclair Police Officers Association (MPOA); and

WHEREAS, on December 7, 2009, the City Council adopted Resolution No. 09-2822 fixing the salaries for certain City employees represented by MPOA, which was the last general salary adjustment; and

WHEREAS, for the purpose of ongoing transparency, the City Council has asked to annually review and authorize the wage provisions and classification titles for employees represented by MPOA.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby find and determine that the salaries and classification titles of the City employees represented by MPOA shall be as listed in Schedule "A" attached to this Resolution.

BE IT FURTHER RESOLVED that such salaries and classification titles shown in Schedule "A" shall remain in effect.

BE IT FURTHER RESOLVED that the Deputy City Clerk shall certify to the passage of this Resolution and the Mayor shall sign the same.

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. 13-2998 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

SCHEDULE "A"

Salary Adjustments for Classifications Represented by the Montclair Police Officers Association

<i>Classification</i>	<i>Present Range</i>
Police Officer	\$5,090 - \$6,187
Police Sergeant	\$6,765 - \$8,223

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-2999 AUTHORIZING THE SALARIES AND CLASSIFICATION TITLES FOR CITY EMPLOYEES REPRESENTED BY THE MONTCLAIR FIRE FIGHTERS ASSOCIATION

DATE: August 5, 2013
SECTION: RESOLUTIONS
ITEM NO.: 4
FILE ID.: MFF100
DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: For the purpose of ongoing transparency, the City Council is asked to annually review and authorize the wage provisions and classification titles for employees represented by the Montclair Fire Fighters Association (MFFA). Proposed Resolution No. 13-2999 does not represent or contain any adjustment in salaries for MFFA-represented employees. A copy of the proposed Resolution is attached for the City Council's review and consideration.

BACKGROUND: On October 15, 2007, the City Council adopted Resolution No. 07-2714 fixing the salaries for certain City employees represented by MFFA. Resolution No. 07-2714 allowed for a 2 percent salary adjustment during Fiscal Year 2007-08 and represents the last general salary adjustment for MFFA-represented employees. In subsequent years and as a result of the Great Recession and concurrent decline in local revenues, MFFA-represented employees agreed to the implementation of various employee-related cost-reduction measures.

In the past, comprehensive Salary and Classification Resolutions were presented for City Council consideration at the conclusion of the labor negotiations process. However, because recent labor negotiations involved no definitive change in City Council-approved salaries, there existed no pressing need to present a comprehensive Salary and Classification Resolution for City Council consideration.

In view of recently reported corruption scandals in a few Southern California municipalities, staff believes it appropriate to establish and maintain openness and transparency related to wages and benefits for City of Montclair employees. Accordingly, the Administrative Services Department is adopting a policy of presenting for annual City Council consideration a comprehensive Salary and Classification Resolution for managers and each employee bargaining group.

The current classification titles and salary ranges for MFFA-represented employees are shown on Schedule "A" of proposed Resolution No.13-2999. City of Montclair employee salaries are also available for public access on the State Controller's website at http://sco.ca.gov/compensation_search.html and on the City's website at www.cityofmontclair.org.

Prepared by: Gary E. Charlton Reviewed and Approved by: [Signature]
Proofed by: [Signature] Presented by: [Signature]

FISCAL IMPACT: The City Council's adoption of proposed Resolution No. 13-2999 would create no financial impact to the City.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-2999 authorizing the salaries and classification titles for City employees represented by the Montclair Fire Fighters Association.

RESOLUTION NO. 13-2999

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR AUTHORIZING
THE SALARIES AND CLASSIFICATION TITLES
FOR CITY EMPLOYEES REPRESENTED BY THE
MONTCLAIR FIRE FIGHTERS ASSOCIATION**

WHEREAS, pursuant to Government Code Section 3500, *et seq.*, City of Montclair representatives met and conferred with the representatives of the Montclair Fire Fighters Association (MFFA) in 2007; and

WHEREAS, on October 15, 2007, the City Council adopted Resolution No. 07-2714 fixing the salaries for certain City employees represented by MFFA, which was the last general salary adjustment; and

WHEREAS, in subsequent years and as a result of the Great Recession and concurrent decline in local revenues, MFFA-represented employees agreed to the implementation of various employee-related cost-reduction measures; and

WHEREAS, for the purpose of ongoing transparency, the City Council has asked to annually review and authorize the wage provisions and classification titles for employees represented by the MFFA.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby find and determine that the salaries and classification titles of the City employees represented by MFFA shall be as listed in Schedule "A" attached to this Resolution.

BE IT FURTHER RESOLVED that such salaries and classification titles shown in Schedule "A" shall remain in effect.

BE IT FURTHER RESOLVED that the Deputy City Clerk shall certify to the passage of this Resolution and the Mayor shall sign the same.

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. 13-2999 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

SCHEDULE "A"

SALARY ADJUSTMENTS FOR CLASSIFICATIONS
REPRESENTED BY THE MONTCLAIR FIRE FIGHTERS ASSOCIATION

<i>Classification</i>	<i>Present Range</i>
Fire Engineer	\$5,042 – \$6,129
Firefighter	\$4,347 – \$5,284

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-3000 AUTHORIZING THE SALARIES AND CLASSIFICATION TITLES FOR MANAGE- MENT EMPLOYEES REPRESENTED BY THE CITY MANAGER	DATE: August 5, 2013 SECTION: RESOLUTIONS ITEM NO.: 5 FILE I.D.: MAN100 DEPT.: ADMIN. SVCS.
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REASON FOR CONSIDERATION: For the purpose of ongoing transparency, the City Council is asked to annually review and authorize the wage provisions and classification titles for management employees represented by the City Manager. Proposed Resolution No. 13-3000 does not represent or contain any adjustment in salaries for management employees.

A copy of the proposed Resolution is attached for the City Council's review and consideration.

BACKGROUND: On June 4, 2007, the City Council adopted Resolution No. 07-2696 fixing the salaries for certain management employees represented by the City Manager. Resolution No. 07-2696 allowed for a 2 percent salary adjustment during Fiscal Year 2007-08 and represents the last general salary adjustment for management employees. In subsequent years and as a result of the Great Recession and concurrent decline in local revenues, management employees agreed to the implementation of various employee-related cost-reduction measures.

Proposed Resolution No. 13-3000 reflects a few minor changes that have occurred since adoption of Resolution No. 07-2696 in June 2007. Minor modifications include certain changes to certain classification titles and development of positions related to City Council-approved reorganizations in various departments. These modifications have not, however, been presented in a comprehensive Salary and Classification Resolution for City Council consideration until now.

In the past, comprehensive Salary and Classification Resolutions were presented for City Council consideration at the conclusion of the labor negotiations process. However, because recent labor negotiations involved no definitive change in City Council-approved salaries, there existed no pressing need to present a comprehensive Salary and Classification Resolution for City Council consideration.

In view of recently reported corruption scandals in a few Southern California municipalities, staff believes it appropriate to establish and maintain openness and transparency related to wages and benefits for City of Montclair employees. Accordingly, the

Prepared by: <u>Gary E. Clark</u>	Reviewed and Approved by: <u>[Signature]</u>
Proofed by: <u>[Signature]</u>	Presented by: <u>[Signature]</u>

Administrative Services Department is adopting a policy of presenting for annual City Council consideration a comprehensive Salary and Classification Resolution for managers and each employee bargaining group.

The current classification titles and salary ranges for management employees are shown on Schedule "A" of proposed Resolution No.13-3000. City of Montclair employee salaries are also available for public access on the State Controller's website at http://sco.ca.gov/compensation_search.html and on the City's website at www.cityofmontclair.org.

FISCAL IMPACT: The City Council's adoption of proposed Resolution No. 13-3000 would create no financial impact to the City.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-3000 authorizing the salaries and classification titles for City management employees represented by the City Manager.

RESOLUTION NO. 13-3000

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING THE SALARIES AND CLASSIFICATION TITLES FOR CITY MANAGEMENT EMPLOYEES REPRESENTED BY THE CITY MANAGER

WHEREAS, on June 4, 2007, the City Council adopted Resolution No. 07-2696 fixing the salaries for safety and nonsafety management employees represented by the City Manager, which was the last general salary adjustment; and

WHEREAS, in subsequent years and as a result of the Great Recession and concurrent decline in local revenues, management employees agreed to the implementation of various employee-related cost-reduction measures; and

WHEREAS, since the adoption of Resolution No. 07-2696, a few minor changes have occurred to certain classification titles and development of positions related to City Council-approved reorganizations; and

WHEREAS, for the purpose of ongoing transparency, the City Council has asked to annually review and authorize the wage provisions and classification titles for management employees represented by the City Manager:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby find and determine that the salaries and classification titles of the City's management employees shall be as listed in Schedule "A" attached to this Resolution.

BE IT FURTHER RESOLVED that such salaries and classification titles shown in Schedule "A" shall remain in effect.

BE IT FURTHER RESOLVED that the Deputy City Clerk shall certify to the passage of this Resolution and the Mayor shall sign the same.

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. 13-3000 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

SCHEDULE "A"

Salary Adjustments for Safety and Nonsafety Management Classifications Represented by the City Manager

<i>Classification</i>	<i>Present Range</i>
Administrative Supervisor - Public Safety	\$ 6,540 - \$ 7,950
Assistant Director of Housing	\$ 6,536 - \$ 7,945
Assistant Finance Director	\$ 6,578 - \$ 7,995
Assistant Public Works Superintendent	\$ 4,673 - \$ 5,680
Building Maintenance Supervisor	\$ 5,502 - \$ 6,688
Building Official	\$ 6,553 - \$ 7,965
City Clerk	\$ 6,621 - \$ 8,048
City Engineer	\$ 7,789 - \$ 9,468
City Manager	\$13,667 - \$18,333
City Planner	\$ 6,540 - \$ 7,950
Deputy City Manager, Executive Director Office of Economic Development	\$11,359 - \$13,807
Director of Community Development	\$10,580 - \$11,664
Director of Human Services	\$ 6,540 - \$ 7,950
Deputy Fire Chief	\$ 9,456 - \$11,494
Equipment Maintenance Supervisor	\$ 4,666 - \$ 5,672
Executive Director Office of Public Safety	\$12,282 - \$14,929
Finance Director	\$10,580 - \$11,664
Facilities and Grounds Superintendent	\$ 6,543 - \$ 7,953
Fire Captain	\$ 6,291 - \$ 7,647
Fire Chief	\$11,954 - \$13,179
Fire Division Chief	\$ 7,817 - \$ 9,501
Personnel Officer	\$ 6,938 - \$ 8,433
Police Lieutenant	\$ 7,844 - \$ 9,535
Public Works Superintendent	\$ 6,543 - \$ 7,953
Public Works Director	\$10,580 - \$11,664

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-3001 AUTHORIZING THE SALARIES AND CLASSIFICATION TITLES FOR PART-TIME CITY EMPLOYEES REPRESENTED BY THE CITY MANAGER	DATE: August 5, 2013
	SECTION: RESOLUTIONS
	ITEM NO.: 6
	FILE I.D.: EEP225
	DEPT.: ADMIN SVCS.

REASON FOR CONSIDERATION: For the purpose of ongoing transparency, the City Council is asked to annually review and authorize the wage provisions and classification titles for part-time City employees represented by the City Manager. Proposed Resolution No. 13-3001 does not represent or contain any adjustment in salaries for part-time City employees.

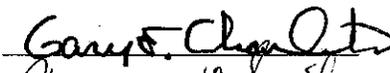
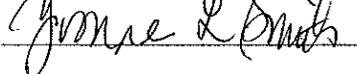
A copy of proposed Resolution No. 13-3001 is attached for the City Council's review and consideration.

BACKGROUND: On June 4, 2007, the City Council adopted Resolution No. 07-2699 fixing the salaries for certain part-time employees represented by the City Manager. Resolution No. 07-2699 allowed for a 2 percent salary adjustment during Fiscal Year 2007-08 and represents the last general salary adjustment for part-time employees.

Proposed Resolution No. 13-3001 reflects a few minor changes that have occurred since adoption of Resolution No. 07-2699, in June 2007. Minor modifications include certain changes to certain classification titles and development of positions related to City Council-approved reorganizations in various departments. These modifications have not, however, been presented in a comprehensive Salary and Classification Resolution for City Council consideration until now.

In view of recently reported corruption scandals in a few Southern California municipalities, staff believes it appropriate to establish and maintain openness and transparency related to wages and benefits for City of Montclair employees. Accordingly, the Administrative Services Department is adopting a policy of presenting for annual City Council consideration a comprehensive Salary and Classification Resolution for managers and each employee bargaining group.

The current classification titles and salary ranges for part-time employees are shown on Schedule "A" of proposed Resolution No.13-3001. City of Montclair employee salaries are also available for public access on the State Controller's website at http://sco.ca.gov/compensation_search.html and on the City's website at www.cityofmontclair.org.

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

FISCAL IMPACT: The City Council's adoption of proposed Resolution No. 13-3001 would create no financial impact to the City.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-3001 authorizing the salaries and classification titles for part-time City employees represented by the City Manager.

RESOLUTION NO. 13-3001

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR AUTHORIZ-
ING THE SALARIES AND CLASSIFICATION
TITLES FOR PART-TIME EMPLOYEES WHO
ARE NOT REPRESENTED BY FORMALLY
RECOGNIZED EMPLOYEE ORGANIZATIONS**

WHEREAS, the City has reviewed salaries for certain part-time City employees who are not represented by formally recognized employee organizations; and

WHEREAS, on June 4, 2007, the City Council adopted Resolution No. 07-2699 fixing the salaries for certain part-time employees represented by the City Manager, which was the last general salary adjustment; and

WHEREAS, for the purpose of ongoing transparency, the City Council has asked to annually review and authorize the wage provisions and classification titles for part-time employees represented by the City Manager.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby find and determine that the salaries and classification titles of the City's part-time employees represented by the City Manager shall be as listed in Schedule "A" attached to this Resolution.

BE IT FURTHER RESOLVED that such salaries and classification titles shown in Schedule "A" shall remain in effect.

BE IT FURTHER RESOLVED that the Deputy City Clerk shall certify to the passage of this Resolution and the Mayor shall sign the same.

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. 13-3001 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

SCHEDULE "A"

Salary Adjustments for Part-Time City Employees

<i>Classification</i>	<i>Present Range</i>
Community Building Supervisor	\$ 8.63 - \$10.49
Data Entry Clerk	\$11.45 - \$11.45
Engineering Aide	\$11.71 - \$11.71
Facility Coordinator	\$ 9.51 - \$10.49
Fire Technician	\$10.88 - \$12.59
Graffiti Abatement Aide	\$ 8.58 - \$ 8.58
Health Education Specialist (Grant)	\$15.88 - \$15.88
Instructor	\$ 8.67 - \$10.54
Junior Intern	\$ 9.09 - \$11.05
Kitchen Assistant	\$ 8.00 - \$ 8.00
Learning Leader (Grant)	\$12.10 - \$14.70
Maintenance Worker	\$16.70 - \$20.31
Mechanic Aide	\$16.34 - \$19.87
Medical Clinic Coordinator	\$25.00 - \$27.00
Medical Clinic Specialist	\$15.44 - \$18.76
Mini-School Coordinator	\$10.82 - \$13.16
Nutrition Site Manager	\$ 9.12 - \$ 9.12
Playground Leader	\$ 8.23 - \$10.00
Police Cadet	\$10.88 - \$12.59
Program Aide	\$10.93 - \$10.93
Recreation Coordinator	\$15.55 - \$18.91
Recreation Intern	\$14.79 - \$14.79
Recreation Leader	\$ 8.23 - \$10.00
Recreation Specialist	\$10.10 - \$12.27
Senior Intern	\$11.03 - \$13.41
Senior Recreation Leader	\$ 9.12 - \$11.09
Senior Recreation Specialist	\$15.44 - \$18.76
Sports Coordinator	\$15.55 - \$18.91
Systems Specialist	\$16.50 - \$20.05
Technical Services Specialist	\$29.36 - \$35.69
Transportation Coordinator	\$15.55 - \$18.91
Volunteer Services Coordinator	\$29.36 - \$35.69

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 13-3002 AUTHORIZING PLACEMENT OF
ASSESSMENTS ON CERTAIN PROPERTIES FOR
DELINQUENT SEWER AND TRASH ACCOUNTS

DATE: August 5, 2013

SECTION: RESOLUTIONS

ITEM NO.: 7

FILE I.D.: STB300-17

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: There are 713 outstanding liens on properties for collection of delinquent civil debts owed to the City for sewer and trash service. Placement of assessments on these properties would assist in more timely collection of these delinquent accounts.

A copy of proposed Resolution No. 13-3002 authorizing placement of assessments for delinquent sewer and trash charges on the properties listed on Exhibit A to the Resolution is attached for the City Council's review and consideration.

BACKGROUND: The City Council authorized the placement of 866 liens on properties for delinquent sewer and trash charges on the following dates:

<i>Date</i>	<i>Number of Liens</i>
October 1, 2102	131
November 19, 2012	146
February 4, 2013	127
March 4, 2013	159
June 6, 2013	134
July 3, 2013	<u>169</u>
TOTAL	<u>866</u>

Of these 866 properties, liens have been cleared from 153 of them.

It is recommended that assessments, which are collected with the property tax, be placed on the remaining 713 properties. This would result in more timely collection of the delinquencies than the lien process, which generates payment only upon sale or refinancing of the property.

In addition to the regular bimonthly billings, we have sent bimonthly letters to these property owners advising them of their delinquencies. They received two notifications

Prepared by:

Janet Kullbeck
J. A. Hart

Reviewed and
Approved by:

Donald L. Parker
Donald L. Parker

Proofed by:

Presented by:

when the liens were placed and were again notified on July 25, 2013, that the action proposed this evening would be considered by the City Council.

FISCAL IMPACT: Recoverable amount is \$200,522.72.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-3002 authorizing placement of assessments on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

RESOLUTION NO. 13-3002

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR AUTHOR-
IZING PLACEMENT OF ASSESSMENTS ON
CERTAIN PROPERTIES FOR DELINQUENT
SEWER AND TRASH ACCOUNTS**

WHEREAS, Chapter 1.12 of the Montclair Municipal Code authorizes various methods by which delinquent civil debts may be collected including, but not limited to, the placement of assessments on the properties on which the debts were generated; and

WHEREAS, City Council has recently placed property liens on 866 properties on which there are delinquent civil debts for unpaid sewer and trash charges; and

WHEREAS, the lien amount was paid on 153 of these accounts; and

WHEREAS, it is appropriate to also place assessments on these 713 properties as identified on Exhibit A of this Resolution to further encourage the payment of these charges owed to the City; and

WHEREAS, the owners of these properties have received notification of proposed actions against their properties including the date and time when such action would be considered by the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby approve the placement of assessments on the properties and in the amounts specified in Exhibit A, entitled "August 2013 - Property Assessments."

BE IT FURTHER RESOLVED that the Deputy City Clerk is authorized to provide the San Bernardino County Assessor's Office with the documents required to cause such assessments to be placed.

APPROVED AND ADOPTED this XX day of XX, 2013.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 13-3002 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

**Exhibit A to Resolution No. 13-3002
August 2013 – Property Assessments**

Street No.	Street	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
4356	Alamitos Street	\$348.18			\$ 348.18	Residential
5356	Alamitos Street	\$249.67	\$256.01	\$256.70	762.38	Residential
5366	Alamitos Street	\$251.71	\$258.04	\$258.73	768.48	Senior
4575	Allesandro Street	\$197.88	\$250.31	\$256.08	704.27	Residential
4667	Allesandro Street	\$330.23	\$264.87	\$257.68	852.78	Residential
9910	Amherst Avenue	\$166.45	\$246.86	\$255.70	669.01	Residential
10080	Amherst Avenue	\$234.04			234.04	Residential
10197	Amherst Avenue	\$232.37			232.37	Senior
10360	Amherst Avenue	\$583.36	\$655.98	\$668.79	1,908.13	Multifamily
10421	Amherst Avenue	\$405.57	\$453.98	\$462.53	1,322.08	Multifamily
10431	Amherst Avenue	\$405.57	\$453.98	\$462.53	1,322.08	Multifamily
11151	Amherst Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
5577	Armsley Street	\$249.67	\$256.01	\$256.70	762.38	Residential
5136	Aspen Drive	\$264.87	\$257.68		522.55	Residential
4432-34	Bandera Street	\$405.57	\$453.98	\$462.53	1,322.08	Multifamily
4624	Bandera Street	\$874.08			874.08	Multifamily
5079	Bandera Street	\$245.95			245.95	Residential
5101	Bandera Street	\$279.39	\$263.48		542.87	Residential
5105	Bandera Street	\$331.83			331.83	Residential
9982	Bel Air Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
10009	Bel Air Avenue	\$302.92	\$240.57		543.49	Senior
10024	Bel Air Avenue	\$322.35	\$287.11		609.46	Residential
10145	Bel Air Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10186	Bel Air Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10296	Bel Air Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
5225	Belvedere Way	\$236.19	\$253.31	\$258.49	747.99	Residential
4400	Benito Street	\$230.08			230.08	Residential
4460	Benito Street	\$249.67	\$256.01	\$256.70	762.38	Residential
5428	Benito Street	\$236.49			236.49	Residential
5429	Benito Street	\$154.18			154.18	Residential
9590	Benson Avenue	\$222.95	\$253.07	\$256.39	732.41	Residential
9656	Benson Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
4285	Berkeley Street	\$362.48			362.48	Residential
5382	Berkeley Street	\$249.65	\$256.01	\$256.70	762.36	Residential
4533	Bodega Court	\$217.09			217.09	Residential
9598	Bolton Avenue	\$330.23	\$264.87	\$257.68	852.78	Residential
4522	Bonnie Brae Street	\$255.56	\$261.91		517.47	Residential
4531	Bonnie Brae Street	\$249.67	\$256.01	\$256.70	762.38	Residential
4541	Bonnie Brae Street	\$348.16	\$266.85	\$257.90	872.91	Senior
4810	Brooks Street	\$622.70			622.70	Commercial
11339	Brunswick Lane	\$212.16			212.16	Residential
11419	Brunswick Lane	\$222.13	\$242.31		464.44	Residential

Street No.	Street	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
10978	Buckingham Way	\$227.79	251.99		\$ 479.78	Residential
10943	Buckskin Avenue	\$232.43			232.43	Residential
9851	Camarena Avenue	\$249.67	256.01	\$256.70	762.38	Residential
4853	Cambridge Street	\$249.67	256.01	\$256.70	762.38	Residential
5438	Cambridge Street	\$249.67	256.70		506.37	Residential
5448	Cambridge Street	\$248.62	255.89	\$256.69	761.20	Residential
5458	Cambridge Street	\$151.44	249.26		400.70	Residential
5471	Cambridge Street	\$249.67	256.01		505.68	Residential
5490	Cambridge Street	\$336.49	265.56		602.05	Residential
5570	Cambridge Street	\$210.30	155.92	\$256.69	622.91	Residential
5606	Cambridge Street	\$249.68	256.01	\$256.70	762.39	Residential
5607	Cambridge Street	\$255.98			255.98	Residential
9112	Camulos Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9151	Camulos Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9242	Camulos Avenue	\$150.04			150.04	Residential
9243	Camulos Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9351	Camulos Avenue	\$1,074.19			1,074.19	Residential
9530	Camulos Avenue	\$227.79	\$253.60	\$256.44	737.83	Residential
9547	Camulos Avenue	\$253.10	\$256.39	\$256.75	766.24	Residential
9578	Camulos Avenue	\$150.15			150.15	Senior
9606	Camulos Avenue	\$247.34	\$255.75	\$256.68	759.77	Residential
9737	Camulos Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9757	Camulos Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9877	Camulos Avenue	\$275.61	\$281.96	\$282.66	840.23	Residential
10234	Camulos Avenue	\$166.38	\$179.19	\$180.59	526.16	Residential
10259	Camulos Avenue	\$217.79	\$250.89	\$256.14	724.82	Residential
10271	Camulos Avenue	\$205.63			205.63	Residential
10171	Canary Court	\$227.79	\$251.99	\$256.26	736.04	Residential
11409	Cannery Row	\$161.33	\$234.21		395.54	Residential
4643	Canoga Street	\$388.64	\$816.98	\$870.55	2,076.17	Multifamily
4771	Canoga Street	\$386.18			386.18	Multifamily
4830	Canoga Street	\$2,268.96	\$1,571.12	\$1,505.63	5,345.71	Multifamily
4830	Canoga Street	\$2,268.96	\$1,571.12	\$1,505.63	5,345.71	Multifamily
4924	Canoga Street	\$227.79	\$251.99	\$256.26	736.04	Residential
4949	Canoga Street	\$284.66	\$259.86		544.52	Residential
5014	Canoga Street	\$301.92	\$260.14	\$257.16	819.22	Residential
5162	Canoga Street	\$511.14	\$822.03		1,333.17	Multifamily
4912	Carlton Street	\$166.38	\$179.19	\$180.59	526.16	Residential
11158	Carriage Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
11168	Carriage Avenue	\$299.99	\$259.93		559.92	Residential
11253	Carriage Avenue	\$250.89			250.89	Residential
9601	Carrillo Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9710	Central Avenue	\$343.15			343.15	Commercial
9855	Central Avenue	\$329.66			329.66	Residential
9986	Central Avenue	\$275.61	\$281.96	\$282.66	840.23	Residential
11348	Chandler Lane	\$219.39			219.39	Residential
4337	Clair Street	\$229.93			229.93	Residential

Street No.	Street	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
4311	Clydesdale Way	\$327.61	\$264.58		\$ 592.19	Residential
9795	Coalinga Avenue	\$330.23	\$264.87	\$257.68	852.78	Residential
9827	Coalinga Avenue	\$225.85	\$232.10	\$232.78	690.73	Senior
10231	Coalinga Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
9380	Columbine Avenue	\$274.87	\$281.88	\$282.65	839.40	Residential
10213	Columbine Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
5216	Coventry Way	\$234.64			234.64	Residential
11352	Cumberland Lane	\$212.16			212.16	Residential
11370	Cumberland Lane	\$158.42			158.42	Residential
11477	Cumberland Lane	\$197.93	\$239.07		437.00	Residential
10212	Del Mar Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10236	Del Mar Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10248	Del Mar Avenue	\$256.61	\$160.57		417.18	Residential
4304	Denver Street	\$275.61	\$281.96	\$282.66	840.23	Residential
4305	Denver Street	\$234.04			234.04	Residential
4324	Denver Street	\$249.71	\$256.01	\$226.70	732.42	Residential
5616	Denver Street	\$249.67	\$256.01	\$256.70	762.38	Residential
4528	Donner Court	\$240.52			240.52	Residential
4390	El Morado Street	\$317.18			317.18	Residential
4461	El Morado Street	\$173.63	\$264.14		437.77	Residential
5168	El Morado Street	\$286.22	\$260.03	\$257.14	803.39	Residential
11159	Essex Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
4665	Ewart Street	\$206.49	\$208.56		415.05	Senior
4674	Ewart Street	\$227.79			227.79	Residential
5361	Ewart Street	\$152.69			152.69	Residential
9463	Exeter Avenue	\$258.61	\$256.99	\$256.81	772.41	Residential
11334	Fairfax Lane	\$212.16			212.16	Residential
11341	Fairfax Lane	\$217.27			217.27	Residential
11366	Fairfax Lane	\$212.16			212.16	Residential
4174	Fauna Street	\$250.89	\$277.63	\$232.18	760.70	Residential
4219	Fauna Street	\$225.84	\$251.77	\$256.24	733.85	Residential
4244	Fauna Street	\$251.99	\$256.26		508.25	Residential
4456	Fauna Street	\$227.79	\$251.99	\$256.26	736.04	Residential
4703	Fauna Street	\$166.11	\$245.20	\$255.52	666.83	Residential
4932	Fauna Street	\$232.43			232.43	Residential
8907-09	Felipe Avenue	\$162.36			162.36	Multifamily
8919-21	Felipe Avenue	\$405.57	\$453.98	\$462.53	1,322.08	Multifamily
4220	Flora Street	\$331.52	\$265.01		596.53	Residential
4932	Flora Street	\$169.35			169.35	Residential
5051	Flora Street	\$188.33	\$248.04	\$257.90	694.27	Residential
5185	Flora Street	\$227.79	\$251.99	\$256.26	736.04	Residential
9567	Fremont Avenue	\$275.61	\$281.96	\$282.66	840.23	Residential
9776	Fremont Avenue	\$227.79	\$253.60		481.39	Residential
9823	Fremont Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
10780	Fremont Avenue	\$169.51			169.51	Residential
10782	Fremont Avenue	\$156.51	\$168.23	\$169.51	494.25	Residential
10149	Galena Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential

Street No.	Street	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
9043	Geneva Avenue	\$227.79	\$253.60	\$256.44	\$ 737.83	Residential
9757	Geneva Avenue	\$337.73			337.73	Residential
9932	Geneva Avenue	\$244.91	\$255.48	\$256.65	757.04	Residential
9985	Geneva Avenue	\$247.34	\$255.75	\$256.68	759.77	Residential
4328	Granada Street	\$249.67	\$256.01	\$256.70	762.38	Residential
4436	Granada Street	\$248.85	\$255.92	\$256.69	761.46	Residential
4982	Granada Street	\$273.11	\$207.85	\$187.80	668.76	Residential
5628	Granada Street	\$249.67	\$256.01	\$256.70	762.38	Residential
10222	Greenwood Avenue	\$241.26			241.26	Residential
3792	Hampton Drive	\$200.11	\$239.37		439.48	Residential
11343	Hartford Lane	\$212.16			212.16	Residential
11418	Hartford Lane	\$212.16			212.16	Residential
11432	Hartford Lane	\$178.58			178.58	Residential
4418	Harvard Street	\$249.67	\$256.01	\$256.70	762.38	Residential
4430	Harvard Street	\$249.67	\$256.01	\$256.70	762.38	Residential
4785	Harvard Street	\$347.66	\$266.79	\$257.89	872.34	Residential
5141-43	Harvard Street	\$449.06	\$461.99	\$463.41	1,374.46	Multifamily
5594	Harvard Street	\$234.04			234.04	Residential
5594	Harvard Street	\$248.98			248.98	Residential
5596	Hawthorne Street	\$249.67	\$256.01	\$256.70	762.38	Residential
9607	Helena Avenue	\$255.87	\$256.69		512.56	Residential
9636	Helena Avenue	\$258.61			258.61	Residential
9641	Helena Avenue	\$250.53	\$256.10		506.63	Residential
11339	Hickory Lane	\$217.27			217.27	Residential
4581	Highland Street	\$247.74			247.74	Residential
4864	Highland Street	\$275.61	\$281.96	\$282.66	840.23	Residential
4667	Holt Boulevard	\$231.65	\$245.53		477.18	Commercial
5132	Holt Boulevard	\$175.28			175.28	Commercial
4103	Howard Street	\$227.79	\$251.99	\$256.26	736.04	Residential
4341	Howard Street	\$340.08			340.08	Residential
4780	Howard Street	\$227.79	\$251.99	\$256.26	736.04	Commercial
4910	Howard Street	\$277.63	\$282.18		559.81	Residential
5190	Howard Street A & B	\$507.13	\$519.82	\$521.22	1,548.17	Multifamily
4585	James Street	\$249.67	\$256.01	\$256.70	762.38	Residential
9725	Kimberly Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9860	Kimberly Avenue	\$156.22			156.22	Residential
10236	Kimberly Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10244	Kimberly Avenue	\$177.14			177.14	Residential
10386	Kimberly Avenue	\$761.14	\$857.95	\$875.06	2,494.15	Multifamily
4821-23	Kingsley Street	\$462.53			462.53	Multifamily
4831-33	Kingsley Street	\$405.57	\$453.98	\$462.53	1,322.08	Multifamily
5003	Kingsley Street	\$227.79	\$251.99	\$256.26	736.04	Residential
5019	Kingsley Street	\$227.79	\$251.99	\$256.26	736.04	Residential
5242	Kingsley Street	\$227.79	\$251.99	\$256.26	736.04	Residential
11325	Kingston Lane	\$230.39	\$243.41		473.80	Residential
5430	La Denev Street	\$257.50	\$256.87	\$256.80	771.17	Residential
5515	La Denev Street	\$200.29			200.29	Residential

Street No.	Street	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
5565	La Denev Street	\$243.68			\$ 243.68	Residential
9025	Lindero Avenue	\$216.93			216.93	Residential
9875	Lindero Avenue	\$372.90			372.90	Residential
9957	Lindero Avenue	\$212.38			212.38	Residential
9958	Lindero Avenue	\$237.64			237.64	Residential
10041	Lindero Avenue	\$249.65	\$256.01	\$256.70	762.36	Residential
10042	Lindero Avenue	\$179.49			179.49	Residential
9842	Mammoth Drive	\$166.10	\$246.82		412.92	Residential
4535	Mane Street	\$183.08	\$167.07	\$199.93	550.08	Residential
4555	Mane Street	\$227.79	\$251.99	\$256.26	736.04	Residential
4846	Mane Street	\$227.79	\$251.99	\$256.26	736.04	Residential
4855	Mane Street	\$259.29	\$257.07		516.36	Residential
9527	Marion Avenue	\$249.76	\$256.02	\$256.70	762.48	Residential
9537	Marion Avenue	\$153.05	\$245.39	\$255.54	653.98	Residential
5121	Merle Street	\$449.32	\$462.01	\$463.41	1,374.74	Multifamily
9969	Mills Avenue	\$258.61	\$256.99	\$256.81	772.41	Residential
10231	Mills Avenue	\$334.19	\$265.31		599.50	Residential
3788	Millstone Lane	\$162.34			162.34	Residential
11365	Millstone Lane	\$219.39			219.39	Residential
4780	Mission Boulevard	\$181.64			181.64	Residential
5239	Monte Verde Street	\$227.79	\$251.99	\$256.26	736.04	Residential
9066	Monte Vista Avenue	\$366.64			366.64	Residential
9775	Monte Vista Avenue	\$248.50	\$255.88	\$256.69	761.07	Residential
10235	Monte Vista Avenue	\$227.79	\$251.99		479.78	Residential
10290	Monte Vista Avenue	\$237.99	\$255.31	\$260.51	753.81	Senior
11073	Monte Vista Avenue	\$234.41	\$186.67		421.08	Residential
11194	Monte Vista Avenue	\$219.39			219.39	Residential
5082	Moreno Street	\$257.84	\$256.90	\$256.80	771.54	Residential
10557	Morgan Circle	\$227.79	\$251.99	\$256.26	736.04	Residential
10217	Oak Glen Avenue	\$247.66	\$277.27		524.93	Residential
10226	Oak Glen Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10604	Oak Glen Avenue	\$195.33			195.33	Residential
4595	Oakdale Street	\$227.79	\$251.99	\$256.26	736.04	Multifamily
4684	Olive Street	\$886.78			886.78	Residential
4872	Olive Street	\$250.56	\$256.11		506.67	Residential
4322	Orchard Street	\$275.63	\$281.96	\$282.66	840.25	Residential
4382	Orchard Street	\$311.76	\$262.84	\$257.45	832.05	Residential
4843	Orchard Street	\$289.02			289.02	Residential
5035	Orchard Street	\$350.73			350.73	Residential
5097	Orchard Street	\$227.79	\$251.99	\$156.26	636.04	Residential
5392	Orchard Street	\$223.36	\$251.50	\$256.21	731.07	Residential
5422	Orchard Street	\$227.79	\$251.99	\$256.26	736.04	Residential
5690	Orchard Street	\$249.68	\$256.01	\$256.70	762.39	Residential
5257	Palo Verde Street	\$225.19	\$232.02	\$232.77	689.98	Senior
5415	Palo Verde Street	\$249.76	\$256.02	\$256.70	762.48	Residential
5474	Palo Verde Street	\$244.38	\$255.43		499.81	Residential
5588	Palo Verde Street	\$334.86			334.86	Residential

Street No.	Street	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
11112	Pipeline Avenue	\$221.85	\$244.22		\$ 466.07	Residential
9585	Poulsen Avenue	\$253.05	\$256.39	\$256.75	766.19	Residential
9610	Poulsen Avenue	\$151.86			151.86	Residential
9935	Poulsen Avenue	\$249.68	\$256.01	\$256.70	762.39	Residential
10043	Poulsen Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
10154	Poulsen Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
11254	Poulsen Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
9375	Pradera Avenue	\$793.79	\$867.99	\$876.16	2,537.94	Multifamily
10206	Pradera Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
4426	Princeton Street	\$249.67	\$256.01		505.68	Residential
4438	Princeton Street	\$150.46			150.46	Residential
9081	Ramona Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9136	Ramona Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9254	Ramona Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9539	Ramona Avenue	\$250.56	\$256.11	\$256.72	763.39	Residential
10180	Ramona Avenue	\$227.79	\$251.99		479.78	Residential
4681	Rawhide Street	\$330.23	\$263.25		593.48	Residential
11442	Rockford Lane	\$212.16			212.16	Residential
9414	Rose Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9434	Rose Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9720	Rose Avenue	\$275.61	\$281.96	\$282.66	840.23	Residential
9812	Rose Avenue	\$162.40			162.40	Residential
9836	Rose Avenue	\$192.96	\$249.77	\$256.02	698.75	Residential
9866	Rose Avenue	\$225.75	\$232.09	\$232.78	690.62	Senior
9912	Rose Avenue	\$225.28			225.28	Residential
9944	Rose Avenue	\$237.10	\$254.63	\$256.55	748.28	Residential
9966	Rose Avenue	\$256.01	\$256.70		512.71	Residential
4560	Rosewood Street	\$249.67	\$256.01	\$256.70	762.38	Residential
4860	Rosewood Street	\$152.04			152.04	Residential
5389	Rosewood Street	\$330.38	\$288.39	\$185.45	804.22	Residential
5444	Rosewood Street	\$185.90	\$175.93		361.83	Residential
11076	Roswell Avenue	\$237.25			237.25	Residential
4164	Rudisill Street	\$249.67	\$256.01	\$256.70	762.38	Residential
4246	Rudisill Street	\$275.76			275.76	Residential
5360	Rudisill Street	\$275.61	\$281.96	\$282.66	840.23	Residential
5421	Rudisill Street	\$275.61	\$281.96	\$282.66	840.23	Residential
5011	Saddleback Street	\$251.40			251.40	Residential
5272	Saddleback Street	\$227.79	\$251.99	\$256.26	736.04	Residential
5177	San Antonio Way	\$227.79	\$251.99	\$256.26	736.04	Residential
4372	San Bernardino Court	\$354.09			354.09	Residential
4711	San Bernardino Street	\$249.67	\$256.01	\$256.70	762.38	Residential
5133	San Bernardino Street	\$247.34	\$255.75	\$256.68	759.77	Residential
5445	San Bernardino Street	\$205.15	\$172.30		377.45	Senior
5489	San Bernardino Street	\$281.21	\$287.83	\$288.55	857.59	Residential
4485	San Jose Street	\$275.61	\$281.96	\$282.66	840.23	Residential
5384	San Jose Street	\$219.04			219.04	Senior
5390	San Jose Street	\$153.99			153.99	Residential

Street No.	Street	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
4424	San Jose Street #10	\$249.76	\$256.02	\$256.70	\$ 762.48	Residential
4424	San Jose Street #12	\$249.67	\$256.01	\$256.70	762.38	Residential
4424	San Jose Street #18	\$256.70			256.70	Residential
4424	San Jose Street #27	\$249.67	\$256.01	\$256.70	762.38	Residential
4424	San Jose Street #29	\$340.08			340.08	Residential
4630	San Jose Street M	\$169.28			169.28	Residential
11052	San Juan Way	\$227.79	\$251.99	\$256.26	736.04	Residential
11014	San Miguel Way	\$227.79	\$251.99	\$256.26	736.04	Residential
11020	San Pasqual Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
11073	San Pasqual Avenue	\$232.43	\$254.11		486.54	Residential
9932	Santa Anita Avenue	\$249.67			249.67	Residential
9946	Santa Anita Avenue	\$280.57	\$284.59		565.16	Residential
10133	Santa Anita Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10151	Santa Anita Avenue	\$266.66			266.66	Residential
10183	Santa Anita Avenue	\$263.25	\$257.51		520.76	Residential
10221	Santa Anita Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
10191	Saratoga Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
5533	Shirley Lane	\$227.79	\$256.26		484.05	Residential
11011	Stallion Avenue	\$330.23	\$263.25	\$257.51	850.99	Residential
4773	State Street	\$159.61			159.61	Residential
5134	Sundance Drive	\$240.06			240.06	Residential
9617	Surrey Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9793	Surrey Avenue	\$259.18	\$257.06	\$256.83	773.07	Residential
9532	Tudor Avenue	\$243.95			243.95	Residential
9762	Tudor Avenue	\$340.08			340.08	Residential
9824	Tudor Avenue	\$249.67	\$256.01	\$256.70	762.38	Residential
9834	Tudor Avenue	\$201.60	\$180.72	\$256.12	638.44	Residential
10289	Tudor Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
9831	Vail Drive	\$259.79			259.79	Residential
9222	Vernon Avenue	\$253.44	\$256.42	\$256.75	766.61	Residential
9231	Vernon Avenue	\$243.66	\$258.07		501.73	Residential
9784	Vernon Avenue	\$256.40	\$256.75		513.15	Residential
10115	Vernon Avenue	\$263.25			263.25	Residential
10236	Vernon Avenue	\$227.79			227.79	Residential
10241	Vernon Avenue	\$340.08			340.08	Residential
5554	Vernon Court	\$227.79	\$251.99		479.78	Residential
4226	Via Amore	\$340.08			340.08	Residential
4230	Via Amore	\$181.13			181.13	Residential
4191	Via Napoli	\$171.29	\$245.77	\$255.58	672.64	Residential
10400	Via Palma	\$234.04			234.04	Residential
5164	Village Drive	\$330.23	\$264.87	\$257.68	852.78	Residential
11053	Wesley Avenue	\$227.00	\$251.99	\$256.26	735.25	Residential
11178	Whitewater Avenue	\$227.79	\$251.99	\$256.26	736.04	Residential
4515	Yosemite Drive	\$227.79	\$251.99	\$256.26	736.04	Residential
TOTAL					\$200,522.72	

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 13-60, ADMINISTERING AGENCY-STATE MASTER AGREEMENT NO. 00435S WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE MONTE VISTA AVENUE ROADWAY WIDENING PROJECT

DATE: August 5, 2013

SECTION: RESOLUTIONS

ITEM NO.: 8

FILE I.D.: STA650

CONSIDER APPROVAL OF AGREEMENT NO. 13-61, PROGRAM SUPPLEMENT AGREEMENT NO. 0L63 WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE MONTE VISTA AVENUE ROADWAY WIDENING PROJECT

DEPT.: PUBLIC WORKS

CONSIDER ADOPTION OF RESOLUTION NO. 13-3003 AUTHORIZING MAYOR PAUL M. EATON TO SIGN ADMINISTERING AGENCY-STATE AGREEMENT NO. 00435S (CITY AGREEMENT NO. 13-60) AND PROGRAM SUPPLEMENT AGREEMENT NO. 0L63 (CITY AGREEMENT NO. 13-61)

REASON FOR CONSIDERATION: In order to use funds identified by the California Transportation Commission (CTC) for improvements on Monte Vista Avenue, the state requires the City approve two agreements and adopt a Resolution designating and authorizing an appropriate City official to sign the agreements. Agreements and Resolutions require City Council approval.

BACKGROUND: In July 2012, the CTC issued a call for projects under the State Local Partnership Program (SLPP) Competitive Grant Program. The funds are available on a competitive basis and are to be used for road projects. Funding comes through Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 approved by California voters. Stipulations of the grant require a dollar-for-dollar local match for construction purposes from applicant counties or cities. The local funds are through Transportation Development Impact fees.

The Public Works Department identified the Monte Vista Avenue Roadway Widening Project as a potential project meeting the requirements and guidelines of SLPP and then prepared and submitted an application to the CTC. The Monte Vista Avenue Roadway Widening Project would widen the east side of Monte Vista Avenue from Howard Street to Mission Boulevard. Street improvements would expand the northbound lanes from one lane to two lanes and would include installation of street lighting; curb, gutter and sidewalk; and new asphalt pavement.

Prepared by:

m. scott
clery

Reviewed and
Approved by:

m. scott
Daniel J. Hunt

Proofed by:

Presented by:

The City recently obtained approval from the California Department of Transportation to advertise the Monte Vista Avenue Roadway Widening Project. In order to use these funds, the state requires the City to execute both a master agreement and a supplement agreement, attached to this report. The state also requires the City to designate by Resolution an appropriate City official authorized to sign the Supplement Agreement. Proposed Resolution No. 13-3003 designates and authorizes Mayor Paul M. Eaton to sign the Supplement Agreement.

FISCAL IMPACT: The CTC allocated \$180,000 in construction funds for the Monte Vista Avenue Roadway Widening Project. The overall construction cost estimate for the project is \$360,000. The remaining funds for design and the local match will come from Transportation Development Impact fees collected by the City from developers since 2006. Failure to sign the Master and Supplement Agreements would prevent the City from being able to obtain reimbursement of the \$180,000 grant.

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

1. Approve Agreement No. 13-60 administering Agency-State Master Agreement No. 00435S with the California Department of Transportation for the Monte Vista Avenue Roadway Widening Project.
2. Approve Agreement No. 13-61, Program Supplement Agreement No. 0L63 with the California Department of Transportation for the Monte Vista Avenue Roadway Widening Project.
3. Staff recommends the City Council adopt Resolution No. 13-3003 authorizing Mayor Paul M. Eaton to sign Administering Agency-State Agreement No. 00435S (City Agreement No. 13-60) and Program Supplement No. 0L63 (City Agreement No. 13-61).

RESOLUTION NO. 13-3003

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR AUTHORIZ-
ING MAYOR PAUL M. EATON TO SIGN
ADMINISTERING AGENCY-STATE MASTER
AGREEMENT NO. 00435S AND PROGRAM
SUPPLEMENT AGREEMENT NO. 0L63**

WHEREAS, funds available under the State Local Partnership Program (SLPP) Competitive Grant Program have been made available to the City by the California Transportation Commission (CTC) for construction of the Monte Vista Avenue Street Widening Project from Howard Street to Mission Boulevard; and

WHEREAS, before state funds can be made available for a specific program project, the local agency and state are required to enter into an agreement to establish terms and conditions applicable to the local agency when receiving state funds for a designated project facility and to the subsequent operation and maintenance of that completed facility; and

WHEREAS, the state has prepared a master agreement for administering such contracts, known as Administering Agency-State Master Agreement No. 00435S; and

WHEREAS, the state has prepared Program Supplement Agreement No. 0L63 specific to the Monte Vista Avenue Street Widening Project from Howard Street to Mission Boulevard; and

WHEREAS, the state requires the local agency to designate by Resolution the appropriate City official to sign the Supplement Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby designate Mayor Paul M. Eaton as the local agency official authorized to sign Administering Agency-State Master Agreement No. 00435S and Program Supplement Agreement No. 0L63.

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. 13-3003 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

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR
STATE-FUNDED PROJECTS

08 City of Montclair

District Administering Agency

Agreement No. 00435S

This AGREEMENT, is entered into effective this _____ day of _____, 20____, by and between the City of Montclair, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Legislature of the State of California has enacted legislation by which certain State funds are made available for use on local transportation related projects of public entities qualified to act as recipients of these state funds; and
2. WHEREAS, ADMINISTERING AGENCY has applied to the California Transportation Commission (CTC) and/or STATE for funding from either the State Transportation Improvement Program (STIP), or other State-funded programs (herein referred to as STATE FUNDS), as defined in the Local Assistance Program Guidelines (LAPG), for use on local authorized transportation related projects as a local administered project(s), hereinafter referred to as "PROJECT"; and
3. WHEREAS, said PROJECT will not receive any federal funds; and
4. WHEREAS, before STATE FUNDS will be made available for PROJECT, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving STATE FUNDS for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project-specific Program Supplement to this AGREEMENT for state funded projects, hereinafter referred to as "PROGRAM SUPPLEMENT", has been fully executed by both STATE and ADMINISTERING AGENCY.
2. The State approved project-specific allocation letter designate the party responsible for implementing PROJECT, type of work and location of PROJECT.
3. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive STATE FUNDS from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these STATE FUNDS that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all of the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.
4. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT within ninety (90) days of receipt. The PARTIES agree that STATE may suspend future allocations, encumbrances and invoice payments for any on-going or future STATE FUNDED PROJECT performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned within that ninety (90) day period unless otherwise agreed by STATE in writing.
5. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of STATE FUNDS encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all of the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.
6. STATE FUNDS will not participate in any portion of PROJECT work performed in advance of the effective date of the executed PROGRAM SUPPLEMENT for said PROJECT.
7. Projects allocated with STATE FUNDS from the STIP will be administered in accordance with the current CTC STIP Guidelines, as adopted or amended and in accordance with Chapter 23 of the Local Assistance Program Guidelines (LAPG) published by STATE.
8. Projects allocated with STATE FUNDS not programmed in the STIP will be administered in accordance with the applicable chapter of the LAPG and/or any other instructions published by STATE.
9. ADMINISTERING AGENCY's eligible costs for preliminary engineering work includes all preliminary work directly related to PROJECT up to contract award for construction, including, but not limited to, environmental studies and permits (E&P), preliminary surveys and reports, laboratory work, soil investigations, the preparation of plans, specifications and estimates (PS&E), advertising for bids, awarding of a contract and project development contract administration.

10. ADMINISTERING AGENCY's eligible costs for construction engineering includes actual inspection and supervision of PROJECT construction work; construction staking; laboratory and field testing; and the preparation and processing of field reports, records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.

11. Unless the PARTIES agree otherwise in writing, ADMINISTERING AGENCY's employees or its sub-contractor engineering consultant shall be responsible for all PROJECT engineering work.

12. ADMINISTERING AGENCY shall not proceed with final design of PROJECT until final environmental approval of PROJECT. Final design entails the design work necessary to complete the PS&E and other work necessary for a construction contract but not required earlier for environmental clearance of that PROJECT.

13. If PROJECT is not on STATE-owned right-of-way, PROJECT shall be constructed in accordance with Chapter 11 of the Local Assistance Procedures Manual (LAPM) that describes minimum statewide design standards for local agency streets and roads. The design standards for projects off the National Highway System (NHS) allow STATE to accept either the STATE's minimum statewide design standards or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current Local Assistance Procedures Manual.

14. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and where appropriate, an executed cooperative agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its' contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights of way or work which affects STATE facilities.

15. When PROJECT is not on the State Highway System (SHS) but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.

16. The Department of General Services, Division of the State Architect, or its designee, shall review the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability. ADMINISTERING AGENCY shall not award a PROJECT construction contract for these types of improvements until the State Architect has issued written approval stating that the PROJECT plans and specifications comply with the provisions of sections 4450 and 4454 of the California Government Code, if applicable. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.

17. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. While consultants may perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer, ADMINISTERING AGENCY shall provide a full-time employee to be in responsible charge of each PROJECT.

18. Unless otherwise provided in the PROGRAM SUPPLEMENT, ADMINISTERING AGENCY shall advertise, award, and administer the PROJECT construction contract or contracts.

19. The cost of maintenance, security, or protection performed by ADMINISTERING AGENCY or contractor forces during any temporary suspension of PROJECT or at any other time may not be charged to the PROJECT.

20. ADMINISTERING AGENCY shall submit PROJECT-specific award information, using Exhibit 23-A of the LAPG, to STATE's District Local Assistance Engineer, within sixty (60) days after contract award. A copy of Exhibit 23-A shall also be included with the submittal of the first invoice for a construction contract by ADMINISTERING AGENCY to: Department of Transportation, Division of Accounting Local Programs Accounting Branch, MS #33, PO Box 942874, Sacramento, California 94274-0001.

21. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Report of Expenditures" within 180 days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance Chapters 17 and 19 of the Local Assistance Procedures Manual.

22. ADMINISTERING AGENCY shall comply with the Americans with Disabilities Act (ADA) of 1990 that prohibits discrimination on the basis of disability and all applicable regulations and guidelines issued pursuant to the ADA.

23. The Governor and the Legislature of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM, attached hereto as Exhibit A and further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of work connected with PROJECT shall incorporate Exhibit A (with third party's name replacing ADMINISTERING AGENCY) as parts of such agreement.

24. ADMINISTERING AGENCY shall include in all subcontracts awarded when applicable, a clause that requires each subcontractor to comply with California Labor Code requirements that all workers employed on public works aspects of any project (as defined in California Labor Code sections 1720-1815) be paid not less than the general prevailing wage rates predetermined by the Department of Industrial Relations as effective at the date of contract award by the ADMINISTERING AGENCY.

ARTICLE II - RIGHTS OF WAY

1. No contract for the construction of a STATE FUNDED PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights-of-way are available for construction purposes or will be available by the time of award of the construction contract.

2. The furnishing of rights of way by ADMINISTERING AGENCY as provided for herein includes, and is limited to, the following, unless the PROGRAM SUPPLEMENT provides otherwise.

(a) Expenditures to purchase all real property required for PROJECT free and clear of liens, conflicting easements, obstructions and encumbrances, after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.

(b) The cost of furnishing of right-of-way as provided for herein includes, in addition to real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of damages to owners of remainder real property not actually taken but injuriously affected by PROJECT.

(c) The cost of relocation payments and services provided to owners and occupants pursuant to Government Code sections 7260-7277 when PROJECT displaces an individual, family, business, farm operation or nonprofit organization.

(d) The cost of demolition and/or the sale of all improvements on the right-of-way after credit is recorded for sale proceeds used to offset PROJECT costs.

(e) The cost of all unavoidable utility relocation, protection or removal.

(f) The cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which ADMINISTERING AGENCY accepts responsibility and where the actual generator cannot be identified and recovery made.

3. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right-of-way for a PROJECT, including, but not limited to, being clear as certified or if said right-of-way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. ADMINISTERING AGENCY shall pay, from its own non-matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights-of-way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future STATE FUNDED PROJECTS of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the CTC.
2. STATE'S financial commitment of STATE FUNDS will occur only upon the execution of this AGREEMENT, the execution of each project-specific PROGRAM SUPPLEMENT and/or STATE's approved finance letter.
3. ADMINISTERING AGENCY may submit signed duplicate invoices in arrears for reimbursement of allowable PROJECT costs on a monthly or quarterly progress basis once the project-specific PROGRAM SUPPLEMENT has been executed by STATE.
4. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the STATE FUNDS are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future allocations and invoice payments for any on-going or future STATE FUNDED project performed by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.
5. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with Chapter 5 of the LAPM.
6. Invoices must have at least one copy of supporting backup documentation for allowable costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
7. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursements of actual allowable PROJECT costs already incurred and paid for by ADMINISTERING AGENCY.
8. An indirect cost allocation plan and related documentation are to be provided to STATE (Caltrans Audits & Investigations) annually for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect cost incurred within each fiscal year being claimed for reimbursement. The indirect cost allocation plan must be prepared in accordance with the requirements set forth in Office of Management and Budget Circular A-87 and Chapter 4 of the Local Assistance Procedures Manual.
9. STATE will withhold the greater of either two (2) percent of the total of all STATE FUNDS encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.
10. The estimated total cost of PROJECT, the amount of STATE FUNDS obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES with an allocation letter and finance letter. STATE FUNDING may be increased to cover PROJECT cost increases only if such additional funds are available and the CTC and/or STATE concurs with that increase in the form of an allocation and finance letter.

11. When such additional STATE FUNDS are not available, ADMINISTERING AGENCY agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.
12. ADMINISTERING AGENCY shall use its own non STATE FUNDS to finance the local share of eligible costs and all PROJECT expenditures or contract items ruled ineligible for financing with STATE FUNDS. STATE shall make the final determination of ADMINISTERING AGENCY's cost eligibility for STATE FUNDED financing with respect to claimed PROJECT costs.
13. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.
14. STATE FUNDS allocated from the STIP are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and STATE.
15. STATE FUNDS encumbered for PROJECT are available for liquidation only for five (5) years from the beginning of the State fiscal year when those funds were appropriated in the State Budget. STATE FUNDS not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Government Code section 16304. The exact date of fund reversion will be reflected in the STATE signed PROJECT finance letter.
16. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid to rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand.
17. ADMINISTERING AGENCY agrees to comply with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
18. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items and (b) those parties shall comply with federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Every sub-recipient receiving PROJECT funds as a contractor or sub-contractor under this AGREEMENT shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. ADMINISTERING AGENCY agrees to comply with the provisions set

forth in 23 CFR Parts 140, 645 and 646 when contracting with railroad and utility companies.

19. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under OMB Circular A-87, 48 CFR, Chapter 1, Part 31, 23 CFR Parts 140, 645 and 646 or 49 CFR, Part 18, are subject to repayment by ADMINISTERING AGENCY to STATE.

20. Upon written demand by STATE, any overpayment to ADMINISTERING AGENCY of amounts invoiced to STATE shall be returned to STATE.

21. Should ADMINISTERING AGENCY fail to refund any moneys due STATE as provided herein or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty (30) days of demand, or within such other period as may be agreed to in writing between the PARTIES hereto, STATE, acting through the State Controller, the State Treasurer, the CTC or any other public entity or agency, may intercept, withhold and demand the transfer of an amount equal to the amount paid by or owed to STATE for each PROJECT, from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may also withhold approval of future STATE FUNDED projects proposed by ADMINISTERING AGENCY.

22. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, pursuant to Article IV - 21, from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

23. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover STATE FUNDS improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V

AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records when determined to be necessary or appropriate and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of Article V.
2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred PROJECT costs and matching funds by line item for the PROJECT. The accounting system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles; enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.
3. For the purpose of determining compliance with Title 21, California Code of Regulations, Chapter 21, section 2500 et seq., when applicable, and other matters connected with the performance and costs of ADMINISTERING AGENCY's contracts with third parties pursuant to Government Code section 8546.7, ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above-referenced parties shall make such AGREEMENT and PROGRAM SUPPLEMENT materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of final payment to ADMINISTERING AGENCY under any PROGRAM SUPPLEMENT. STATE, the California State Auditor, or any duly authorized representative of STATE or the United States, shall each have access to any books, records, and documents that are pertinent to a PROJECT for audits, examinations, excerpts, and transactions and ADMINISTERING AGENCY shall furnish copies thereof if requested.
4. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of OMB Circular A-133 if it receives a total of \$500,000 or more in STATE FUNDS in a single fiscal year. The STATE FUNDS received under PROGRAM SUPPLEMENT are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205, Highway Planning and Research.
5. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY'S annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with OMB Circular A-133.
6. ADMINISTERING AGENCY shall not award a construction contract over \$10,000 or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. All contracts awarded by ADMINISTERING AGENCY intended or used as local match credit must meet the requirements set forth in this AGREEMENT regarding local match funds.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain all of the provisions of Article IV, FISCAL PROVISIONS, and this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING, RECORDS RETENTION AND REPORTS and shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as PROJECT costs only after those costs are incurred and paid for by the subcontractors.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner that is required of all other PROJECT expenditures.

9. In addition to the above, the pre-award requirements of third-party contractor/consultants with ADMINISTERING AGENCY should be consistent with LOCAL ASSISTANCE PROCEDURES.

ARTICLE VI - MISCELLANEOUS PROVISIONS

1. ADMINISTERING AGENCY agrees to use all PROJECT funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and other California laws.
2. ADMINISTERING AGENCY shall conform to all applicable State and Federal statutes and regulations, and the Local Assistance Program Guidelines and Local Assistance Procedures Manual as published by STATE and incorporated herein, including all subsequent approved revisions thereto applicable to PROJECT unless otherwise designated in the project-specific executed PROJECT SUPPLEMENT.
3. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
4. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE.
5. Each project-specific PROGRAM SUPPLEMENT shall separately establish the terms and funding limits for each described PROJECT funded under this AGREEMENT and that PROGRAM SUPPLEMENT. No STATE FUNDS are obligated against this AGREEMENT.
6. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT, and ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.
7. ADMINISTERING AGENCY warrants, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the PROJECT work actually performed, or in STATE's discretion, to deduct from the price of PROGRAM SUPPLEMENT consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
8. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.
9. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE that may have an impact upon the outcome of this AGREEMENT or any individual PROJECT encompassed within a PROGRAM SUPPLEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of a PROJECT undertaken pursuant to this AGREEMENT.

10. ADMINISTERING AGENCY hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of any PROJECT initiated under this AGREEMENT.

11. ADMINISTERING AGENCY warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its sole discretion, to terminate this AGREEMENT without liability, to pay only for PROJECT work actually performed, or to deduct from a PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Officer, who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Officer.

13. Neither the pending of a dispute nor its consideration by the Contract Officer will excuse the ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT and each PROGRAM SUPPLEMENT.

14. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority or jurisdiction of ADMINISTERING AGENCY arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims and suits or actions of every name, kind and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

16. In the event of (a) ADMINISTERING AGENCY failing to timely proceed with effective PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT; (b) failing to maintain any applicable bonding requirements; and (c) otherwise materially violating the terms and conditions of this AGREEMENT and/or any PROGRAM SUPPLEMENT, STATE reserves the right to terminate funding for that PROJECT upon thirty (30) days' written notice to ADMINISTERING AGENCY.

17. No termination notice shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if the default is not reasonably susceptible of cure within said thirty (30) day period the ADMINISTERING

AGENCY proceeds thereafter to complete that cure in a manner and time line acceptable to STATE.

18. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT and the applicable PROGRAM SUPPLEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY for the reasons stated in paragraph sixteen (16) of ARTICLE VI, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE-approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of any PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

19. In the case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT and/or Cooperative Agreement, the terms stated in that PROGRAM SUPPLEMENT and/or Cooperative Agreement shall prevail over those in this AGREEMENT.

20. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

21. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officer.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

City of Montclair

By _____

By _____
Paul M. Eaton, Mayor

Chief, Office of Project Implementation
Division of Local Assistance

City of Montclair
Representative Name & Title
(Authorized Governing Body Representative)

Date _____

Date _____

EXHIBIT A - FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, ADMINISTERING AGENCY will not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, age, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ADMINISTERING AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. ADMINISTERING AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, 1290-0 et seq.), and the applicable regulations promulgated thereunder (Cal. Code Regs., Title 2, 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full. Each of the ADMINISTERING AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. ADMINISTERING AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

4. ADMINISTERING AGENCY will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which ADMINISTERING AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that ADMINISTERING AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code section 1426 which has become final or has obtained an injunction under Labor Code section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by ADMINISTERING AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due

or thereafter may become due to ADMINISTERING AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure ADMINISTERING AGENCY's breach of this Agreement.

PROGRAM SUPPLEMENT NO. L63
 to
**ADMINISTERING AGENCY-STATE AGREEMENT
 FOR STATE FUNDED PROJECTS NO 00435S**

Adv Project ID **Date:** July 1, 2013
 0813000156 **Location:** 08-SBD-0-MCL
Project Number: SLPPCL13-5326(014)
E.A. Number:
Locode: 5326

This Program Supplement, effective _____, hereby adopts and incorporates into the Administering Agency-State Agreement No. 00435S for State Funded Projects which was entered into between the ADMINISTERING AGENCY and the STATE with an effective date of _____ and is subject to all the terms and conditions thereof. This PROGRAM SUPPLEMENT is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. _____ approved by the ADMINISTERING AGENCY on _____ (See copy attached).

The ADMINISTERING AGENCY further stipulates that as a condition to the payment by the State of any funds derived from sources noted below encumbered to this project, Administering Agency accepts and will comply with the Special Covenants and remarks set forth on the following pages.

PROJECT LOCATION:

Monte Vista Avenue from Howard Street to Mission Boulevard

TYPE OF WORK: Roadway widening

Estimated Cost	State Funds		Matching Funds	
	STATE		LOCAL	OTHER
\$443,000.00	\$180,000.00		\$263,000.00	\$0.00

CITY OF MONTCLAIR

By _____
 Paul M. Eaton
Title _____
 Mayor
Date _____

Attest _____
 Yvonne L. Smith, Deputy City Clerk

STATE OF CALIFORNIA
Department of Transportation

By _____
Chief, Office of Project Implementation
Division of Local Assistance
Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Hambryger **Date** 7-8-13 \$180,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

SPECIAL COVENANTS OR REMARKS

1. This PROJECT is programmed to receive State Proposition 1B Bond funds from the State and Local Partnership Program (SLPP). This PROJECT will be administered in accordance with the California Transportation Commission (CTC) approved/adopted SLPP Guidelines, and this Program Supplement Agreement.

ADMINISTERING AGENCY agrees to use eligible local matching funds of the type identified in its project application/nomination, for the required dollar for dollar minimum local match to the SLPP funds.

ADMINISTERING AGENCY agrees to submit invoices for PROJECT costs in accordance with the Local Assistance Procedures Manual (LAPM).

To satisfy the accountability requirements of the Governor's Executive Order # S-02-07, ADMINISTERING AGENCY agrees to:

- 1) Submit certified Quarterly Progress Reports on the activities, expenditures and progress made towards implementation of the PROJECT. Changes to the scope and budget from the CTC approved project application/nomination shall also be identified in these reports. The certified Quarterly Progress Reports shall be submitted to the Division of Local Assistance - Office of Project Delivery & Accountability via the Local Assistance Online Data Input System (LA-ODIS)
 - 2) Submit a certified Final Delivery Report to the CTC, within six months of the PROJECT construction contract being accepted, on the scope of the completed PROJECT, its final costs as compared to the project budget in its project application/nomination, its duration as compared to the project schedule in its application/nomination and performance outcomes derived from the PROJECT as compared to those described in the project application/nomination.
2. ADMINISTERING AGENCY agrees to submit PROJECT specific award information, using Exhibit 23-A of the LAPG, to the STATE's District Local Assistance Engineer (DLAE) immediately after award of contract, and prior to first invoice submittal. Failure to do so will delay processing invoices for the construction contract. As a minimum, the award information should include the following information: project number, EA number, project description, date funds allocated by the CTC, date project was advertised, bid opening date, award date, award amount, and estimated completion date.
 3. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature and the encumbrance of funds under this Agreement. Funding and reimbursement are available only upon the passage of the State Budget Act containing these STATE funds.
 4. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution

SPECIAL COVENANTS OR REMARKS

of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

5. ADMINISTERING AGENCY agrees to comply with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Notwithstanding the foregoing, ADMINISTERING AGENCY shall not be required to comply with 49 CFR, Part 18.36 (i), subsections (3), (4), (5), (6), (8), (9), (12) and (13).
6. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid.

SPECIAL COVENANTS OR REMARKS

These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 13-04 AUTHORIZING INVESTMENT OF
SURPLUS MONTCLAIR HOUSING AUTHORITY
FUNDS WITH THE LOCAL AGENCY
INVESTMENT FUND

DATE: August 5, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 9
FILE I.D.: FIN355
DEPT.: MHA

REASON FOR CONSIDERATION: The Commissioners of the Montclair Housing Authority (Authority) are requested to consider adoption of Resolution No. 13-04 authorizing designated City of Montclair personnel to invest surplus Montclair Housing Authority funds on its behalf with the Local Agency Investment Fund and specifying individuals authorized to accomplish this.

A copy of proposed Resolution No. 13-04 is attached for the Commissioners' review and consideration.

BACKGROUND: The Authority may, from time to time, have surplus funds that may be invested pursuant to its Statement of Investment Policy. Pursuant to that Policy, the Local Agency Investment Fund is identified as a permissible investment.

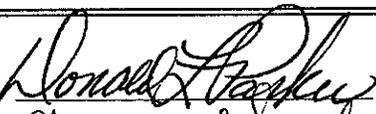
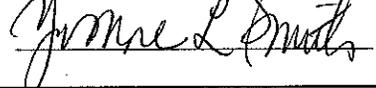
The Local Agency Investment Fund (LAIF) is a voluntary program created by state statute in 1977 as an investment alternative for California's local governments and special agencies. The program offers local agencies the opportunity to participate in a major portfolio that invests hundreds of millions of dollars using the investment expertise of the State of California's Treasurer's Office. The Local Investment Advisory Board provides oversight for LAIF, and all securities are purchased under the authority of Government Code Sections 16430 and 16480.4, which are permissible investments in accordance with the Successor Agency's Statement of Investment Policy.

Proposed Resolution No. 13-04 gives the authority to establish the ability to invest with LAIF and includes language that certain identified positions are authorized to accomplish such investments.

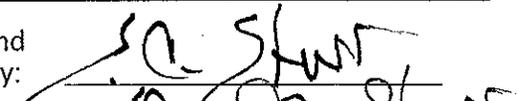
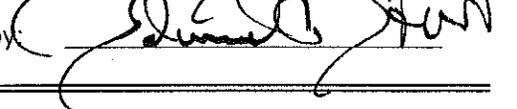
FISCAL IMPACT: Adoption of proposed Resolution No. 13-04 would create no fiscal impact for the Authority.

RECOMMENDATION: Staff recommends the Montclair Housing Authority Commissioners adopt Resolution No. 13-04 authorizing investment of surplus Montclair Housing Authority funds with the Local Agency Investment Fund.

Prepared by:

Reviewed and
Approved by:

Proofed by:

Presented by:

RESOLUTION NO. 13-04

**A RESOLUTION OF THE MONTCLAIR
HOUSING AUTHORITY AUTHORIZING
INVESTMENT OF MONEYS IN THE
LOCAL AGENCY INVESTMENT FUND**

WHEREAS, pursuant to Chapter 730 of the statutes of 1976, Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the Montclair Housing Authority does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated herein is in the best interest of the Montclair Housing Authority.

NOW, THEREFORE, BE IT RESOLVED that the Commissioners of the Successor Agency do hereby authorize the deposit and withdrawal of Montclair Housing Authority moneys in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein and verification by the State Treasurer's Office of all banking information provided in that regard.

BE IT FURTHER RESOLVED that the following City of Montclair officers or their successors in office shall be authorized to order the deposit or withdrawal of moneys in the Local Agency Investment Fund:

Edward C. Starr
Executive Director



Donald L. Parker, CPA
City of Montclair Finance Director

APPROVED AND ADOPTED this XX day of XX, 2013.

Chairman

ATTEST:

Secretary

I, Yvonne L. Smith, Secretary of the Montclair Housing Authority, DO HEREBY CERTIFY that Resolution No. 13-04 was duly adopted by the Montclair Housing Authority Commission at a 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

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 13-05 AUTHORIZING INVESTMENT OF
SURPLUS SUCCESSOR AGENCY FUNDS WITH
THE LOCAL AGENCY INVESTMENT FUND

DATE: August 5, 2013
SECTION: ADMIN. REPORTS
ITEM NO.: 10
FILE I.D.: FIN355
DEPT.: SUCCESSOR AGENCY

REASON FOR CONSIDERATION: The Board of Directors of the City of Montclair, as Successor Agency for the City of Montclair Redevelopment Agency (Successor Agency), is requested to consider adoption of Resolution No. 13-05 authorizing designated City of Montclair/Successor Agency personnel to invest surplus funds with the Local Agency Investment Fund and specifying individuals authorized to accomplish this.

A copy of proposed Resolution No. 13-05 is attached for the Successor Agency Board's review and consideration.

BACKGROUND: The Successor Agency may, from time to time, have surplus funds that may be invested pursuant to its Statement of Investment Policy. Pursuant to that Policy, the Local Agency Investment Fund is identified as a permissible investment.

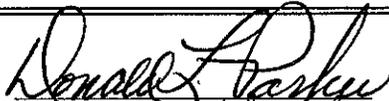
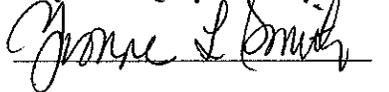
The Local Agency Investment Fund (LAIF) is a voluntary program created by state statute in 1977 as an investment alternative for California's local governments and special agencies. The program offers local agencies the opportunity to participate in a major portfolio that invests hundreds of millions of dollars using the investment expertise of the State of California's Treasurer's Office. The Local Investment Advisory Board provides oversight for LAIF, and all securities are purchased under the authority of Government Code Sections 16430 and 16480.4, which are permissible investments in accordance with the Successor Agency's Statement of Investment Policy.

Since the City of Montclair Redevelopment Agency (Agency) previously adopted Resolution No. 11-14 authorizing the Agency to invest in LAIF, the Successor Agency has been appointed to handle the former Redevelopment Agency's dissolution and designated City/Successor Agency personnel have changed significantly. Proposed Resolution No. 13-05 takes these situations into consideration and includes language that allows successors of certain identified positions to be authorized to invest in LAIF.

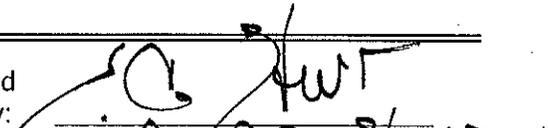
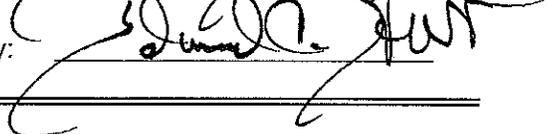
FISCAL IMPACT: Adoption of proposed Resolution No. 13-05 would create no fiscal impact for the Successor Agency.

RECOMMENDATION: Staff recommends the Successor Agency Board of Directors adopt Resolution No. 13-05 authorizing investment of surplus Successor Agency funds with the Local Agency Investment Fund.

Prepared by:

Reviewed and
Approved by:

Proofed by:

Presented by:

RESOLUTION NO. 13-05

**A RESOLUTION OF THE CITY OF MONTCLAIR
AS SUCCESSOR AGENCY FOR THE CITY
OF MONTCLAIR REDEVELOPMENT AGENCY
AUTHORIZING INVESTMENT OF MONEYS IN
THE LOCAL AGENCY INVESTMENT FUND**

WHEREAS, pursuant to Chapter 730 of the statutes of 1976, Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency (Successor Agency) does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated herein is in the best interest of the Successor Agency.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Successor Agency does hereby authorize the deposit and withdrawal of Successor Agency moneys in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein and verification by the State Treasurer's Office of all banking information provided in that regard.

BE IT FURTHER RESOLVED that the following Successor Agency officers or their successors in office shall be authorized to order the deposit or withdrawal of moneys in the Local Agency Investment Fund:

Edward C. Starr
Executive Director



Donald L. Parker, CPA
Finance Director

APPROVED AND ADOPTED this XX day of XX, 2013.

Chairman

ATTEST:

Secretary

I, Yvonne L. Smith, Secretary of the Board of Directors for the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 13-05 was duly adopted by the Successor Agency and was approved at a 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

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 13-06 APPROVING AGREEMENT NO 13-59, AN ENGAGEMENT AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND EDWARD Z. KOTKIN TO SERVE AS COUNSEL TO THE OVERSIGHT BOARD	DATE: August 5, 2013 SECTION: RESOLUTIONS ITEM NO.: 11 FILE I.D.: SAG080 DEPT.: SUCCESSOR AGENCY
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REASON FOR CONSIDERATION: Section 34179(n) of the Health and Safety Code of the redevelopment dissolution legislation authorizes an oversight board to direct a successor agency to provide legal advice to an oversight board beyond the advice provided by successor agency legal counsel. The Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency has requested independent legal representation for the Oversight Board.

Proposed Agreement No. 13-59, an Engagement Agreement for legal services to be provided to the Oversight Board by Edward Z. Kotkin, is attached for review by the Members of the Successor Agency Board of Directors.

BACKGROUND: As indicated, the redevelopment dissolution legislation provides that an oversight board may request and shall be provided independent legal counsel. The Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency requested such independent legal counsel. Successor Agency staff distributed Requests for Proposals (RFPs) via email to identified firms that choose to act as legal counsel to oversight boards. Responses to the RFP were received on April 4, 2013. Members of the Oversight Board were supplied with copies of the proposals submitted on April 9, 2013. Each firm submitting a proposal made a presentation to the Oversight Board at its meeting of May 8, 2013. The firms making a presentation included the following:

<i>Legal Firm</i>	<i>Representative</i>
Cummings & White, LLP	Edward Z. Kotkin
Colantuono & Levin, PC	Holly Whatley
Harper & Burns, LLP	John Harper

On June 19, 2013, the Oversight Board selected Edward Z. Kotkin to provide legal representation. Although redevelopment dissolution legislation affords an oversight board the opportunity to be represented by counsel, the successor agency must pay for this representation. For this reason, Successor Agency Counsel Dave McEwen believes the Successor Agency should enter into the Engagement Agreement with counsel on behalf of the Oversight Board.

Prepared by: M. STAATS
 Yvonne L. Smith

Proofed by: Yvonne L. Smith

Reviewed and
Approved by: M. STAATS

Presented by: Edward Z. Kotkin

In general, the Engagement Agreement includes the following provisions that should be noted by the Successor Agency:

- While the Successor Agency engages counsel, the Successor Agency will have no attorney-client relationship with counsel because the Oversight Board is the client. The client is the intended sole and exclusive third party beneficiary of the Agreement.
- The fee to be charged for legal services is \$225 per hour for such matter as review of agendas, routine legal advice, and attendance at meetings. Travel time will be billed at \$150 per hour. Most other costs and expenses will be billed at actual cost. No deposit is being requested at this time.
- The Oversight Board shall have the right to terminate the Agreement with counsel at any time upon written notice. The Successor Agency understands that only the Oversight Board may terminate the Agreement with counsel. Termination shall not relieve the Successor Agency of the obligation to pay the amounts owed to counsel for services rendered and costs incurred prior to termination of the Agreement.
- Legal counsel and the Oversight Board shall have the right to terminate the Agreement at any time upon 90 days' written notice.

Should the Successor Agency Board of Directors approve proposed Resolution No. 13-06, an Oversight Board Resolution and Agreement will be submitted to the Oversight Board for consideration. Upon approval by the Oversight Board, the Resolution and decision to retain counsel will be subject to review by the California Department of Finance.

FISCAL IMPACT: State law requires the Successor Agency to assume the responsibility for legal costs incurred by the Oversight Board. These costs may be claimed as administrative expenses on the Recognized Payment Obligation Schedule. The cost of providing legal counsel to the Oversight Board is unknown. Costs will depend on the complexity of legal issues for which the Oversight Board seeks direction from counsel. The Oversight Board indicated that counsel would not need to be present at every Oversight Board meeting; however, some legal costs will be incurred as counsel reviews the agenda.

RECOMMENDATION: Staff recommends the Successor Agency adopt Resolution No. 13-06 approving Agreement No. 13-59, an Engagement Agreement, between the Successor Agency to the City of Montclair Redevelopment Agency and Edward Z. Kotkin to serve as legal counsel to the Oversight Board.

RESOLUTION NO. 13-06

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AGREEMENT NO. 13-59, AN ENGAGEMENT AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND EDWARD Z. KOTKIN TO SERVE AS COUNSEL TO THE OVERSIGHT BOARD

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

WHEREAS, the City of Montclair Redevelopment Agency ("Agency") is now a dissolved redevelopment agency pursuant to the Dissolution Bills; and

WHEREAS, by Resolution considered and approved by the City Council at an open public meeting, the City chose to become and serve as the "Successor Agency" to the dissolved Agency under the Dissolution Act; and

WHEREAS, as of and on and after February 1, 2012, the City serves and acts as the Successor Agency and is performing its functions as the successor agency under the Dissolution Act to administer the enforceable obligations of the Agency and otherwise unwind the Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board"); and

WHEREAS, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Act; and

WHEREAS, pursuant to Section 34179 of the Health and Safety Code, the Successor Agency's Oversight Board was formed and the initial meeting occurred on April 25, 2012; and

WHEREAS, the Oversight Board, pursuant to Section 34179(n) of the Health and Safety Code has requested to be provided with legal representation as provided for by law; and

WHEREAS, the Oversight Board directed staff to submit proposals to legal firms for representation and the Oversight Board interviewed legal firms responding to a request for proposals on May 8, 2013; and

WHEREAS, on June 19, 2013, the Oversight Board selected Edward Z. Kotkin to serve as counsel to the Oversight Board; and

WHEREAS, Successor Agency counsel has determined that the Successor Agency should enter into the agreement to pay for the services of legal counsel for the Oversight Board; and

WHEREAS, required by the law, the Oversight Board will be requested to consider the action of the Successor Agency regarding adoption of Resolution No. 13-06.; and

WHEREAS, pursuant to the Dissolution Act, the actions of the Oversight Board, including those approved by this Resolution, do not become effective for five (5) business days pending any request for review by the DOF; and if the DOF requests review hereof, DOF will have forty days from the date of its request to approve this Oversight Board action or return it to the Oversight Board for reconsideration and the action, if subject to review by DOF, will not be effective until approved by DOF.

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

Section 1. The above recitals are true and correct and are a substantive part of the Resolution.

Section 2. The Successor Agency approves Agreement No. 13-59 with Edward Z. Kotkin to provide legal counsel to the Oversight Board.

Section 3. The Successor Agency authorizes this Resolution to be transmitted to the Oversight Board for consideration.

Section 4. The Secretary of the Successor Agency shall certify to the adoption of this Resolution and shall maintain this Resolution on file as a public record as approved hereby.

APPROVED AND ADOPTED this XX day of XX, 2013.

Chairman

ATTEST:

Secretary

I, Yvonne L. Smith, Secretary of the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 13-06 was duly adopted by the Board of Directors of the Successor Agency to the City of Montclair Redevelopment Agency at a regular meeting thereof held on the XX day of XX, 2013, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Secretary

Agreement No. 13-59

ENGAGEMENT AGREEMENT

THIS ENGAGEMENT AGREEMENT is made between the Successor Agency to the City of Montclair Redevelopment Agency, a California local governmental agency (referred to as "SA"), and The Law Offices of Edward Z. Kotkin, a Professional Law Corporation ("Lawyer"). SA engages Lawyer, pursuant to the terms and conditions of this Agreement, to serve as independent general counsel to the Oversight Board for the SA ("Client"), and SA and Lawyer hereby agree, and Client hereby acknowledges, as follows:

1. **Services.** SA engages Lawyer to provide all legal services ("Services") reasonably required to represent Client in connection with the matter(s) ("Matter") described in the attached SCHEDULE "A" OF SERVICES ("Schedule"), as well as such other matters as may be specifically directed by Client; as noted below, if litigation is instituted or defended, an additional retainer deposit may be required prior to commencing representation on litigation. SA and Client shall be truthful with Lawyer in discussing the Matter and shall keep Lawyer apprised of all developments regarding the Matter. SA and Client understand and agree that Lawyer represents Client, and not the SA. As such, while the SA now contracts with Lawyer, the SA shall have no attorney-client relationship with Lawyer. SA understands and agrees to the duties defined herein, with no requirement or expectation that any Services shall be rendered on behalf of the SA. Client is the intended sole and exclusive third party beneficiary of this Agreement and all Services to be provided hereunder. Client acknowledges that this Agreement has been negotiated, prepared and executed, by and between the SA and Lawyer, to Client's satisfaction.

2. **Fees.**

A. SA agrees to compensate Lawyer for Services at the hourly rates set forth in SCHEDULE "B" – FEES attached to this Agreement. Fees will be billed by each time-keeper in one-tenth (1/10) hour increments. These fees are subject to increases from time to time as may be agreed to between Client and Lawyer.

B. Time billed to SA's account for Services to Client may include, without limitation, time spent waiting in court, time spent in travel and time spent in office conferences between the legal personnel assigned to the Matter. When such personnel engage in office conferences, each person will account for the amount of time expended. Likewise, if more than one of Lawyer's legal personnel attends a meeting, court hearing or other proceeding, each will account for the amount of time expended. Adjustments in time to reflect value of research and development that was previously done may be made; but in

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no case will such exceed the actual time that would be expended had such research and development not previously been done in part or whole by the firm on another matter.

C. Lawyer may furnish SA and/or Client with estimates of the amounts of fees that will be charged for certain Services from time to time. All such estimates are provided for budgeting purposes. These estimates are by their nature inexact and are not binding. However, Lawyer will endeavor to realize estimates wherever possible.

D. In acknowledging its satisfaction with this Agreement as evidenced by the signature below, Client warrants and covenants to Lawyer that it shall take such actions as may prove necessary consistent with SA's duty to pay Lawyer's fees hereunder.

E. **Costs and Expenses.** SA agrees to pay Lawyer all costs and expenses incurred in rendering Services. However, Lawyer shall not be required to advance any amount to pay costs or expenses attributable to Client. Costs and expenses may include, without limitation, long-distance telephone calls, messenger and other delivery fees, postage, charges for computer research and outside assisted legal research, such as parking, which shall be in addition to the hourly rates for travel time, clerical staff, overtime, word processing charges, process server's fees, filing fees and other charges assessed by courts and other public agencies, court reporter's fees, jury fees, witness fees, investigator's fees, expert's fees or consultant's fees, copy costs (at our customary rate, unless volume and then allows for copying by outside service), and other similar items. Except as may be listed on the Schedule, all such items will be charged to Client at Lawyer's cost. No substantial costs will be incurred without Client's advance approval. In acknowledging its satisfaction with this Agreement as evidenced by the signature below, Client warrants and covenants to Lawyer that it shall take such actions as may prove necessary consistent with SA's duty to pay Lawyer's costs and expenses hereunder.

3. **Statements.** Lawyer will send SA, and upon request make available to Client statements on a monthly basis setting forth the fees and costs incurred by Client. SA shall pay each such statement upon receipt. SA shall notify Lawyer promptly in writing if SA disputes any entry for legal services or costs on any statement; and if SA fails to do so within thirty (30) days after receipt thereof, all such entries shall be acknowledged as correct as between Lawyer and SA. If SA so requests, Attorney will provide a statement within ten (10) days. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount. SA understands and agrees that Lawyer reserves the right to redact any statement that contains attorney-client privileged communication or other information arising from or related to Lawyer's Services to Client. SA and Lawyer agree that Lawyer's transmission of statements to SA does not constitute a waiver of attorney-client privilege as between Lawyer and Client. In all instances, SA requires and Lawyer agrees that Client may request and shall promptly receive any statement hereunder, without redaction.

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4. **Deposit.** At this time, no deposit is requested, as reflected in Schedule "A." At any time during the representation of Client, Lawyer may request a retainer to be used as a deposit as security against future fees and, if Lawyer's services are required for litigation, an additional retainer may be required. Typically, the amount to be requested as an additional retainer will be equal to Lawyer's estimate of a high month's worth of fees to be incurred in connection with Lawyer's representation of Client.

5. **Results.** Lawyer has made no promises or guarantees to SA or to Client concerning the outcome of the Matter, and nothing in this Agreement shall be construed as such a promise or guarantee.

6. **Termination of Services.**

A. Client shall have the right to terminate Lawyer's services at any time upon written notice to Lawyer. SA understands and agrees that only Client may terminate Lawyer. Termination hereunder shall not relieve SA of the obligation to pay the amounts owed to Lawyer for Services rendered and costs incurred prior to such termination. After receiving a termination notice, Lawyer shall immediately cease to render additional Services, except for such services as Lawyer may be required to provide under applicable law or as Lawyer deem reasonably necessary to transfer the Matter to Client or to successor legal counsel, and Lawyer shall be compensated for all such services. Client will fully cooperate with Lawyer's efforts to withdraw and transfer the Matter.

B. Lawyer and Client shall have the right to terminate this Agreement at any time upon written ninety (90) day prior written notice. After delivering such termination notice, Lawyer shall immediately cease to render additional Services, except for such services as Lawyer may be required to provide under applicable law or as Lawyer deem reasonably necessary to transfer the Matter to Client or to successor legal counsel. Upon such termination, Client shall take all steps necessary to free Lawyer of any obligation to perform further legal services, including without limitation, the execution of any documents necessary to complete Lawyer's discharge or withdrawal. The rights of Lawyer hereunder are in addition to those created by statute or recognized by rules of professional conduct.

7. **Arbitration.**

A. Other than a dispute over the amount of fees or costs due and owing, any dispute concerning the rights of either Client or Attorney hereunder, including, but not limited to, any dispute over alleged malpractice, shall, if any such dispute cannot be resolved between Client and Lawyer, be decided by arbitration by a retired judge of the Superior Court to be agreed upon by the parties. SA understands that Client may well be entitled to a jury trial as to any claim against Lawyer for malpractice or for other claims and with Client's authorization evidenced by the acknowledgment below, hereby waives hereby any such right. The SA represents that it has had the opportunity to consult independent counsel of its

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choice regarding its waiver of any right to a jury as specified above and as to the other terms of this Agreement, and has either done so or has knowingly and willingly of its own free choice chosen not to consult such independent counsel. In acknowledging this Agreement below, Client makes an equivalent and coextensive representation to Lawyer. If the parties cannot agree upon an arbitrator, the presiding judge of the Superior Court of San Bernardino shall be requested to appoint a retired judge to act in such capacity, upon petition of any party hereto. In the event the presiding judge fails or refuses for thirty (30) days after a request to make such appointment, the court shall be petitioned to appoint a lawyer licensed to practice in California as sole arbitrator.

The prevailing party in any proceeding, whether arbitration, Superior Court or Federal Court action, related to any provision of this agreement will be awarded attorneys' fees and costs incurred in that action or proceeding, including without limitation the value of the time spent by Lawyer to prosecute or defend such an action, or support other counsel in the prosecution or defense of such action calculated at the hourly rates(s) then normally charged by Lawyer to clients which it represents on an hourly basis.

B. In the event of a dispute hereunder over the amount of fees or costs due and owing to Lawyer, Lawyer is required to serve SA and Client, prior to or at the time of filing an action or other proceeding against Client, *via* personal service or first class mail, the California State Bar's "Notice of Client's Right to Arbitrate" form. Client's failure to request arbitration within thirty (30) days after receipt of the "Notice of Client's Right to Arbitrate" form from Lawyer shall be deemed a waiver of Client's right to arbitration. (California Business & Professions Code § 6201.) In the event of Client's failure to request arbitration within thirty (30) days, Lawyer in their discretion shall have the right to proceed with an action to collect fees and costs either via a civil action or by arbitration. In the event that Client elects to arbitrate the fee dispute within thirty (30) days or Lawyer choose to proceed with arbitration following Client's waiver of its right to arbitrate, such arbitration shall be held in accordance with the procedures of the California State Bar Association.

The prevailing party in any proceeding for the collection of fees and costs, whether by arbitration or Superior Court action, will be awarded attorneys' fees and costs incurred in that action or proceeding, including without limitation the value of the time spent by Lawyer to prosecute or defend such an action, or support other counsel in the prosecution or defense of such action calculated at the hourly rates(s) then normally charged by Lawyer to clients which it represents on an hourly basis.

8. Entire Agreement.

A. This Agreement contains the entire understanding among the parties hereto and supersedes any prior understandings and agreements among them with respect to the subject matter herein. There are no representations, agreements, arrangements or understandings among the parties, oral or written, relating to the subject matter of this

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Agreement that are not fully expressed herein. Any statements, promises or inducements, whether made by any party or agent of any party, that are not contained in this written Agreement shall not be valid or binding. This Agreement may not be enlarged, modified, or altered except by a written agreement signed by all the parties hereto.

B. The place of performance of this Agreement shall be California. Client hereby agrees to submit to the jurisdiction of the California State or Federal Courts in the County of San Bernardino or any adjacent county with respect to any action that is brought to enforce the terms of this Agreement.

C. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of California, both as to interpretation and performance.

9. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction or arbitrator to be illegal or unenforceable, said provision shall be deemed to be severed and deleted and neither such provision, its severance nor its deletion shall affect the validity of the remaining provisions of this Agreement.

10. **Notice.** All notices, requests, demands or other communications necessary to be given hereunder shall be in writing and shall be deemed to have been given if delivered or if mailed by United States Mail, postage prepaid, to the parties at the following addresses (or at such other addresses as a party may notify the other party of in writing in accordance with this section).

If to Lawyer, address to:

The Law Offices of Edward Z. Kotkin
1851 East First Street, Suite 900
Santa Ana, CA 92705-4066
Attention: Edward Z. Kotkin, Esquire

If to Client, address to:

Oversight Board for the Successor Agency to
the City of Montclair Redevelopment Agency
5111 Benito Street
Montclair, CA 91763

Marked as follows:

"Only to be opened by Oversight Board Staff"

11. **Cooperation of Clients.** It is understood and agreed that SA shall notify Lawyer of any change of address or telephone number(s) where SA and/or Client can be reached and shall furnish sufficient information so that Client may be contacted in a reasonable and timely manner during the course of Lawyer's representation of Client. It is further understood and agreed that if the representation of Client involves litigation in the State of California, it may require the presence of Client or its representative, at its expense, for the purpose of discovery or trial. It is further understood and agreed that successful defense of any litigation will require the cooperation and assistance of Client which Client

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agrees to give to Lawyer. It is further understood and agreed that the absence of reasonable cooperation will, at Lawyer's option, be sufficient grounds to warrant withdrawal of Lawyer from representation of Client.

12. Retention/Destruction of Client's File.

A. Client is entitled to a copy of the file materials maintained or generated by Lawyer with respect to Client's representation by Lawyer, except those undisclosed work product materials reflecting Lawyer's impressions, conclusions, opinions, legal research, or theories, internal accounting records and other documents not reasonably necessary to Client's representation (hereinafter "Client File"), upon reasonable notice and at Client's expense. Where Lawyer withdraws, Client cancels this Agreement and substitutes Lawyer out as attorneys of record in any litigation in which Lawyer were representing Client, or upon completion of the work for which Lawyer were retained by Client, Client is entitled, upon giving Lawyer reasonable notice, to custody of the original Client File and Lawyer, at their expense, are entitled to keep a copy of any of said Client File materials they deem desirable.

B. Subject to Paragraph 12.A. above, at the conclusion of the handling by Lawyer of the Matter to which this Agreement pertains, Lawyer may at any time, at Lawyer's absolute discretion, store the original Client File or destroy all or part of said file. Subject to Paragraph 12.A. above, and unless other arrangements are made, under Lawyer's document retention policy, Lawyer will begin to destroy portions of the original Client File once the Matter is closed. Should Client wish to retain the Client File or any portion thereof after the Matter is closed, Client must contact Lawyer at the time the Matter is concluded.

13. Errors and Omissions Insurance Coverage. Lawyer represents that they maintain errors and omissions insurance coverage applicable to the services to be rendered under this Agreement. The policy limits of that coverage are one million dollars (\$1,000,000) per claim, and one million dollars (\$1,000,000) in the aggregate.

14. Waiver re Payment of Client Fees by Another Party. In connection with this Agreement, Lawyer is required by California Rules of Professional Responsibility, Rule 3-310(F) and Business and Professions Code section 6068 to obtain a waiver of conflicts from the Client because a third party (the SA) will be responsible for legal fees and costs incurred by Lawyer in representing Client. The SA will have no right to instruct Lawyer in matters pertaining to Services by Lawyer to Client. Unless Client gives Lawyer written permission to discuss all or a portion of Client's matters with the SA, Lawyer will not disclose any confidential or attorney-client privileged information to the SA or its officials. By signing this Agreement and initialing below this paragraph, Client consents to this arrangement, formally acknowledges that Attorney has advised Client of the advantages and disadvantages of this arrangement, and has afforded Client the opportunity to seek independent counsel to advise on the effect of this paragraph.

William Ruh

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This Agreement, consisting of eleven (11) pages, including schedules, may be executed in counterparts, each of which may be deemed an original, and taken together they shall constitute one and the same Agreement. Facsimile or electronic signatures shall have the same effect as original signatures.

ACCEPTED:

**SUCCESSOR AGENCY TO THE CITY OF
MONTCLAIR REDEVELOPMENT AGENCY,**
a California local agency

Dated: _____

Paul M. Eaton
Chairman

ATTEST:

Yvonne L. Smith, Deputy Secretary

APPROVED AS TO FORM:

David R. McEwen, Esq.
Counsel for Successor Agency

ACCEPTED:

**THE LAW OFFICES OF EDWARD Z.
KOTKIN**

Dated: _____

Edward Z. Kotkin, Esquire
Principal

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ADDITIONAL SIGNATURE FOLLOWS

ACKNOWLEDGED AND AGREED TO:

**OVERSIGHT BOARD FOR THE SUCCESSOR
AGENCY TO THE CITY OF MONTCLAIR
REDEVELOPMENT AGENCY, a California
local agency**

Dated: _____

William Ruh
Chairman

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SCHEDULE "A" OF SERVICES

Matter:

- 1) Representation regarding Oversight Board activities and board member duties, obligations and responsibilities.
- 2) Other matters, within the scope of the Oversight Board, as requested.

Deposit:

None

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SCHEDULE "B" – FEES

HOURLY RATES, FEES & COSTS

Proposal for Legal Services to the Oversight Board for the Successor Agency
to the City of Montclair Redevelopment Agency

General Legal Services Provided at the Hourly Rate of \$225 per hour	Attendance at all Oversight Board meetings (<i>with charges billed for travel time as specified below</i>); attendance at Oversight Board management staff meetings and other routine meetings as requested by the Oversight Board; consultation with Oversight Board members and management on legal issues as requested; review of public meeting agendas, agenda submittals, and minutes of Oversight Board meetings; provision of routine legal advice on behalf of the Oversight Board and the issuance of legal opinions, as requested by the Oversight Board; monitoring and review of proposed and enacted legislation affecting the Oversight Board; the preparation or review of routine Oversight Board resolutions; routine advice on government ethics and conflicts of interest.
Hourly Rates for Services Not Included in General Legal Services Above	Specialized Non-Litigation Legal Services (items not listed above) \$225 per hour Litigation: \$325 per hour
Paralegal Services	\$125 per hour
Travel Time	\$150 per hour

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HOURLY RATES, FEES & COSTS

Proposal for Legal Services to the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency

Reimbursement of Costs

Messenger & Deliver Fees.....	At Actual Cost
Postage.....	USPS Standard Rate
Copies.....	\$0.25/page
Color Copies.....	\$0.50/page
Outgoing Faxes.....	\$1.00/page
Copies (Outside Service).....	At Actual Cost
In-House CD Production.....	\$10.00/CD
Computer Research.....	At Actual Cost (percentage of firm's monthly usage under plan)
Outside Assisted Legal Research.....	At Actual Cost
Parking.....	At Actual Cost
Airfare.....	At Actual Cost
Meals.....	At Actual Cost
Hotel Accommodations.....	At Actual Cost
Process Server's Fees/Filing Fees.....	At Actual Cost
Court Reporter's Fees.....	At Actual Cost
Jury Fees.....	At Actual Cost
Witness Fees.....	At Actual Cost
Expert's Fees.....	At Actual Cost
Consultant's Fees.....	At Actual Cost

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**MINUTES OF THE MEETING OF THE MONTCLAIR
CODE ENFORCEMENT COMMITTEE HELD ON
MONDAY, JULY 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, Council Member Dutrey, City Manager Starr; Director of Community Development Lustro, Director, Office of Public Safety/Police Chief deMoet, Deputy City Manager/Director, Office of Economic Development Staats, City Attorney Robbins.

III. APPROVAL OF MINUTES

A. Minutes of Code Enforcement Committee Meeting of June 17, 2013

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of June 17, 2013.

IV. PUBLIC COMMENT

None.

V. OLD BUSINESS

1. Painting of the former Déjà Vu Showgirls, 5282 Mission Boulevard. Community Development Director Lustro reported that staff was alerted on July 9 that a crew was painting the building a shade of bright pink, the same color it was prior to the execution of the Settlement Agreement with the County in 2002. Staff visited the site, took photos and forwarded them to the County and Supervisor Ovitt's office. Discussion followed regarding appealing the CUP. City Attorney Robbins will make contact with County Counsel and report back to the Committee.

VI. NEW BUSINESS

1. Shopping Cart Containment Ordinance. Community Development Director Lustro asked for direction regarding drafting an ordinance and whether we make it applicable to existing stores such as Cardenas Market and Stater Bros. and, if so, what timeframe should be given to existing businesses to comply. The current system is that City staff picks up stray carts weekly and returns them. Even though there is a process to get reimbursed, it is very cumbersome. Discussion followed regarding drafting an ordinance and a timeframe. The Committee directed staff to draft an ordinance with a 6-month timeframe for existing businesses.
2. Painting of Father Mackey Hall at Our Lady of Lourdes Catholic Church. Sometime over the weekend, OLL painted the exterior of the hall bright baby blue. Council Member Paulitz read from the church's bulletin that the time and materials were donated and the church also would be painted. Community Development Director Lustro was directed to send a letter to the church suggesting a re-paint of the building in a neutral color that is compatible with the other buildings on the church/school campus.

VII. DISTRIBUTION OF LIST OF PROBLEM PROPERTIES / Q&A

Included in the agenda packet was the updated list of problem properties for the Committee's reference. An additional property at 5544 Caroline Street was added to the list. Discussion followed.

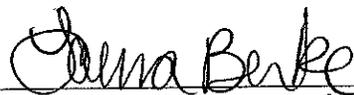
VIII. NEXT MEETING

The next Code Enforcement Committee meeting is scheduled for Monday, August 19, 2013, at 6:00 p.m. in the City Hall Conference Room.

IX. ADJOURNMENT

At 6:38 p.m., Council Member Paulitz adjourned the Code Enforcement Committee.

Submitted for Code Enforcement
Committee approval,



Laura Berke

Administrative Secretary

MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
JULY 15, 2013, AT 8:28 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Pro Tem Ruh called the meeting to order at 8:28 p.m.

II. ROLL CALL

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

III. APPROVAL OF MINUTES

**A. Minutes of the Regular Personnel Committee Meeting of July 1,
2013.**

Moved by City Manager Starr, seconded by Council Member Raft,
and carried unanimously to approve the minutes of the Personnel
Committee meeting of July 1, 2013.

IV. PUBLIC COMMENT – None

V. CLOSED SESSION

At 8:29 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:45 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 8:45 p.m., Mayor Pro Tem Ruh adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager

**MINUTES OF THE REGULAR MEETING OF THE
PUBLIC WORKS COMMITTEE HELD ON THURSDAY,
JULY 18, 2013, AT 2:00 P.M. IN THE CITY
MANAGER'S CONFERENCE ROOM, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

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

II. ROLL CALL

Present: Chair Paulitz; Committee Member Eaton; Facilities and Grounds Superintendent McGehee; Office of Public Safety/Police Chief deMoet; Deputy City Manager/Director of Economic Development Staats; Director of Community Development Lustro; Public Works Director/City Engineer Hudson; Public Works Superintendent Mendez

Also Present: NPDES Coordinator Joseph Rosales

III. APPROVAL OF MINUTES

A. Minutes of the Public Works Committee Meeting of June 20, 2013

The Public Works Committee approved the minutes of the Public Works Committee meeting of June 20, 2013.

B. Minutes Approval Process - Should minutes be approved by Committee prior to presentation to the City Council?

Our current practice is to submit Committee minutes to the Committee at the next Committee meeting for approval, then submit the approved minutes to the City Council. However, when there are no items for the Public Works Committee to review or discuss, then the meeting is typically cancelled. Last year there was a large gap between meetings, so minutes from the previous meeting were not submitted for City Council review for several months. Public Works Director/City Engineer Hudson proposed that Committee minutes be submitted to the Council meeting immediately following the Committee meeting. If Committee Members wish changes be made to the minutes at the next Committee meeting, those changes would also be forwarded to the City Council. Nobody present could recall the last time any minute changes were requested by the Committee. The Committee agreed that the minutes can go to the next City Council meeting as information items.

IV. PUBLIC COMMENT

None

V. TRAFFIC SAFETY/CIRCULATION ISSUES

- A. Update on request for funding for in-pavement flashers at Orchard Street and Tudor Avenue. Response from a resident regarding grant denial

A grant application was submitted to the California Office of Traffic Safety (OTS) last January. In May staff was informed that the City application failed to make the cut. Public Works Director/City Engineer Hudson informed the people that were involved in the Public Works Committee meeting in November that the grant would be submitted and it had not been accepted. A resident by the name of Theresa Morales emailed Public Works Director/City Engineer Hudson requesting a crosswalk on Orchard Street near Montclair High School but what she is really asking for is in-pavement flashers. The crosswalk already exists.

Public Works Director/City Engineer Hudson's explained that although there had been three accidents at this location within a five-year period, and that the last accident was significant due to the severity of a teenage girl's injuries, the lack of a significant accident history suggests that the location is not a hazardous location. The circumstances behind the teenager being hit was that she was looking down at some hand held electronic device and walked into the street without looking for cars in either direction. She walked directly into the path of a car.

Public Works Director/City Engineer Hudson discussed the issue with Ms. Morales. She is not happy with the explanation and would like the City to do something more. In her email she did say she understood but she still wanted something to be done. Staff will continue looking into the problem and if something can be done with funds that are available or with grant funds that become available, the location that will be reviewed further.

VI. POLICE DEPARTMENT UPDATES/ITEMS

Office of Public Safety/Police Chief deMoet is requesting Speed Feedback Signs. There is some expense associated with them, but it's not significant. They can be solar powered, saving the cost of hard wiring them. Ideally they can be grant funded. They typically cost under \$10,000. On a critical location it might be able to be funded through Gas Tax Funds.

One location that would be critical is Monte Vista Avenue and Benito Street between Benito Street and Orchard Street. There tends to be a lot of school traffic in that area for southbound and northbound traffic and most of the complaints are for school related traffic issues. Public Works Director/City Engineer Hudson will get a price on putting the speed feedback signs up and he will present the information at the next Public Works Committee Meeting.

Speed feedback signs are permanently mounted in the sidewalk area and are about the same height as speed limit signs. There is usually a sign under it that has the speed limit and an LED changeable message sign that says "Your speed is..." and it flashes what speed the car is going. People tend to speed down Monte Vista Avenue particularly with the school traffic for Montclair High School, Monte Vista Elementary, and kids walking to and from Serrano Junior High School. There is a lot of pedestrian and vehicular traffic.

VII. COMMUNITY DEVELOPMENT DEPARTMENT PROJECT UPDATES/ITEMS

Community Development Director Lustro just finished a 25-minute conference call with Father Scott from Our Lady of Lourdes Catholic Church in response to the letter that was sent earlier in the week regarding the paint color of Father Mackey Hall. Father Scott explained the logic of the color was when Our Lady appeared in Lourdes in France she was wearing a blue veil which is why the building was painted blue. Father Scott said he understands the position Community Development Director Lustro expressed in his letter and if it were his choice the body of the building probably should be eggshell or white or some sort of light color with a blue trim. His problem is that he would not mind having the building repainted in that color scheme but the church does not have the funds to do it. The last thing he said was that he would greatly appreciate the opportunity to sit down and talk to Council Member Dutrey and Council Member Paulitz and anybody who is interested in the issue.

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

A. Maintenance Reports – Continue with less personnel

There are 13 authorized maintenance positions but only seven of them are filled. Maintenance staff is operating at about 55 percent. Although there are more people in Public Works, some of them have specialized functions, such as street sweeping and graffiti abatement, and are not available for maintenance work. However, the budget does include funding for three part time Maintenance Workers working about 38 hours per week each. The problem with part time staff is that no funds can be spent in training them or assisting them in getting their Class B licenses, a requirement of the Maintenance Worker position. Public Works Director/City Engineer further clarified that only seven of the 13 authorized Maintenance Worker positions are actually funded in this year's budget.

B. Street Sweeping Parking Exemption Policy Update

When the City first started prohibiting parking on street sweeping days several years ago, a few residents claimed that they had no place to park their vehicles. They asked for an exemption to the parking prohibition, saying that they would sweep their own gutters. A procedure for exemptions was developed by staff but was not a written policy approved by the City Council.

Public Works Director/City Engineer Hudson sent a few memos internally to get thoughts on what should be done. The feedback he received is that the policy should be similar to what is currently in place but it needs to be in writing. The current unwritten policy is subject to too much interpretation and discretion. It would be a formally adopted policy by the City Council as was the Street Tree Policy and the Speed Hump Policy.

IX. PUBLIC WORKS DEPT. ENGINEERING DIVISION UPDATES/ITEMS

A. Ramona Avenue/Allesandro Street Three-Way Stop

The stop signs were installed due to a sight distance issue. The intersection met warrant requirements for a one-way stop but not for a three-way stop. There was still a sight distance issue after the one-way stop sign was installed, so with the City Council's authorization the three-way stop signs were installed.

The three-way stop sign was installed at Ramona Avenue and Allesandro Street a couple of weeks ago. The Police Department has been doing enforcement for people running the stop sign. Staff has installed a "stop ahead" sign and trimmed the trees around the southbound stop sign.

B. Ramona Avenue Speed Hump Request - Status

A request came in for speed humps on Ramona Avenue between San José Street and Moreno Street from a resident named Guillermo Ortega. This is the same neighborhood the three-way stop sign was installed and at the last meeting Public Works Director/City Engineer Hudson informed the Committee that the residents wanted to submit a petition to install speed humps.

The Committee's recommendation at the last meeting was to hold off until the stop sign was installed and see if it had an effect on the number of people who used the street as well as those that were speeding. Public Works Director/City Engineer Hudson did relay this to Mr. Ortega and he decided he still wanted to circulate a petition; in less than a week he received every single signature from his block with the exception of two residents who were on vacation. Public Works Director/City Engineer Hudson does have the petition but he told Mr. Ortega he wanted to wait and see how effective the stop signs are. Public Works Director/City Engineer Hudson would like to put traffic counters on the street to see if the traffic volume has decreased and if the speed has decreased. If it looks like there is no longer a problem then Public Works Director/City Engineer Hudson will probably recommend against the speed humps. However, if it looks like the stop signs have not had much effect then it is within the City policy to proceed with speed humps as requested by the residents.

Typically speed humps are about four inches high and they are 10-15 feet long and they have general approaches on them so it does not cause a car to lose control. The intent is to make it visible by putting yellow striping and place some signs with arrows pointing down saying speed hump and get people to slow down. The logical location for this would be about 200-300 feet north and south of the stop sign. Public Works Superintendent Mendez asked that the street sweeper be taken into consideration because every time the sweeper comes up to a speed hump the motor has to be stopped and the skirt has to be raised underneath. One of Public Works Director/City Engineer Hudson's biggest arguments against speed humps is that it does slow staff down on street sweeping and if it is hit a little too hard it can damage the street sweeper; it can also be a problem for fire trucks.

C. Bandera Street Speed Hump Request

Another request came in for speed humps on Bandera Street between Central Avenue and Fremont Avenue so as soon as traffic counters are available that process can be started. There is not a lot of traffic, but Public Works Director/City Engineer Hudson wants to see exactly how much there is. The threshold is 1,000 vehicles per day, which Bandera Street may not have. There is a lot of street parking on Bandera Street which reduces the width of the street. That gives the appearance of it being a lot more congested and people going faster than they actually are.

There were vandalism issues with the traffic counters a few weeks ago. They were on Moreno Street and somebody cut the hoses. The new hoses are in so staff should be able to put the counters out again to update the counts in different areas. As soon as they are available then counts and speeds can be done for Bandera Street.

D. Water Quality Management Plan Changes (Added Item)

NPDES/Environmental Compliance Inspector Joe Rosales gave a presentation on the updated Water Quality Management Plan requirements. These new requirements have been set forth by the Santa Ana Regional Water Quality Control Board (Water Board) for storm water runoff. The Water Board adopted a new permit in 2010.

There was a WQMP that was revised in 2005 that all development projects had to abide by. When the Water Board adopted a new permit for Municipalities and Districts, there was a need to revise the WQMP requirements. Those modifications have now been made and will go into effect September 19, 2013. All new developments will have to abide by the new regulations. Any new developments will have to implement low impact development. For example, prior to any development, low to moderate rainfall produces little if any runoff. Development normally includes hardscape that significantly increases runoff.

The Water Board wants to mimic the pre-development stage, at least for low to moderate rainfall events. The previous WQMP requirements addressed runoff from a 2-year frequency storm, or the small amount of rain that might be expected every other year. The new requirement is to retain flow from a 5-year frequency storm, a considerably larger amount of rainfall.

The new requirements will also affect City projects as well. If a new road is built, the City would have to follow the same requirement. Under the old WQMP requirements runoff from new roads was not an issue or concern. Now it is.

In anticipation of the new changes, the City is experimenting with the use of pervious concrete to aid infiltration. Currently the Ramona Avenue Pavement Rehabilitation project is using pervious concrete in the gutters so staff can see how effective it is. A little bit more money was spent to do some sections of pervious concrete in the gutters. In tests, water starts flowing down the gutter, hits the pervious concrete, and percolates. The City of Ontario has used a lot of pervious gutters. Montclair followed their specifications.

Asphalt pavement will still be used on streets, but gutters may need to be pervious concrete. NPDES/Environmental Compliance Inspector Joseph Rosales passed out the new WQMP requirements for the Committee to review at their convenience.

In response to a question from the Committee regarding maintenance, pervious concrete fills with fine sediments. It will have to be pressure washed and vacuumed periodically. When it is pressure washed the wash water has to be contained and disposed of properly.

X. CAPITAL PROJECT UPDATES

Public Works Director/City Engineer reported the status of the following capital improvement projects:

A. MONTE VISTA AVENUE/UPRR GRADE SEPARATION PROJECT

The sound study was approved on Monday, July 1st, and the Categorical Exclusion is supposed to be issued by tomorrow. This will complete the NEPA environmental process for this project. Public Works Director/City Engineer Hudson had a meeting with Union Pacific Railroad (UPRR) on Monday and discussed the new Union Pacific Railroad agreement. The agreement was originally approved in 2002, but it had an expiration date and that has long since expired. The Railroad informed the City that it will have to start from scratch. It cost the City about \$10,000 for UPRR to put the agreement together last time. Now the cost will be \$25,000.

Funds are budgeted under Measure I Expenditure plan for last fiscal year and this fiscal year. Public Works Director/City Engineer

Hudson has already sent UPRR a notice indicating staff would like them to proceed with the preliminary engineering and the preparation of construction management agreement for cost not to exceed \$25,000. Public Works Director/City Engineer Hudson has a meeting tomorrow with the design team to discuss what work remains in the design as well as the new bridge selection report that UPRR wants.

UPRR requirements now require placing a clear span structure over the tracks. A clear span structure would be approximately 290 feet long. It could be done, but it would be expensive. UPRR informed the City that cost is not justification for going with a multi-span structure like Central Avenue currently has. UPRR seemed a little flexible on the spans based on practicality, but not cost. The longer the span the more movement there will be in an earthquake. Staff believes it can be justified based on structure depth which is about four or five feet now. It would more than double if the entire right-of-way had to be spanned. The soffit, or underside of the bridge, cannot get any closer to the tracks. That means the top has to go that much higher. When it is higher the approaches wind up daylighting south of Mission Boulevard and north of Holt Boulevard. It is impractical and it is an argument that UPRR will listen to. The fact that it will cost the City three times more is no concern to UPRR because they are not paying for it.

It's good news that the City has cleared the Environmental hurdle in about one year and eight months where it took three and a half years for the Ramona Avenue Grade Separation. It was complete in about half the time. Staff is working on design and asbestos and lead studies from properties that were acquired on Monte Vista Avenue. Staff would like to get them abated and demolished as quickly as possible. There are six buildings and H2 Environmental should be out this weekend to do the assessment.

B. MONTE VISTA AVENUE WIDENING PROJECT - MISSION BOULEVARD TO HOWARD STREET

This project will widen Monte Vista Avenue on the east side between Mission Boulevard and Howard Street. Southern California Edison has agreed to reduce the length of their cross arms on their poles so they would fit within the City's existing right-of-way rather than having to shrink the street. The curb is still going to be moved but instead of moving it three feet it will be moved to about one foot to one and one half foot. Since there was not a hard design on it, it was more conceptual and it will not cost the City anymore for the redesign. This project should start construction this year.

Staff also had a meeting regarding Ms. Whitaker's property. She has a shed that encroaches significantly into the City's right-of-way. Staff is going to get a price from a company to handle her property

outside the scope of the main contract so the project can move forward without any delays.

C. RAMONA AVENUE PAVEMENT REHABILITATION-MISSION BOULEVARD TO PHILLIPS

This project will resurface a portion of Ramona Avenue south of Mission Boulevard to Phillips Boulevard. The work will also include sewer repair near the intersection of Ramona Avenue and Howard Street. The project is currently under construction. Pervious concrete is being added in the gutter area for Water Quality Management purposes as previously discussed. All the concrete work is done and pavement grinding started Monday. It should have been completed yesterday and is being paved today and tomorrow. It will probably be restriped next week. The project should be done by the end of next week or the beginning of the following week. The trees and vines to cover the walls have all been planted and the irrigation system has been installed.

D. COMMUNITY CENTER RESTROOMS

In the Community Center the current restrooms are not ADA compliant and are inadequate for the size of the building. New restrooms are being built. The old restrooms will be converted to storage closets. This project is currently under construction. It started just after Thanksgiving. Most of it looks pretty good but there are some punch list items the contractor will need to address. The floors have the epoxy treatment on them and they turned out pretty nice. The installation for the partitions for the toilets and urinals started yesterday. The partitions should be completed in both bathrooms by next week.

E. RECREATION BUILDING REMODEL

This project will update some of the facilities in the Recreation Building. The City received Community Development Block Grant (CDBG) funds through Federal and County. The bathrooms and showers need to be rehabbed to make them handicap accessible and installation of an employee restroom. One of the primary things will be to widen the doors from 24 inches to 36 inches on the racquetball courts to make them fully ADA compliant. If funds permit there will be upgrades to the weight room. There is a hallway that has no useful purpose which will allow some of the rooms to be expanded.

Staff has already selected a Consultant and is negotiating the final scope of services and the fees. A conceptual design of the whole building will be done to see what the cost will be and staff can see how far the project can go with funds available. There is approximately \$400,000 in funds available for design and construction. Public Works Director/City Engineer Hudson believes all of the work will cost approximately \$800,000. Not everything

will be able to be done but with a master plan and cost estimate the work can be done in phases for as long as the CDBG Funds last.

F. CENTRAL AVENUE/UPRR GRADE SEPARATION RECONSTRUCTION

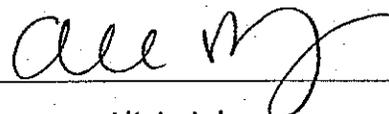
Staff was successful in getting federal funds for doing a replacement of the bridge at Central Avenue based on its functional obsolescence. It is structurally sound and not in danger of collapsing but it does have deficiencies. To address the deficiencies would mean tearing it down and replacing it. Public Works Director/City Engineer Hudson had a meeting with the consultant that put the application together for the Highway Bridge Program funds and the consensus in that meeting is in order for the City to spend any money right now the City needs to go through a Request for Qualifications (RFQ) or Request for Proposal (RFP) process to select a consultant that will take this project through the preparation and construction drawings. They will analyze the environmental under NEPA, look at additional right-of-way acquisition, do the design, and prepare construction drawings. Something may be ready to bid probably by 2017 or 2018, which is when the majority of the federal funds become available.

XI. ADJOURNMENT

The next meeting of the Public Works Committee will be at 2:00 p.m. on August 15, 2013.

At 2:45 p.m., Chair Paulitz adjourned the Public Works Committee.

Submitted for Public Works Committee approval,



Alicia Johnson
Transcribing Secretary