

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

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

December 15, 2014

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
- B. 2014 Holiday Home Decoration Contest Winners

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 December 1, 2014
[CC/SA/MHC/MHA]

B. Administrative Reports

1. Consider Receiving and Filing of Treasurer's Report [CC] 4
2. Consider Approval of Warrant Register and Payroll
Documentation [CC] 5
3. Consider Receiving and Filing of Treasurer's Report [SA] 6
4. Consider Approval of Warrant Register [SA] 7
5. Consider Receiving and Filing of Treasurer's Report [MHC] 8
6. Consider Approval of Warrant Register [MHC] 9
7. Consider Receiving and Filing of Treasurer's Report [MHA] 10
8. Consider Approval of Warrant Register [MHA] 11
9. Consider Authorization to Purchase Smart Cards and Docking
Stations for Installation of New Mobile Data Computers in the Police
Department Patrol Fleet Utilizing Federal Asset Forfeiture Funds [CC] 12
10. Consider Approval of Montclair Housing Authority Annual
Report Pursuant to Section 34176.1(f) of the Health and
Safety Code (SB 341) for Fiscal Year 2013-14 [CC/MHA] 14
11. Consider Montclair Housing Authority Commissioners' Review and
Acceptance of the Annual Report for Fiscal Year 2013-14 [MHA] 23
12. Consider Receiving and Filing of Alcoholic Beverage Permit
Application - 7-Eleven® Store, 5301 Holt Boulevard [CC] 28

C. Agreements

1. Consider Amending the Fiscal Years 2013-2018
Capital Improvement Program Adding the Benson
Avenue Cul-De-Sac Closure Project [CC]

Consider Authorization of a \$15,000 Appropriation
From the Gas Tax Fund for Design Work Related to
the Benson Avenue Cul-De-Sac Closure Project [CC]

Consider Approval of Agreement No. 14-101 With
Andreasen Engineering, Inc., for Design Work Related
to the Benson Avenue Cul-De-Sac Closure Project [CC]

Consider Authorization to Advertise the Benson Avenue
Cul-De-Sac Closure Project [CC] 29
2. Consider Approval of Agreement No. 14-103 With the
San Bernardino County Fire Protection District to Receive
Approximately \$10,589 From the FY2014 Homeland
Security Grant Program [CC] 44

- 3. Consider Approval of Agreement No. 14-104, a Memorandum of Understanding With the San Bernardino County Department of Public Health Preparedness and Response Program to Provide Use of a Site/Facility for a Closed Point of Dispensing Site for Care and Prophylaxis Treatment of First Responders in the Event of Bioterrorism or Other Public Health Emergency [CC]
 - Consider Approval of Agreement 14-105, a Memorandum of Understanding With the San Bernardino County Department of Public Health Preparedness and Response Program to Host a Mobile Point of Dispensing Trailer [CC] 59
- 4. Consider Approval of Agreement No. 14-106 With the San Bernardino County Fire Protection District Office of Emergency Services to Receive Approximately \$13,050 From the FY2014 Homeland Security Grant Program [CC] 74

D. Resolutions - None

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

- A. City Attorney
- B. City Manager/Executive Director
- C. Mayor/Chairman
- D. Council/SA/MHC/MHA Board
- E. Committee Meeting Minutes *(for informational purposes only)*

- 1. Minutes of the Personnel Committee Meeting of December 1, 2014 88

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

The next regularly scheduled City Council, Successor Agency Board, Montclair Housing Corporation Board, and Montclair Housing Authority Commission meetings will be held on Monday, January 5, 2015, 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 December 11, 2014.

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: December 15, 2014

SECTION: ADMIN. REPORTS

ITEM NO. 1

FILE I.D.: FIN520

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending November 30, 2014, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending November 30, 2014.

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

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending November 30, 2014.

Prepared by:

Proofed by:

Janet Kullback
George Smith

Reviewed and
Approved by:

Presented by:

Donald Parker
[Signature]

AGENDA REPORT

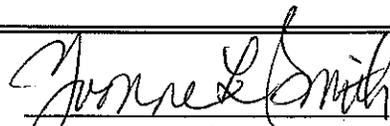
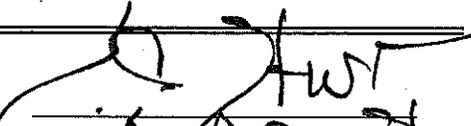
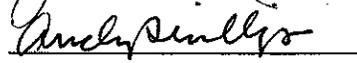
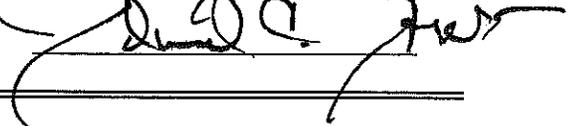
SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: December 15, 2014
	SECTION: ADMIN. REPORTS
	ITEM NO.: 2
	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated December 15, 2014, and Payroll Documentation dated November 30, 2014, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated December 15, 2014, totals \$721,191.16. The Payroll Documentation dated November 30, 2014, totals \$512,758.53 gross, with \$381,861.30 net being the total cash disbursement.

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

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: December 15, 2014

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: FIN510

DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending November 30, 2014, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending November 30, 2014.

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

RECOMMENDATION: Staff recommends the City Council acting as successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending November 30, 2014.

Prepared by:

Michael Pithowdu
George L. Smith

Reviewed and
Approved by:

Donald L. Parker
David C. New

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** December 15, 2014
SECTION: ADMIN. REPORTS
ITEM NO.: 4
FILE I.D.: FIN530
DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending November 30, 2014, pursuant to state law.

BACKGROUND: Vice Chairman Ruh has examined the Successor to the Redevelopment Agency Warrant Register dated 11.01.14-11.30.14 in the amounts of \$27,675.42 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds; \$9,787,890.08 from the Tax Exempt Bond Proceeds and \$4,441,739.75 from the Taxable Bond Proceeds and finds it to be in order.

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

RECOMMENDATION: Vice Chairman Ruh recommends the City Council as successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending November 30, 2014.

Prepared by:

Michael Piotrowski
Jeanne L. Smith

Proofed by:

Reviewed and
Approved by:

Presented by:

Donald L. Taylor
John A. Ruh

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: December 15, 2014

SECTION: ADMIN. REPORTS

ITEM NO.: 5

FILE I.D.: FIN525

DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending November 30, 2014, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending November 30, 2014.

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

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending November 30, 2014.

Prepared by:

Michael Piotrowski
Yvonne L. Smith

Reviewed and
Approved by:

Donald J. Taylor
John D. Fox

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** December 15, 2014
SECTION: ADMIN. REPORTS
ITEM NO.: 6
FILE I.D.: FIN545
DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending November 30, 2014, pursuant to state law.

BACKGROUND: Vice Chairman Ruh has examined the Warrant Register dated 11.01.14-11.30.14 in the amount of \$82,204.64 for the Montclair Housing Corporation and finds it to be in order.

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

RECOMMENDATION: Vice Chairman Ruh recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending November 30, 2014.

Prepared by:

Michael Piotrowski
Gordon & Smith

Reviewed and
Approved by:

Ronald Parker
John C. HWT

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: December 15, 2014

SECTION: ADMIN. REPORTS

ITEM NO.: 7

FILE I.D.: FIN525

DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending November 30, 2014, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending November 30, 2014.

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

RECOMMENDATION: Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending November 30, 2014.

Prepared by:

Michael P. Pirogowski
George L. Smith

Reviewed and
Approved by:

Donald J. Parker
[Signature]

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** December 15, 2014
SECTION: ADMIN. REPORTS
ITEM NO.: 8
FILE I.D.: FIN545
DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending November 30, 2014, pursuant to state law.

BACKGROUND: Vice Chairman Ruh has examined the Warrant Register dated 11.01.14-11.30.14 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

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

RECOMMENDATION: Vice Chairman Ruh recommends the Montclair Housing Authority Board of Directors approve the Warrant Register for the period ending November 30, 2014.

Prepared by:

Michael Prokorski
Zorina Smith

Reviewed and
Approved by:

Donald Parker
[Signature]

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO PURCHASE SMART CARDS AND DOCKING STATIONS FOR INSTALLATION OF NEW MOBILE DATA COMPUTERS IN THE POLICE DEPARTMENT PATROL FLEET UTILIZING FEDERAL ASSET FORFEITURE FUNDS

DATE: December 15, 2014

SECTION: ADMIN. REPORTS

ITEM NO.: 9

FILE I.D.: EQS225/COM100/PDT362

DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the use of Federal Asset Forfeiture funds to purchase smart cards and docking stations to complete the installation of new mobile data computers (MDCs) in the Police Department Patrol fleet.

BACKGROUND: Aging MDCs in the Police Department Patrol fleet are outdated and in need of replacement. The MDCs have exceeded their normal life expectancy and utilize the Windows XP operating system, which Microsoft no longer supports. This lack of Microsoft support creates a vulnerability to attacks from outside sources that could compromise system operability and lead to weaknesses in the City's data security systems. These weaknesses may also impact the City's ability to meet Department of Justice regulatory obligations related to records security and access to nationwide criminal database systems. In addition, MDC replacement parts are difficult to locate, and the units routinely experience hardware malfunctions.

Staff reviewed two solutions for the MDCs. The first was a Panasonic Toughbook, which is popular with law enforcement agencies. It was discovered, however, that the manufacturer could not reliably deliver the units in a timely manner with full specifications. A better alternative is the Getac rugged notebook, which is constructed to military standards and is resistant to outdoor weather conditions such as heat, cold, rain, and dust. The Getac system has a wider range of options that fit well with the Police Department's needs and is a more cost-effective solution. Additionally, the Getac rugged notebook is readily available.

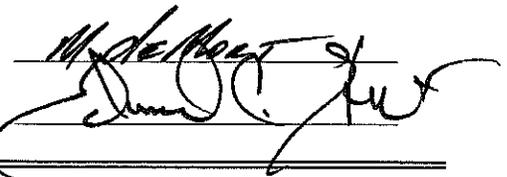
Multiple bid quotations were not solicited for the Getac rugged notebook because the unit is proprietary and the company controls its resale pricing. CDCE, Inc., is an authorized vendor of Getac products and is the vendor of choice for this purchase because of its extensive working relationship with the City, fast and reliable response times, and ability to consistently meet the City's needs.

FISCAL IMPACT: The City Council approved purchase of replacement MDCs in the Fiscal Year 2014-15 Budget; however, smart cards and docking stations would be invoiced apart from the MDCs because funding in the Fiscal Year 2014-15 Budget is insufficient to cover the entire cost. Federal Asset Forfeiture funds in the amount of \$12,279.88 would supplement funds appropriated in the General Fund to complete the transaction.

Prepared by:



Reviewed and
Approved by:



Proofed by:



Presented by:

Should the City Council authorize this item, funding for the purchase of smart cards and docking stations would result in an expenditure of \$12,279.88 from the Federal Asset Forfeiture Account.

RECOMMENDATION: Staff recommends the City Council authorize the purchase of smart cards and docking stations for installation of new mobile data computers in the Police Department Patrol fleet utilizing Federal Asset Forfeiture funds.

AGENDA REPORT

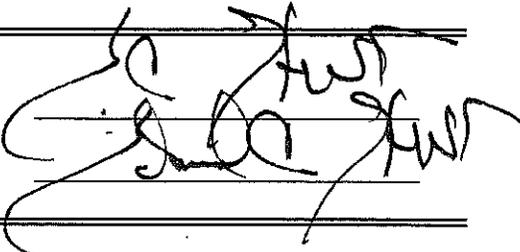
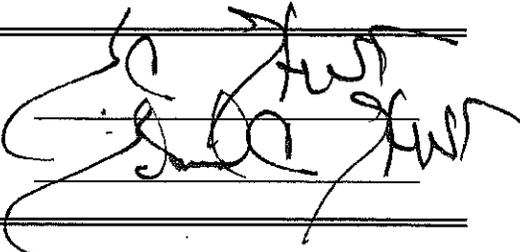
SUBJECT: CONSIDER APPROVAL OF MONTCLAIR HOUSING AUTHORITY ANNUAL REPORT PURSUANT TO SECTION 34176.1 (f) OF THE HEALTH AND SAFETY CODE (SB 341) FOR FISCAL YEAR 2013-14	DATE: December 15, 2014
	SECTION: ADMIN. REPORTS (JT.)
	ITEM NO.: 10
	FILE I.D.: MHA030
	DEPT.: CITY MGR./MHA

REASON FOR CONSIDERATION: Senate Bill 341 became effective on January 1, 2014. The bill amended Section 34176 of the Health and Safety Code and added Section 34176.1 to the code. Health and Safety Code Section 34176 revised redevelopment law related to certain expenditure requirements for Low- and Moderate-Income Housing Funds of former redevelopment agencies. In general, Section 34176.1 limited future expenditure of administrative funds used for the monitoring and preservation of affordability covenants, directed that certain funds remaining in the Low- and Moderate-Income Housing Fund be directed to extremely low-income households, and added certain audit and reporting requirements.

A copy of a report labeled "SB 341 Compliance Report" is attached for the City Council's and Montclair Housing Authority Board of Directors' review and consideration pursuant to Health and Safety Code Section 34176.1(f). The audit report will be provided to the City Council and Montclair Housing Authority Board of Directors upon its receipt from Van Lant & Fankhanel, LLC. The City Council and Montclair Housing Authority Board of Directors are requested to consider approval of the SB 341 Compliance Report.

BACKGROUND: As the City Council and Montclair Housing Authority Board Members will recall, the California Supreme Court's decision in *California Redevelopment Association, et. al., v. Matosantos* upheld AB X1 26, The Dissolution Act. The Dissolution Act caused the dissolution of all California redevelopment agencies. On January 12, 2012, the City of Montclair City Council elected to become and serve as the Successor Agency to the City's dissolved redevelopment agency. The City is performing its functions as the Successor Agency to the former Redevelopment Agency under the Dissolution Act to administer the enforceable obligations of the Agency and otherwise wind down the Agency's affairs, all subject to review and approval by the seven-member Oversight Board.

On January 12, 2012, pursuant to Section 34176 of the Dissolution Act, the City Council selected the Montclair Housing Authority to assume all housing assets and functions of the former City of Montclair Redevelopment Agency. Therefore, on February 1, 2012, the Montclair Housing Authority became and the "Housing Successor" of the former Redevelopment Agency pursuant to the Dissolution Act. The actions of the Housing Successor are not subject to the review and approval by the Oversight Board.

Prepared by: <u>M. STAATS</u>	Reviewed and Approved by: 
Proofed by: <u>Gunnar Smith</u>	Presented by: 

As indicated, certain provisions of SB 341 require that the Housing Successor prepare a Compliance Report and have an audit report completed. The SB 341 Compliance Report responds to the requirements of Section 34176.1(f) of the Health and Safety Code. Primarily, the report indicates the following:

- The Montclair Housing Authority has received approximately \$106,000 in income during the 2013–14 fiscal year. The income has come largely from repayment of Neighborhood Partnership loans and residual receipt loan repayments.
- The assets of the Housing Authority chiefly include real estate composed of the 99 residential units operated by the Montclair Housing Corporation and residual receipts loans.
- The Fiscal Year 2013–14 expenditures of the Housing Authority were composed of real property taxes that had to be paid on behalf of the Montclair Housing Corporation for an issue involving tax-exempt status. The Housing Corporation is in the process of securing the welfare exemption from the State to receive an appropriate refund of these taxes.
- The report indicates the Montclair Housing Authority was successful in completing a transaction with National Community Renaissance for construction of the San Emi special needs affordable apartment project.
- The Housing Authority currently exceeds its Section 33413 inclusionary housing requirements. The income of the Housing Authority is nonrecurring. Without a source of revenue, the Housing Authority will no longer be able to provide additional affordable housing units.
- Within the last ten years, the City of Montclair Redevelopment Agency Low- and Moderate-Income Housing Fund provided financing for 228 deed-restricted affordable rental housing units. Thirty-eight percent of the units were for senior housing, which complies with provisions of Section 34176.1(f).

FISCAL IMPACT: The City Council's and Housing Authority Board of Directors' approval of the Annual Report by will create no fiscal impact for the City or Montclair Housing Authority. With no permanent source of the funding, the Montclair Housing Authority has extremely limited resources for the purpose of providing low- and moderate-income housing.

As indicated, the audit report will be provided to the City Council and Housing Authority Board of Directors upon its receipt from Van Lant & Fankhanel, LLC.

RECOMMENDATION: Staff recommends that the City Council and Montclair Housing Authority Board of Directors approve the Annual Report prepared pursuant to Section 34176.1(f) of the Health and Safety Code (SB 341) for Fiscal Year 2013–14.

SB 341 Compliance Report
Successor Housing Entity – Montclair Housing Authority

H&SC section 34176.1 (f) Section 33080.1 of this code and Section 12463.3 of the Government Code shall not apply. Instead, the housing successor shall conduct, and shall provide to its governing body, an independent financial audit of the Low and Moderate Income Housing Asset Fund within six months after the end of each fiscal year, which may be included in the independent financial audit of the host jurisdiction. If the housing successor is a city or county, it shall also include in its report pursuant to Section 65400 of the Government Code and post on its Internet Web site all of the following information for the previous fiscal year. If the housing successor is not a city or county, it shall also provide to its governing body and post on its Internet Web site all of the following information for the previous fiscal year:

Response:

The Montclair Housing Authority's and Montclair Housing Corporation's financial information is part of the annual financial audit report prepared for the City of Montclair and therefore it meets the requirement by being included "in the independent financial audit of the host jurisdiction".

- (1) The amount deposited to the Low and Moderate Income Housing Asset Fund, distinguishing any amounts deposited for items listed on the Recognized Obligation Payment Schedule from other amounts deposited.

Response:

The operations of Low and Moderate Income Housing are separated and reported by two entities. The Montclair Housing Authority (Housing Authority) is the Successor Housing Entity which under the redevelopment dissolution law took over housing assets from the City of Montclair Redevelopment Agency Low and Moderate Income Housing Funds upon its dissolution. Those housing assets included single and multifamily residential housing units which are operated and maintained by the Montclair Housing Corporation (Housing Corporation) which is a separate 501(c)(3) non-profit California Corporation. The rents and other income from the housing operations belong to the Housing Authority; however, they are granted to the Housing Corporation for use in covering expenses of operating the various housing units. Below is a summary of the deposits of both of these entities for fiscal year 2013-14:

	Housing Authority	Housing Corporation	Total
Deposits for fiscal year 2013-14	\$ 106,162.96	\$ 903,280.25	\$ 1,009,443.21
Deposit detail:			
Grant from Housing Authority - Rental income	\$ -	\$ 899,169.07	\$ 899,169.07
Interest earnings	-	4,111.18	4,111.18
Rehabilitation loan repayments	8,625.90	-	8,625.90
Closing of Neighborhood Partnership accounts	68,181.80	-	68,181.80
Residual receipt loan repayments	21,349.51	-	21,349.51
Refund of property tax duplicate payment	8,005.75	-	8,005.75
	<u>\$ 106,162.96</u>	<u>\$ 903,280.25</u>	<u>\$ 1,009,443.21</u>

None of the deposits above relate to any obligations listed on a Recognized Obligation Payment Schedules.

- (2) A statement of the balance in the fund as of the close of the fiscal year, distinguishing any amounts held for items listed on the Recognized Obligation Payment Schedule from other amounts.

Response:

Since this section does not define what "balance" is required, the fund balances present in the Low and Moderate Income Housing Asset Fund of the Montclair Housing Authority and the fund balance of the Montclair Housing Corporation are presented and detailed into their component amounts. Those balance and amounts are as follows as of June 30, 2014:

	Housing Authority	Housing Corporation	Total
Fund Balance	\$ 20,385,220.51	\$ (3,267,423.00)	\$ 17,117,797.51
Components of Fund Balance:			
Nonspendable - Due from Housing Corporation	\$ 5,358,771.61	\$ -	\$ 5,358,771.61
Nonspendable - Residential Real Estate	12,141,000.00	-	12,141,000.00
Nonspendable - Residual Receipt Loan Receivable	2,599,907.72	-	2,599,907.72
Unassigned	285,541.18	(3,267,423.00)	(2,981,881.82)
	<u>\$ 20,385,220.51</u>	<u>\$ (3,267,423.00)</u>	<u>\$ 17,117,797.51</u>

- (3) A description of expenditures from the fund by category, including, but not limited to, expenditures (A) for monitoring and preserving the long-term affordability of units subject to affordability restrictions or covenants entered into by the redevelopment agency or the housing successor and administering the activities described in paragraphs (2) and (3) of subdivision (a), (B) for homeless prevention and rapid rehousing services for the development of housing described in paragraph (2) of subdivision (a), and (C) for the development of housing pursuant to paragraph (3) of subdivision (a).

Response:

Total expenditures for fiscal year 2013-14 by category were as follows:

	Housing Authority	Corporation	Total
Expenditures:			
Administrative costs	\$ -	\$ 333,419.46	\$ 333,419.46
Legal costs	895.64	82.25	977.89
Insurance	-	28,458.02	28,458.02
Management service company costs	-	282,973.86	282,973.86
Repairs and maintenance	-	496,776.84	496,776.84
Property taxes	314,511.81	-	314,511.81
Other professional services	-	1,250.00	1,250.00
Total	<u>\$ 315,407.45</u>	<u>\$ 1,142,960.43</u>	<u>\$ 1,458,367.88</u>

Operations of the multifamily residential units owned by the Montclair Housing Authority (Successor Housing Entity) is done by the Montclair Housing Corporation a separate 501(c)(3) nonprofit corporation. As such, the Montclair Housing Authority has not directly incurred any expenditures for monitoring or administering affordability restrictions or covenants as these are done by the Montclair Housing Corporation as part of administering and preserving those properties. All properties owned by the Housing Authority have 55 year deed restrictions present for low and moderate income housing purposes.

- (4) As described in paragraph (1) of subdivision (a), the statutory value of real property owned by the housing successor, the value of loans and grants receivable, and the sum of these two amounts.

Response:

The statutory values of real property, loans and grants receivable at June 30, 2014 were as follows:

	Housing Authority
Real property	\$ 12,141,000.00
Loans receivable - Montclair Housing Corporation	5,358,771.61
Residual receipt loans receivable	11,643,396.27
Total Real Property and Receivables	<u>\$ 29,143,167.88</u>

- (5) A description of any transfers made pursuant to paragraph (2) of subdivision (c) in the previous fiscal year and, if still unencumbered, in earlier fiscal years and a description of and status update on any project for which transferred funds have been or will be expended if that project has not yet been placed in service.

Response:

No transfers of monies have been done by the Montclair Housing Authority or from the Montclair Housing Corporation from the time the dissolution act was implemented (February 1, 2012) through June 30, 2014.

- (6) A description of any project for which the housing successor receives or holds property tax revenue pursuant to the Recognized Obligation Payment Schedule and the status of that project.

Response:

The Montclair Housing Authority and the Montclair Housing Corporation receive no property tax revenues. Neither of these entities have received nor currently holds any tax revenues pursuant to a Recognized Obligation Payment Schedule.

- (7) For interests in real property acquired by the former redevelopment agency prior to February 1, 2012, a status update on compliance with Section 33334.16. For interests in real property acquired on or after February 1, 2012, a status update on the project.

Response:

Section 33334.16 of the Health and Safety Code generally requires that for each interest in real property acquired by a redevelopment agency with Low to Moderate Income Housing Fund monies, a redevelopment agency must begin the development or rehabilitation of the property within five years from the date of acquisition. In the case of the former City of Montclair Redevelopment Agency, all properties acquired by the former Redevelopment Agency have been (or are in process of being) rehabilitated or sold for new housing development. The narrative below provides an update on the status of the units and/or property owned by the former City of Montclair Redevelopment Agency upon redevelopment agency dissolution in February 2012.

The former City of Montclair Redevelopment Agency was the owner of 98 units of affordable housing. One of the units is still in the process of being rehabilitated. The housing units were purchased and rehabilitated by the former Redevelopment Agency with Low-and Moderate-Income Housing Funds. The 98 units contain 55 year deed restrictions for affordability; approximately 80 percent of the units are deed restricted for very low income families; and over 300 people currently reside in these units.

On April 4, 2011, the Redevelopment Agency Board of Directors and the Montclair Housing Corporation Board of Directors approved the sale of 98 housing units to the Montclair Housing Corporation with the approval of Redevelopment Agency Special Counsel. The properties were sold by the Redevelopment Agency to the Montclair Housing Corporation for approximately \$12 million with the provision that all loan payments would be forgiven as long as the properties remained affordable housing subject to 55-year affordability covenants. The Montclair Housing Corporation was established in June 1994 to maintain and manage certain rental properties that the former Redevelopment Agency purchased and rehabilitated for the purpose of providing affordable housing with Low- and Moderate-Income Housing Funds to meet Health and Safety Code Inclusionary requirements. The City Council acts as the Board of Directors for the Montclair Housing Corporation.

While auditing the former City of Montclair Redevelopment Agency, the State Controller never questioned the validity of the asset transfer to the Montclair Housing Corporation. However, upon issuance of its draft Report in November 2012, the Controller's Office indicated that the housing units transferred to the Montclair Corporation should be returned to the Successor Agency. Successor Agency staff responded to the State Controller's conclusion indicating that the 98 units were existing units of affordable housing containing over 300 tenants. In addition, all the units contain 55 year affordability covenants. The State Controller's staff verbally communicated to Successor Agency staff saying that the units could be retained by the Montclair Housing Corporation upon adoption of a Resolution affirming such action by the Oversight Board. The Oversight Board approved Resolution No. 13-02 approving the transfer of the housing units to the Montclair

Housing Corporation on January 23, 2013. The Final Report issued by the State Controller's Office dated March 6, 2013 indicated the Oversight Board had authorized the property transfer and no further action was necessary.

After receipt and review of Resolution No. 13-02 by the Department of Finance (DOF) a letter was received from DOF on May 15, 2013 disallowing the transfer of the 98 housing units to the Montclair Housing Corporation. The action by DOF indicated no "Meet and Confer" on this action was authorized. The letter from DOF did remand the action back to the Oversight Board for consideration. Successor Agency staff verbally communicated with DOF where it was indicated that the housing assets in question should be placed on the Long Range Property Management Plan. It should be noted that DOF did not question the placement of these 98 housing units as assets on the Housing Asset Transfer list submitted by the Successor Agency and Oversight Board in July 2012. As directed by DOF, staff included the housing units in the first draft of the Long Range Property Management Plan.

After conference with legal counsel, Successor Agency staff submitted Resolution No. 13-10 to the Oversight Board for consideration. This resolution directed the Successor Agency to transfer the 98 units of rental housing to the Montclair Housing Authority (Successor Housing Agency) as housing assets. On September 11, 2013, the Oversight Board adopted Resolution No. 13-10 directing the Successor Agency to transfer the 98 low--and moderate-income housing units to the Montclair Housing Authority. On September 18, 2013, DOF Analyst Hanzhao Meng pulled Resolution No. 13-10 for review.

The Successor Agency to the City of Montclair Redevelopment Agency was finally allowed to delete the 98 units of low-to moderate-income housing (**Housing Assets**) in the Long- Range Property Management Plan that were held by the Montclair Housing Corporation. Per direction from DOF, pursuant to DOF Determination on OB Resolution No. 13-10 dated December 13, 2013, the transfer of the 98 units to the Montclair Housing Authority was approved.

Of the 98 units, the only unit requiring rehabilitation at the time of dissolution was the property at 5444 Palo Verde Street purchased prior to dissolution in 2011. Since its acquisition, this property has undergone extensive rehabilitation to clear trees and overgrown vegetation and to correct a variety of building code violations. The remaining items to be performed on the unit include replacement of broken windows and painting the exterior of the house.

The other property owned by the former Redevelopment Agency upon dissolution was located at 4113 Kingsley Street. The .47-acre property was acquired by the former Redevelopment Agency on January 20, 2009. The purchase price for the property was \$330,000. The property was acquired with Low to Moderate Income Housing Funds. At the time the property was acquired, staff held preliminary discussions with National CORE to determine its interest in considering the site for special needs housing. Development of a Special Needs Housing project was of interest to National CORE. National CORE developed similar projects in the past and has partnered with nonprofit social service providers regarding tenancy and social service needs. The proposed location for the National CORE Special Needs project lies directly east of Vista Del Cielo on the southwest corner of Kingsley Street and Pradera Avenue. This site also serves as an entry corner for the Montclair Meadows Foundation Area and the San Antonio Vista Apartments. On September 8, 2009, the Redevelopment Agency Board of Directors approved an Exclusive Right to Negotiate Agreement between the City of Montclair Redevelopment Agency and National CORE regarding the 4113 Kingsley Street site. Through the Exclusive Right to Negotiate Agreement, the Redevelopment Agency Low and Moderate Income Housing Fund provided National CORE with a predevelopment loan of approximately \$252,000. These funds were used to develop building plans for the property and to gain City entitlements. The project was entitled by the Planning Commission on March 14, 2011.

An Option Agreement regarding purchase of 4113 Kingsley Street was approved by the Redevelopment Agency Board of Directors and National CORE on October 19, 2009. The Option Agreement provided National CORE with the ability to apply for United States Department of Housing and Urban Development (HUD) Section 811 funding to finance the development of affordable housing for developmentally disabled

persons. The Option Agreement also committed that the Redevelopment Agency Board of Directors would consider providing National CORE with a residual receipts loan of at least \$1.6 million. National CORE received a commitment for funding from the Section 811 program in 2010. However, National CORE still found itself in need of additional funding for the project and sought to apply for the California 9 Percent Low-Income Housing Tax Credit (LIHTC) program. Therefore, on December 30, 2010, the Option Agreement with National CORE was extended until December 30, 2012.

National CORE was successful at receiving 9 Percent LIHTC and with the HUD Section 811 funding, National CORE was ready to finance the 18-unit Special Needs Housing Project for persons with developmental disabilities for several months. National CORE wrote a letter to the Successor Agency seeking to exercise the option for acquisition of the property. In addition, without an open escrow for the site, National CORE would be in danger of losing its commitment for HUD financing.

A public hearing to consider the Disposition and Development Agreement (DDA) with National CORE regarding the Special Needs Housing Project at 4113 Kingsley Street was set to be considered by the Redevelopment Agency Board of Directors and City Council on July 5, 2011. Unfortunately, Governor Brown signed the redevelopment dissolution legislation, AB 1X 26, on June 27, 2011. Therefore, the Redevelopment Agency Board of Directors and City Council were not able to approve the DDA with National CORE and the 4113 Kingsley Street property returned to its state as an unimproved asset of the redevelopment agency.

With the official dissolution of redevelopment agencies on February 1, 2012, the City of Montclair formed the Montclair Housing Authority to assume responsibility for former redevelopment agency housing assets. The City became the successor agency for former redevelopment agency's nonhousing assets. Successor Agency Special Counsel opined that housing assets should be transferred to the housing successor agency by matter of law so a grant deed was not recorded to commemorate the transfer.

With the adoption of AB 1484 on June 27, 2012, the housing assets of each former redevelopment agency were to be listed on a Housing Asset Transfer form and submitted to the Department of Finance (DOF) for approval. The submittal of the Housing Asset Transfer form to DOF had to be completed by August 1, 2012. The Housing Asset Transfer form for the former City of Montclair Redevelopment Agency included the property located at 4113 Kingsley Street. The Housing Asset Transfer form listed this property as a site to be used for an affordable Special Needs Housing project having a valid Option to Purchase Agreement by National CORE. In addition, the Oversight Board approved the Housing Asset Transfer form on July 25, 2012 and adopted Resolution No. 12-11 approving the transfer of housing assets to the Montclair Housing Authority.

On August 25, 2012, the DOF made the determination that the 4113 Kingsley Street property was not a housing asset. Successor Agency staff submitted a Request to "Meet and Confer" regarding this matter on September 13, 2012. The "Meet and Confer" with DOF was conducted on November 21, 2012. Representatives from National CORE and the Successor Agency staff presented the background regarding the property and discussed the lawsuit that would ensue if DOF maintained its position that 4113 Kingsley Street was not a housing asset. Finally, on December 21, 2012 DOF issued a letter reversing the determination that 4113 Kingsley Street was a nonhousing asset.

The Successor Agency Board of Directors approved the transfer of the 4113 Kingsley Street property to the Montclair Housing Authority with a grant deed on January 22, 2013. The Montclair Housing Authority also approved a Purchase and Sale Agreement to National CORE on January 22, 2013 so that National CORE's grant of HUD 811 financing could be preserved. The Montclair Housing Authority approved a Disposition and Development Agreement with National CORE on February 2, 2013, more fully detailing the terms of the purchase agreement between the Montclair Housing Authority and National CORE. The Montclair Housing Authority was not able to provide the \$1.6 million in assistance previously committed by the Redevelopment Agency. National CORE took possession of the property in early 2013. The 18-unit project was completed and occupied by spring of 2014. National CORE named the Montclair Special Needs Housing Project "San

Emi." Subsequent to financing the San Emi Special Needs Housing Project, HUD discontinued the HUD 811 program. San Emi may be the last HUD project constructed with this funding source.

Adults residing in the San Emi Special Needs Housing project need to have the capacity and ability for independent living. However, these proposed residents have the need for special services. Therefore, the Special Needs Housing project is operated slightly differently than the other National CORE Housing Projects (the San Marino Senior Apartments, the San Antonio Vista Apartment Project, or the Vista Del Cielo Apartment Project). The difference in operation is reflected in social service delivery. While all the other National CORE projects have community, recreational, or educational programs, the San Emi Special Needs Housing project has a social service provider that monitors and follows up on the needs of the resident population.

The nonprofit social service provider for the San Emi Project selected by National CORE is United Cerebral Palsy of Los Angeles. United Cerebral Palsy of Los Angeles is experienced in operating special needs housing for the developmentally disabled. This organization currently services 11 independent living apartments and 25 community-based homes to help address affordable and accessible housing in Los Angeles, Orange, and Santa Barbara counties. The Montclair Special Needs Housing project is the first project served by United Cerebral Palsy of Los Angeles in San Bernardino County.

- (8) A description of any outstanding obligations pursuant to Section 33413 that remained to transfer to the housing successor on February 1, 2012, of the housing successor's progress in meeting those obligations, and of the housing successor's plans to meet unmet obligations. In addition, the housing successor shall include in the report posted on its Internet Web site the implementation plans of the former redevelopment agency.

Response:

The only obligations which remained to be transferred to the housing successor as of February 1, 2012 pursuant to Section 33413 were those units and property detailed in Question 7 above. As stated, all units and property have been transferred and land at 4113 Kingsley Street has been developed for affordable housing. All units transferred or developed are used to satisfy Section 33413 requirements.

As of February 1, 2012 all of the Redevelopment Agency's 33413 objectives were satisfied and an excess of 56 affordable units were produced. During the Great Recession, there was no housing production to cause an increase in the 33413 inclusionary requirements. During the 2013-14 fiscal year, housing production did resume. However, no housing projects were fully complete to add to existing 33413 obligations.

With the completion of the San Emi Special Needs Housing Project in 2014, the Housing Successor currently has 73 units of deed restricted affordable housing in excess of current Section 33413 production requirements. At the present time, the Housing Successor and Housing Corporation have \$285,541.18 and \$2,134,499.32 in cash, respectively. While these resources could be used for increasing the supply of affordable housing, it should be noted that these entities are responsible for the long term maintenance of 98 existing affordable units. These amounts would be needed to cover costs for major repairs associated with those units because rental of the majority of the units to very low income households does not create excess cash flow for long term maintenance items. Without a permanent revenue source, such as existed with the Low and Moderate Income Housing Fund, these entities will have a difficult time of increasing production of affordable housing.

Implementation Plans shall be posted on the Internet Web site.

- (9) The information required by subparagraph (B) of paragraph (3) of subdivision (a).

Response:

The Housing Authority interprets this requirement as follows:

(B) If the housing successor fails to comply with the extremely low income requirement in any five-year report, then the housing successor shall ensure that at least 50 percent of these remaining funds expended in each fiscal year following the latest fiscal year following the report are expended for the development of rental housing affordable to, and occupied by, households earning 30 percent or less of the area median

income until the housing successor demonstrates compliance with the extremely low income requirement in an annual report described in subdivision (f).

Section 34176.1 of the Health and Safety Code became effective January 1, 2014. The Montclair Housing Authority had no clear direction from DOF on the status of the 98 units of affordable housing owned by the former Redevelopment Agency until December 13, 2013. Furthermore, the Successor Housing Agency is limited to approximately \$280,000 in cash. This source of income is non-reoccurring. The only additional source of funding for the Montclair Housing Authority will be made available through the repayment of residual receipts loans. Residual receipts loans were made to National CORE and Augusta Homes. Residual receipts income is only derived when income exceeds expenses from maintenance, operations, and payment to creditors in a first position. Thus, residual receipts loans do not constitute a steady income stream. Therefore, as indicated in Question 8 above, future project revenue to advance new affordable housing projects is dubious.

The San Emi Special Needs Housing Project was completed in the 2013-14 fiscal year, 17 units of affordable deed restricted housing were created. Eight of the 17 units (47 percent) are provided to persons or families earning 30 percent or less of the area median income. Presuming the provisions of Section 34176.1 (a)(3)(A) begin on January 1, 2014, the Montclair Housing Authority complies with this Section.

- (10) The percentage of units of deed-restricted rental housing restricted to seniors and assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the same time period.

Response:

The following affordable deed restricted rental housing units have been assisted by the City of Montclair Redevelopment Agency or Montclair Housing Authority within the last 10 years:

- San Antonio Vista Family Apartments-74 units
- San Marino Senior Apartments-84 units
- Vista del Cielo Family Apartments-49 units
- Dominguez Project-2 units
- Montclair Housing Corporation-2 units
- San Emi Special Needs Apartments-17 units

The City of Montclair Redevelopment Agency or the Montclair Housing Authority assisted 228 affordable deed restricted rental housing projects in the last 10 years. Eighty four of the 228 rental units or approximately 38 percent of the units were, therefore, deed restricted for use by qualifying senior renters. The percentage of restricted senior units falls below 50 percent of the deed restricted units.

- (11) The amount of any excess surplus, the amount of time that the successor agency has had excess surplus, and the housing successor's plan for eliminating the excess surplus.

Response:

When the City of Montclair Redevelopment Agency was eliminated there was no excess surplus. Because all available amounts, since that point in time, have been distributed to the taxing entities through the Low and Moderate Housing Due Diligence Review and subsequent payment by the Successor Agency, there presently exists no carryover of excess surplus. Because the Montclair Housing Authority (Successor Housing Entity) receives no property taxes, excess surplus provisions do not apply.

AGENDA REPORT

SUBJECT: CONSIDER MONTCLAIR HOUSING
AUTHORITY COMMISSIONERS' REVIEW
AND ACCEPTANCE OF THE ANNUAL
REPORT FOR FISCAL YEAR 2013-14

DATE: December 15, 2014

SECTION: ADMIN. REPORTS

ITEM NO.: 11

FILE I.D.: MHA030

DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority (MHA) is required to conduct an annual meeting in December to report its activities for the preceding fiscal year.

A copy of the MHA Annual Report for Fiscal Year 2013-14 is attached for the MHA Commissioners' consideration.

BACKGROUND: The Montclair Housing Authority was created by the City Council on July 18, 2011, as a tool to safeguard the existing housing assets of the former Montclair Redevelopment Agency. The City Council designated itself Commissioners of MHA and designated certain City officials to serve as officers of MHA. The City Manager is the Executive Director of MHA.

The MHA financial statements for the Fiscal Year ending June 30, 2014, are included in the MHA Annual Report for Fiscal Year 2013-14. Total assets for MHA are \$14,960,531. The balance includes the value of the real property owned by MHA, moneys due from the Montclair Housing Corporation for loans originally made by the former Redevelopment Agency, and Residual Loan Receivables. A residual receipt is the repayment of moneys borrowed from the former Montclair Redevelopment Agency to carry out a variety of housing programs.

FISCAL IMPACT: There would be no cost associated with the MHA Commissioners' acceptance of the Annual Report.

RECOMMENDATION: The Montclair Housing Authority Commissioners is requested to review and accept the Montclair Housing Authority Annual Report for Fiscal Year 2013-14.

Prepared by: Christine S. Waldwell Reviewed and Approved by: M. STRATS
Proofed by: Yvonne L. Smith Presented by: [Signature]

**Montclair Housing Authority
Annual Report
Fiscal Year 2013-14**

Montclair Housing Authority

Paul M. Eaton, Chair
Bill Ruh, Vice Chair
Leonard Paulitz, Commissioner
Carolyn Raft, Commissioner
J. John Dutrey, Commissioner

Officers

Edward C. Starr, Executive Director
Marilyn J. Staats, Assistant Executive Director
Donald L. Parker, Finance Officer
Yvonne M. Smith, Housing Authority Secretary

In accordance with Section 34328 of the Health and Safety Code of the State of California, below are financial statements for the Montclair Housing Authority (Success Housing Entity for the City of Montclair Redevelopment Agency) for the Fiscal Year Ended June 30, 2014:

Balance Sheet
For the Year Ended June 30, 2014

Assets

Cash in Bank	\$ 285,541
Due from Montclair Housing Corporation	5,358,772
Residual Receipt Loan Receivable	2,599,908
Land and Multifamily Housings Units	<u>6,716,310</u>
 Total Assets	 <u><u>\$ 14,960,531</u></u>

Fund Balance

Nonspendable - Unavailable	\$ 14,674,990
Restricted to Housing	<u>285,541</u>
 Total Fund Balance	 <u><u>\$ 14,960,531</u></u>

**Statement of Revenues, Expenditures
and Changes in Fund Balance**
For the Year Ended June 30, 2014

Revenues

Loan Repayments	<u>\$ 106,163</u>
 Total Revenues	 <u>106,163</u>

Expenditures

Legal Costs	896
Property Costs	<u>314,512</u>
 Total Expenditures	 <u>315,408</u>

Excess of Revenues Over (Under) Expenditures (209,245)

Other Financing Sources (Uses)

Contributions From Successor Agency	<u>6,716,310</u>
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Excess of Revenues and Other Sources
Over (Under) Expenditures and Other Uses 6,507,065

Fund Balances

Beginning of Fiscal Year	<u>8,453,466</u>
 End of Fiscal Year	 <u><u>\$ 14,960,531</u></u>

MONTCLAIR HOUSING AUTHORITY REAL PROPERTY HOLDINGS

Multifamily properties

1. 4811 and 4820 Canoga Street (28 units)
2. 4791 Canoga Street (4 units)
3. 10333 Pradera Avenue (4 units)
4. 10380 Pradera Avenue (4 units)
5. 10390 Pradera Avenue (4 units)
6. 4275 Kingsley Street (4 units)
7. 10313 Amherst Avenue (4 units)
8. 10323 Amherst Avenue (4 units)
9. 10333 Amherst Avenue (4 units)
10. 10383 Amherst Avenue (4 units)
11. 10330 Amherst Avenue (4 units)
12. 10380 Amherst Avenue (4 units)
13. 10390 Amherst Avenue (4 units)
14. 10410 Amherst Avenue (4 units)

Single-family properties

15. 10079 Central Avenue
16. 10087 Central Avenue
17. 9815 Central Avenue
18. 5290 Orchard Street
19. 10215 Central Avenue
20. 10235 Central Avenue
21. 9741 Central Avenue
22. 9751 Central Avenue
23. 9761 Central Avenue
24. 9644 Central Avenue
25. 9945 Central Avenue
26. 9963 Central Avenue
27. 5225 Palo Verde Street
28. 9448 Carrillo Avenue
29. 10291 Greenwood Avenue
30. 9010 Fremont Avenue
31. 5444 Palo Verde Street

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING
OF ALCOHOLIC BEVERAGE PERMIT
APPLICATION - 7-ELEVEN® STORE,
5301 HOLT BOULEVARD

DATE: December 15, 2014

SECTION: ADMIN. REPORTS

ITEM NO.: 12

FILE I.D.: FLP025

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: Applications for Alcoholic Beverage Licenses are routinely presented to the City Council for review.

BACKGROUND: DNH Enterprises, the franchise owner of the 7-Eleven® located at 5301 Holt Boulevard, has submitted in application to the California Department of Alcoholic Beverage Control (ABC) to have the existing Type 20 - "Off Sale Beer and Wine" license upgraded to a Type 21 - "Off-Sale General" license allowing the sale of beer, wine, and distilled spirits for consumption off the premises from the approved convenience market.

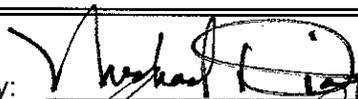
A Conditional Use Permit (CUP) was approved under Case No. 2012-15, which allowed for a Type 20 ABC license in conjunction with the operation of the convenience market. On January 27, 2014, the Planning Commission approved an amendment to the CUP (Case No. 2012-15 'A') allowing the upgrade of the ABC License from Type 20 to Type 21.

A time extension related to this matter was subsequently approved on July 14, 2014, extending the expiration date of the amended approval to January 15, 2015. In November 2014, the applicant submitted an application to ABC for the license upgrade in advance of the aforementioned expiration date. As such, the Planning Division has deemed the applicant to be in compliance with the approved time extension; and no further review from the City is required. The applicant continues to be responsible for ongoing compliance with the conditions of approval of the CUP and ABC requirements.

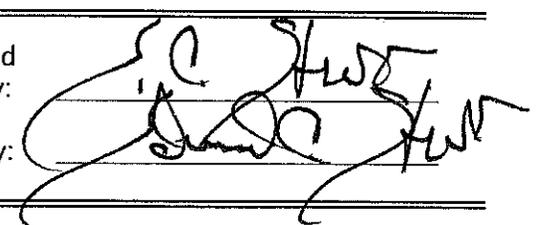
FISCAL IMPACT: There would be no fiscal impact to the City's General Fund by the City Council's receiving and filing the subject application.

RECOMMENDATION: Staff recommends the City Council receive and file this item.

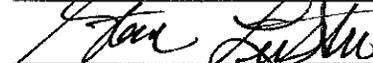
Prepared by:



Reviewed and
Approved by:



Proofed by:



Presented by:

AGENDA REPORT

SUBJECT: CONSIDER AMENDING THE FISCAL YEARS 2013-2018 CAPITAL IMPROVEMENT PROGRAM ADDING THE BENSON AVENUE CUL-DE-SAC CLOSURE PROJECT

CONSIDER AUTHORIZATION OF A \$15,000 APPROPRIATION FROM THE GAS TAX FUND FOR DESIGN WORK RELATED TO THE BENSON AVENUE CUL-DE-SAC CLOSURE PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 14-101 WITH ANDREASEN ENGINEERING, INC., FOR DESIGN WORK RELATED TO THE BENSON AVENUE CUL-DE-SAC CLOSURE PROJECT

CONSIDER AUTHORIZATION TO ADVERTISE THE BENSON AVENUE CUL-DE-SAC CLOSURE PROJECT

DATE: December 15, 2014

SECTION: AGREEMENTS

ITEM NO.: 1

FILE I.D.: STA660

DEPT.: PUBLIC WORKS

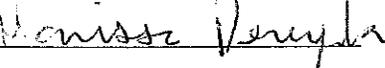
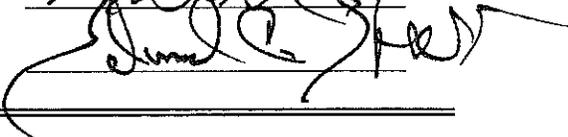
REASON FOR CONSIDERATION: Amendments to the City's Capital Improvement Program (CIP) require City Council approval.

BACKGROUND: Over the past few years, staff has been contacted by residents living in the 5600 block of both Deodar Street and Caroline Street about closing pedestrian access on these cul-de-sacs to Benson Avenue. The two streets both dead end with a cul-de-sac at Benson Avenue but, as originally designed, allow pedestrian access back and forth to Benson Avenue. Residents complain of nonresident pedestrian traffic through the access points as well as vandalism and burglaries.

The closure request was addressed by the Public Works Committee at its meeting on October 27, 2011. The Committee's decision at the time was that if the residents wanted pedestrian access closed to the subject cul-de-sacs, they would have to contribute the funds necessary for the closure. At the time, none of the residents were willing to do so. There was no follow-up by either the residents or staff. On June 19, 2014, the issue was again brought to the Public Works Committee. Several residents expressed their concern for safety following a freeway police pursuit where the suspect eventually fled on foot and entered their neighborhood from Benson Avenue. The residents have also reported several auto burglaries in the neighborhood in which property taken from the vehicles was dumped between their property walls and the Benson Avenue landscape.

Direction was given by the Public Works Committee to investigate the claims and report back to the Committee.

Prepared by:  Reviewed and Approved by: 

Proofed by:  Presented by: 

Public Works Director/City Engineer Hudson prepared a petition that was given to the 12 residents who live at the end of the cul-de-sac on Deodar Street and Caroline Street. Public Works Director/City Engineer Hudson received 11 out of 12 signed petitions back with each one of the residents responding that they would like the access closed. The only resident who did not respond to the petition was at the Public Works Committee meeting, and she indicated she did not respond because she wanted more information on what was being proposed and whether she was going to have to pay for anything. Once it was explained further, the resident had no objection to the closure.

Staff has considered several options for closing the ten-foot gap in the otherwise continuous wall along Benson Avenue. The cheapest alternative would be to install fencing across this gap. At a slightly higher cost, walls could be installed. Either option could be completed for under \$5,000. However, the walls approaching the gaps are less than four feet in height, requiring little effort to jump over. To be truly effective in restricting access, the wall needs to be at least five feet in height. The wall height could be increased by adding additional block or iron fencing. Staff has discussed the additional block with a contractor and an engineer. Both recommend against this option based on a lack of knowledge as to the footing adequacy of the existing wall. Staff also does not support adding iron fencing to the top of the wall to increase its height based on both appearance and the fact that the fence would offer a point where those wanting to scale the wall can grab to vault the wall/fence.

The only remaining option is to remove and reconstruct the lower sections of the wall. This additional height requires removal and replacement of existing walls within front-yard setbacks of the four houses at the end of Deodar and Caroline Streets. The wall was constructed within Benson Avenue right-of-way in the early 1960s as a City project and is, therefore, owned by the City.

FISCAL IMPACT: Staff has received a proposal from Andreasen Engineering of Pomona for the design of a new wall to replace the short wall and close off pedestrian access from Deodar and Caroline Streets to Benson Avenue. The cost for design, preparation of bid documents, plan reproduction, and advertising is not expected to exceed \$15,000. The extent of wall reconstruction cannot be determined until after the design has started and the extent of wall removal/replacement is known. At this time, the construction cost estimate is \$35,000. Staff will make a request of Council at a later date related to the additional funding for construction.

RECOMMENDATION: Staff recommends the City Council take the following actions: related to the Benson Avenue Cul-De-Sac Closure Project:

1. Amend the fiscal years 2013-2018 Capital Improvement Program by adding the project.
2. Authorize a \$15,000 appropriation from the Gas Tax fund for project design work.
3. Approve Agreement No. 14-101 with Andreasen Engineering, Inc., for project design work.
4. Authorize staff to advertise the project.

Infrastructure Fund Capital Project Funding Information

Project Name: Benson Avenue Cul de sac Closure Project
 Project Details: This project will close pedestrian access from Caroline Street and Deodar Street to Benson Avenue by reconstructing existing walls and adding new walls to the west side of Benson Avenue.

Preparation Date: November 26, 2014 Department: Public Works
 Project No. (Assigned by Finance): _____ Contact/Ext.: Steve Stanton 444

Phase	Prior Years	Fiscal Years					Total	Fund/Program
		2014/2015	2015/2016	2016/2017	2017/2018	2018/2019		
Environmental		0.00						
Design		10,000.00				10,000.00	1102-Gas Tax	
R/W Acquisition		0.00						
Advertising		5,000.00				5,000.00	1102-Gas Tax	
Construction			35,000.00			35,000.00	1102-Gas Tax	
Total		0.00	35,000.00	0.00	0.00	50,000.00	1102-Gas Tax	

Approvals: _____ By: *M. Ockle* Date: November 26, 2014
 Department: Public Works
 Finance By: _____ Date: _____
 City Council Date: _____
 Revision Number: _____
 Total Project Cost: \$50,000.00

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

BENSON AVENUE CUL-DE-SAC CLOSURE

THIS AGREEMENT is made and effective as of December 16, 2014, between the City of Montclair, a municipal corporation ("City") and Andreasen Engineering, Inc. a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on December 16, 2014 and shall remain and continue in effect for a period of 6 months until tasks described herein are completed, but in no event later than May 16, 2015, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

City's City Manager shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to be Performed or change the compensation due to Consultant. City's City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Tasks to be Performed or change Consultant's compensation, subject to Section 6 hereof.

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed \$8860 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Nine Thousand Seven Hundred and Forty Six Dollars (\$9,746). Any additional work in excess of this amount shall be approved by the City Council.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant on a pro-rata basis the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 6(c).

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this

Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs

to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

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

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

10. INSURANCE

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

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

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

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

(d) At all times during the term of this Agreement, Consultant shall maintain on file with City a certificate of insurance, in a form acceptable to City showing that the aforesaid policies are in effect in the required amounts. The general liability and automobile policies shall contain or be endorsed to contain a provision including the Indemnified Parties as additional insureds. Consultant shall promptly file with City such certificate or certificates and endorsements if applicable. Coverage for the additional insureds shall apply to the fullest extent permitted by law. Additional Insured Endorsements shall not:

- (1) Exclude "Contractual Liability"
- (2) Restrict coverage to the "Sole" liability of Consultant
- (3) Exclude "Third-Party-Over Actions"
- (4) Contain any other exclusion contrary to the Contract

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City of Montclair in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City of Montclair will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the

award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

property in the City or the study area prior to the completion of the work under this Agreement.

16. NOTICES

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

To City: Michael C. Hudson
City Engineer
City of Montclair
5111 Benito
Montclair, CA 91763

To Consultant: Andreasen Engineering, Inc.
580 North Park Avenue
Pomona, Calif. 91768

17. ASSIGNMENT

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

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF REQUEST FOR PROPOSALS

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

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement and any application of the terms shall remain valid and enforceable under this Agreement or California law.

25. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on

behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

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

CITY OF MONTCLAIR

By: _____
Mayor

Attest:

By: _____
City Clerk

Approved as to Form:

By: _____
City Attorney

CONSULTANT

By: *[Signature]*
(Title)

By: *V.P. & Treasurer*
(Title)



ANDREASEN ENGINEERING, INC.

Civil Engineering • Land Surveying • Municipal Engineering

EXHIBIT A

November 19, 2014

**CITY OF MONTCLAIR
ENGINEERING DEPARTMENT**
5111 Benito Street
Montclair, California 91763

Attention: Mr. Steve Stanton

**Reference: Request for Surveying and Design Proposal
Retaining Wall along Benson Avenue at Caroline and Deodar Streets**

In response to your request, Andreassen Engineering, Inc. is pleased to provide a proposal to perform Civil Engineering and Surveying services in accordance with the standards of general civil engineering practices for the above-mentioned project. Attached is our proposal that details the professional civil engineering and surveying services that we feel will be required of AEI to complete the requested scope of services.

We look forward to beginning work immediately on this project and bringing it to a successful completion. If you have any questions, or information, which could alter our Scope of Work, please call us at your convenience.

Respectfully Submitted:
ANDREASEN ENGINEERING, INC.


Eric J. Andreassen
Vice President

SCOPE OF SERVICES

1. **Topographical Elevation Survey**

In-house survey crew will provide spot elevations and topo features (plants, pcc, etc...) on both sides of the existing wall; to insure design of retaining wall footing is accurate and replacement of private property features.

2. **Construction Plan and Profile**

Office staff to prepare CMU construction plan and profile, to enable the construction of a new retaining wall with free standing wall on top of retaining, and indicate private party features to be removed or replaced.

3. **Structural Engineering**

Consulting Structural Engineer to prepare CMU wall calculations, material specifications and provide AEI with wall and footing details.

4. **Construction Staking**

In-house survey crew to set line and grade stakes for construction of wall footing in coordination with City awarded contractor.

Note: This proposal does not include book specifications, bid documents, construction observation or as-built drawings. If any additional items not in the above scope of services are required or requested, an Addendum to this proposal will be required.

BUDGETED NOT TO EXCEED FEE

The proposed services as identified in the Scope of Services will be provided on a Professional Basis, billed at our current hourly rate schedule, with a budgeted not to exceed fee for each task as described below:

<u>FINAL ENGINEERING SERVICES</u>	<u>FEE</u>
1. Topographical Elevation Survey	\$2,130
2. Construction Plan and Profile	\$3,800
3. Structural Engineering	\$ 800
4. Construction Staking	<u>\$2,130</u>

TOTAL NOT TO EXCEED FEE: \$8,860



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 14-103 WITH THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT TO RECEIVE APPROXIMATELY \$10,589 FROM THE FY2014 HOMELAND SECURITY GRANT PROGRAM

DATE: December 15, 2014

SECTION: AGREEMENTS

ITEM NO.: 2

FILE I.D.: GRT115

DEPT.: FIRE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 14-103 with the San Bernardino County Fire Protection District to receive approximately \$10,589 from the FY2014 Homeland Security Grant Program (HSGP).

A copy of proposed Agreement No. 14-103 is attached for the City Council's review and consideration.

BACKGROUND: The FY2014 HSGP plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community but, rather, require the combined effort of the whole community. The FY2014 HSGP supports core capabilities across the five mission areas of prevention, protection, mitigation, response, and recovery based on allowable costs. At a local government level, this grant program assists the City with first responder training.

FISCAL IMPACT: Should the City Council approve proposed Agreement No. 14-103, the City would receive approximately \$10,589 from the FY2014 HSGP for the City's Federal Fiscal Year 2014-15. The coordinating agency for this grant is the San Bernardino County Fire Protection District. HSGP funds are distributed to fire jurisdictions within San Bernardino County. Each jurisdiction is allocated a \$5,000 base with the remainder of the grant distributed on a per capita basis to each eligible jurisdiction. All eligible jurisdictions are required to purchase equipment in advance and are entitled to reimbursement for eligible costs through the grant program.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 14-103 with the San Bernardino County Fire Protection District to receive approximately \$10,589 from the FY2014 Homeland Security Grant Program.

Prepared by:

Marilyn J. Hall
Angie K. [Signature]

Reviewed and
Approved by:

Presented by:

[Signature]
[Signature]

**FY2014 Homeland Security Grant
Fire Jurisdiction's Allocations**

Scenario 3

Fire Jurisdictions	Population (POP)	Base	Percentage based on POP	Total District Allocation
Adelanto	31,289	\$ 5,000	\$ 4,687	\$ 9,687
Apple Valley	70,436	5,000	\$ 10,551	15,551
Arrow Bear	854	5,000	\$ 128	5,128
Barstow	23,168	5,000	\$ 3,470	8,470
Big Bear City	6,349	5,000	\$ 951	5,951
Big Bear Lake	5,111	5,000	\$ 766	5,766
Chino	79,873	5,000	\$ 11,964	16,964
Chino Hills	76,033	5,000	\$ 11,389	16,389
Colton	52,956	5,000	\$ 7,932	12,932
Crest Forest	17,754	5,000	\$ 2,659	7,659
Daggett	522	5,000	\$ 78	5,078
Fontana	200,974	5,000	\$ 30,104	35,104
Grand Terrace	12,270	5,000	\$ 1,838	6,838
Hesperia	91,400	5,000	\$ 13,691	18,691
Highland	53,926	5,000	\$ 8,078	13,078
Loma Linda	23,476	5,000	\$ 3,516	8,516
Montclair	37,311	5,000	\$ 5,589	10,589
Morongo	3,562	5,000	\$ 534	5,534
Mt. Baldy	523	5,000	\$ 78	5,078
Needles	4,912	5,000	\$ 736	5,736
Newberry Springs	2,337	5,000	\$ 350	5,350
Ontario	166,866	5,000	\$ 24,995	29,995
Rancho	171,058	5,000	\$ 25,623	30,623
Redlands	69,813	5,000	\$ 10,457	15,457
Rialto	101,275	5,000	\$ 15,170	20,170
Running Springs	4,531	5,000	\$ 679	5,679
San Bernardino	212,639	5,000	\$ 31,851	36,851
Twentynine Palms	26,084	5,000	\$ 3,907	8,907
Unincorporated/County Fire	258,459	5,000	\$ 38,715	43,715
Upland	74,907	5,000	\$ 11,220	16,220
Victorville	120,368	5,000	\$ 18,030	23,030
Yermo	1,659	5,000	\$ 249	5,249
Yucaipa	52,549	5,000	\$ 7,871	12,871
Yucca Valley	21,030	5,000	\$ 3,150	8,150
Total	2,076,274	\$ 170,000	\$ 311,006	\$ 481,006

**San Bernardino County Fire Protection District (SBCFPD)
 FY2014 Homeland Security Grant Program
 CFDA 97.067
 Sub-Recipient Agreement
 Grant No. 2014-00093**

Name of Applicant: City of Montclair - Fire
 Address: P.O. Box 2308
 City: Montclair State: CA Zip Code: 91763
 Telephone Number: (909) 447-3540 Fax Number: (909) 621-5261
 E-Mail Address: mhall@cityofmontclair.org

As the duly authorized representative of the applicant, I certify that the applicant named above:

1. Will assure that the Funding Opportunity Announcement for this program is hereby incorporated into your award agreement by reference. By accepting this award, the Sub-Recipient agrees that all allocations and use of funds under this grant will be in accordance with the requirements contained in the FY2014 Homeland Security Grant Program Funding Opportunity Announcement, the California Supplement to the FY2014 Homeland Security Grant Program Funding Opportunity Announcement, and all applicable laws and regulations.
2. All allocations and use of funds under this grant will be in accordance with the Allocations, and use of grant funding must support the goals and objectives included in the State and/or Urban Area Homeland Security Strategies as well as the investments identified in the Investment Justifications which were submitted as part of the California FY2014 Homeland Security Grant Program application. Further, use of FY2014 funds is limited to those investments included in the California FY2014 Investment Justifications submitted to DHS/FEMA and Cal OES and evaluated through the peer review process.
3. Understands that in the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, sub-recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate sub-recipient acceptance of the changes to the award. Please call the San Bernardino San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit at (909) 387-5931. Or via e-mail to: esampson@sbcfire.org.
4. Has the legal authority to apply for Federal assistance and has the institutional, managerial and financial capability to ensure proper planning, management and completion of the grant provided by the U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) and sub-granted through the State of California, California Governor's Office of Emergency Services (Cal OES).
5. **Will assure that grant funds are used for allowable, fair, and reasonable costs only and will not be transferred between grant programs (for example: State Homeland Security Program and Urban Area Security Initiative) or fiscal years.**
6. Will comply with any cost sharing commitments included in the FY2014 Investment Justifications submitted to DHS/FEMA/Cal OES, where applicable.

7. Will establish a proper accounting system in accordance with generally accepted accounting standards and awarding agency directives.
8. Will give the San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit, Cal OES and DHS/FEMA, through any authorized representatives, access to, and the right to examine, all paper or electronic records, books, and documents related to the FY14 HSGP grant award, and will permit access to its facilities, personnel and other individuals and information as may be necessary, as required by San Bernardino County Fire Protection District (SBCFPD), Cal OES and DHS/FEMA, through any authorized representative, with regard to examination of grant related records, accounts, documents, information and staff.
9. Agrees, and will require any sub-recipient, contractor, successor, transferee, and assignee to acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.
 - a. Sub-recipients must cooperate with any compliance review or complaint investigation conducted by DHS or Cal OES.
 - b. Sub-recipients must give San Bernardino County Fire Protection District (SBCFPD), DHS and Cal OES access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by San Bernardino County Fire Protection District (SBCFPD), DHS and Cal OES program guidance, requirements, and applicable laws.
 - c. Sub-recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance, and sub-recipients must submit timely, complete, and accurate reports to the appropriate San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit and maintain appropriate backup documentation to support the reports.
 - d. If, during the past three years, the Sub-Recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit to be sent to Cal OES/DHS Office of Civil Rights and Civil Liberties.
 - e. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the sub-recipient, or the sub-recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the San Bernardino County Fire Protection District (SBCFPD), Grant Administration Unit office.

The United States has the right to seek judicial enforcement of these obligations.

10. Will comply with any other special reporting, assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement, or detailed in the program guidance.
11. Agrees that funds utilized to establish or enhance State and Local fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines, follow the Federal and State approved privacy policies, and achieve (at a minimum) the baseline level of capability as defined by the Fusion Capability Planning Tool.

12. Understands that a hold is in place on Fusion Center activities and the applicant is prohibited from obligating, expending, or drawing down HSGP – UASI funds in support of their State and/or Major Urban Area Fusion Center. Cal OES will notify the San Bernardino County Fire Protection District (SBCFPD), Protection District in writing when DHS/FEMA has lifted the hold.
13. Will initiate and complete the work within the applicable timeframe (sub-grantee performance period), in accordance with grant award terms and requirements, after receipt of approval from San Bernardino County Fire Protection District (SBCFPD), and will maintain procedures to minimize the amount of time elapsing between the award of funds and the disbursement of funds.
14. Will provide timely, completed, accurate and maintain appropriate support documentation to support the reports, and other such information as may be required by the awarding agency.
15. Will provide timely notifications to San Bernardino County Fire Protection District (SBCFPD), of any developments that have a significant impact on award-supported activities, including changes to key program staff.
16. Agrees to be non-delinquent in the repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424B, item number 17 for additional information and guidance.
17. Will comply with the requirements of 31 U.S.C. § 3729, which set forth that no sub-grantee, recipient or sub-recipient of federal payments, shall submit a false claim for payment, reimbursement, or advance. Administrative remedies may be found in 38 U.S.C. §§ 3801-3812, addressing false claims and statements made.
18. Will comply with all applicable provisions of DHS/FEMA's regulations, including Title 44 of the Code of Federal Regulations, Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
19. Will comply with the Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"), which are also located found within DHS regulations at Title 44, Code of Federal Regulations (CFR) Part 13, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; will comply with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215.
20. Will comply with the financial and administrative requirements set forth in the current edition of the DHS Financial Management Guide; OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220; OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225; OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230; and OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as applicable.
21. Will comply with all provisions of the Federal Acquisition Regulations, including but not limited to Title 48 CFR Part 31.2, part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations.

22. Will comply with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
23. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes, or presents the appearance of, personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business, or other connections.
24. Understands and agrees that Federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval from DHS/FEMA and Cal OES.
25. Will comply with all applicable lobbying prohibitions and laws, including those found 31 U.S.C. § 1352., and agrees that none of the funds provided under this award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal of any Federal contract, grant, loan, or cooperative agreement.
26. Agrees that, to the extent contractors or subcontractors are utilized, will use small, minority-owned, women-owned, or disadvantaged businesses, to the extent practicable.
27. Will comply with Title 2 of the Code of Federal Regulations Part 225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority **may not be charged to other Federal awards** to overcome fund deficiencies.
28. **Will ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Sub-recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds.**
29. Will comply, if applicable, with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4801 et seq.), which prohibits the use of lead based paint in construction or rehabilitation of structures.
30. Will comply with all federal and state laws and regulations relating to civil rights protections and nondiscrimination. These include, but are not limited to:
 - a. Title VI of the Civil Rights Act of 1964, Public Law 88-352, (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 et seq.), which prohibits discrimination on the basis of gender in educational programs and activities. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.
 - c. The Americans with Disabilities Act, as amended, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § 12101 et seq.).
 - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.
 - e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.

- f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
 - g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. § 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
 - h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq., as implemented by 24 CFR Part 100), as amended, relating to nondiscrimination in the sale, rental and financing of housing.
 - i. Title 44 of the Code of Federal Regulations (CFR) Parts 7, 16, and 19 relating to nondiscrimination.
 - j. The requirements of any other nondiscrimination provisions in the specific statute(s) under which the application for Federal assistance is being made and any other applicable statutes.
 - k. The requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified individual with a disability in the United States will, solely by reason of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.
 - l. Will, in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds or race, color, religion, national origin, gender, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs.
 - m. Will provide an Equal Employment Opportunity Plan, if applicable, to the Department of Justice Office of Civil Rights within 60 days of grant award.
 - n. Will comply, and assure the compliance of all its sub-grantees and contractors, with the nondiscrimination requirements and all other provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1.
31. Will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq. [P.L. 91-646]), which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs. These requirements apply to all interested in real property acquired for project purposes regardless of Federal participation in purchases. Will also comply with Title 44 CFR, Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted programs.
32. Will comply with all provisions of DHS/FEMA's regulation 44 CFR Part 10, Environmental Considerations.
33. Will comply with all applicable Federal, State, and Local environmental and historical preservation (**EHP**) requirements. Failure to meet Federal, State, and Local **EHP** requirements and obtain applicable permits may jeopardize Federal funding. Agrees not to undertake any project having the potential to impact **EHP** resources without the prior written approval of DHS/FEMA and Cal OES, including, but not limited to, ground disturbance, construction, modification to any structure, physical security enhancements, communications towers, any structure over 50 years old, and purchase and/or use of any sonar equipment. The subgrantee must comply with all conditions and restrictions placed on the project as a result of the **EHP** review. Any construction-related activities initiated without the necessary **EHP** review and approval will result in a noncompliance finding, and may not be eligible for reimbursement with DHS/FEMA and Cal OES funding. Any change to the scope of work will require re-evaluation of compliance with the **EHP**. If ground-disturbing activities occur during the project implementation, the subgrantee must ensure monitoring of the disturbance. If any potential archeological resources are discovered, the subgrantee will immediately cease activity in that area and notify DHS/FEMA/ and Cal OES and the appropriate State Historic Preservation Office.

34. Any construction activities that have been initiated prior to the full environmental and historic preservation review could result in a non-compliance finding. Sub-grantees must complete the DHS/FEMA EHP Screening Form (OMB Number 1660-0115/FEMA Form 024-0-01) and submit it, with all supporting documentation, to San Bernardino County Fire Protection District (SBCFPD), Attention: Grants Administration Unit for reviewing. The San Bernardino County Fire Protection District (SBCFPD) will then submit to the Cal OES program representative to be processed by the DHS/FEMA GPD EHP.
35. Sub-recipients should submit the FEMA EHP Screening Form for each project as soon as possible to the San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit before starting their project. The Screening Form for these types of projects is available at: www.fema.gov/doc/government/grant/bulletins/info329_final_screening_memo.doc.
36. Will ensure that the facilities under its ownership, lease or supervision, which shall be utilized in the accomplishment of this project, are not on the Environmental Protection Agency's (EPAs) List of Violating Facilities, and will notify Cal OES and the DHS/FEMA of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating if a facility to be used in the project is under consideration for listing by the EPA.
37. Will provide any information requested by DHS/FEMA and Cal OES to ensure compliance with applicable laws including, but not limited to, the following:
- Institution of environmental quality control measures under the Archaeological and Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), and Environmental Justice (EO12898) and Environmental Quality (EO11514).
 - Notification of violating facilities pursuant to EO 11738.
 - Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451 et seq.).
 - Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523).
 - California Environmental Quality Act (CEQA), California Public Resources Code Sections 21080-21098, and California Code of Regulations, Title 14, Chapter 3 §§ 15000-15007.
 - Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
 - Applicable provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC § 3501 et seq.), which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.
38. Will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, § 8607.1(e) and CCR Title 19, §§ 2445, 2446, 2447, and 2448.
39. Agrees that sub-recipients collecting Personally Identifiable Information (PII) must have a publically-available privacy policy that describes what PII they collect, how they plan to use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Sub-recipients may also find DHS Privacy Impact Assessments, guidance and templates online at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf, respectively. Sub-recipients will be notified of the above requirements by SBCFPD if is necessary.

40. Agrees that all DHS/FEMA-funded project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, and approvals are obtained.
41. Will comply with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225(a), whereby all sub-grantees, recipients, and sub-recipients must ensure that all conference, meeting, convention, or training space, funded in whole or in part with Federal funds, complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. § 2225.
42. Will comply with the Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General Decision B138942.
43. Agrees that all publications created or published with funding under this grant shall prominently contain the following statement: ***"This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."*** The sub recipients and recipient also agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: ***"Purchased with funds provided by the U.S. Department of Homeland Security."***
44. Acknowledges that DHS/FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: a) the copyright in any work developed under an award or subaward; and b) any rights of copyright to which a recipient or sub-recipient purchases ownership with Federal support. The recipient must affix the applicable copyright notices of 17 U.S.C. section 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g. classified information or other information subject to national security or export control laws or regulations). The recipient and Sub-recipients agrees to consult with DHS/FEMA and Cal OES regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
45. Sub-recipients receiving Federal financial assistance to be used to perform eligible work approved in the submitted application for Federal assistance and after the receipt of Federal financial assistance, through the State of California, agree to the following:
 - a. Promptly return to the State of California all funds received which exceed the approved, actual expenditures as determined by the Federal or State government.
 - b. In the event the approved amount of the grant is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California.
 - c. Property and equipment purchased under the HSGP reverts to Cal OES if the grant funds are deobligated or disallowed and not promptly repaid.
 - d. HSGP funds used for the improvement of real property must be promptly repaid following deobligation or disallowment of costs, and Cal OES reserves the right to place a lien on the property for the amount owed.

Therefore, if any procurement with the HSGP grant funds is determined to be ineligible or inappropriate, the money must be returned to Cal OES. If a procurement was done incorrectly or if a

piece of equipment purchased was not on the AEL list, then that money must be returned because the item is not allowed.

46. Understands that sub-recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.
47. Will comply, if applicable, with the Laboratory Animal Welfare Act of 1966 (P. L. 89-544, as amended, 7 U.S.C. § 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
48. Will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 U.S.C. § 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.
49. Agrees that "Classified national security information," as defined in Executive Order (EO) 12958, as amended or updated via later executive order(s), means information that has been determined pursuant to EO 12958 to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form. No funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information if the award recipient or Sub-Recipient has not been approved for and granted access to such information by appropriate authorities.
50. Agrees that where an award Sub-Recipient has been approved for and has access to classified national security information, no funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information by the contractor, Sub-Recipient, or other entity without prior written approval from the DHS Office of Security, Industrial Security Program Branch (ISPB), or, an appropriate official within the Federal department or agency with whom the classified effort will be performed. Such contracts, subawards, or other agreements shall be processed and administered in accordance with the DHS "Standard Operating Procedures, Classified Contracting by States and Local Entities," dated July 7, 2008; EOs 12829, 12958, 12968, and other applicable executive orders; the National Industrial Security Program Operating Manual (NISPOM); and other applicable implementing directives or instructions. Security requirement documents may be located at: <http://www.dhs.gov/xopnbiz/grants/index.shtm>
51. Immediately upon determination by the award recipient that used funding under this award may be used to support a contract, subaward, or other agreement involving access to classified national security information pursuant to paragraph 47, and prior to execution of any actions to facilitate the acquisition of such a contract, subaward, or other agreement. For additional information the Sub-Recipient will need to contact San Bernardino County Fire Protection District (SBCFPD) and obtain approval and processing instructions.
52. Will comply with the requirements regarding Data Universal Numbering System (DUNS) numbers. If recipients are authorized to make subawards under this award, they must first notify potential sub-recipients that no entity may receive or make a subaward to any entity unless the entity has provided a DUNS number.

For purposes of this award term, the following definitions will apply:

- a. "Data Universal Numbering System (DUNS)" number means the nine digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number

may be obtained from D&B by telephone (currently 866-705-5711) or the Internet, currently at <http://fedgov.dnb.com/webform>.

- b. "Entity", as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C, as a Governmental organization, which is a State, local government, or Indian Tribe; or a foreign public entity; or a domestic or foreign nonprofit organization; or a domestic or foreign for-profit organization; or a Federal agency, but only as a Sub-Recipient under an award or subaward to a non-Federal entity.
 - c. "Subaward" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient, award to an eligible Sub-Recipient. It does not include your procurement of property and services needed to carry out the project or program (for further explanation, see section 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations") and may be provided through any legal agreement, including an agreement that you consider a contract.
 - d. "Sub-Recipient" means an entity that receives a subaward from you under this award, and is accountable to you for the use of the Federal funds provided by the subaward.
53. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. § 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for Federally-assisted construction sub-agreements.
54. Agrees that equipment acquired or obtained with grant funds:
- a. Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement, in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the applicant, and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan.
 - b. Is consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.
55. Will comply with Homeland Security Presidential Directive (HSPD)-5, Management of Domestic Incidents. The adoption of the National Incident Management System (NIMS) is a requirement to receive Federal preparedness assistance, through grants, contracts, and other activities. The NIMS provides a consistent nationwide template to enable all levels of government, tribal nations, nongovernmental organizations, and private sector partners to work together to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity.
56. Will comply with OMB Standard Form 424B Assurances – Non construction Programs, whereby the awarding agency may require sub-grantees and sub-recipients to certify to additional assurances.
57. Will not make any award or permit any award (subgrant or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension." As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 17, for prospective participants in primary covered transactions, the applicant will provide protection against waste, fraud and abuse, by debarring or suspending those persons deemed irresponsible in their dealings with the Federal government. Applicant certifies that it and its principals:
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency.

- b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and
 - d. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.
58. Will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
59. **Will obtain, via San Bernardino County Fire Protection District (SBCFPD), the prior approval from Cal OES on any use of the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.**
60. Will comply with the requirements of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. The Sub-Recipient must notify the San Bernardino County Fire Protection District (SBCFPD), if an employee of the Sub-Recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. These regulations are codified at 2 CFR 3001.
61. Will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007. In accordance with Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a Sub-Recipient engages in severe forms of trafficking in persons during the period of time that the award is in effect, procures a commercial sex act during the period of time that the award is in effect, or uses forced labor in the performance of the award or subawards under the award. Full text of the award term is provided at 2 CFR § 175.15.
62. Will comply with Title VI of the Civil Rights Act of 1964 prohibition against discrimination on the basis of national origin, which requires that Subrecipients of federal financial assistance take reasonable steps to provide meaningful access to their programs and services. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subrecipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. Sub-Recipient shall comply with DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768 (April 18, 2011), resulting from Executive Order 13166. For assistance and information regarding LEP obligations, refer to DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

63. Will comply with the requirements of 42 U.S.C. § 7401 et seq. and Executive Order 11738, which provides for the protection and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.
64. Will comply with the requirements of the Federal regulations at 45 CFR Part 46 and the requirements in DHS Management Directive 026-04, Protection of Human Subjects, prior to implementing any work with human subjects. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part 46.
65. Will comply with the requirements of the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. § 4331 et seq., which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for its grant-supported activities, DHS requires the environmental aspects of construction grants (and certain non-construction projects as specified by the Component and awarding office) to be reviewed and evaluated before final action on the application.
66. Will comply with the requirements of section 1306(c) of the National Flood Insurance Act, as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at 44 CFR Part 63.
67. Will comply with the requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 et seq.), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DHS support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.
68. Will comply with the requirements of Executive Order 11990, which provides that federally-funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of section 101(b)(3) of NEPA (42 U.S.C. § 4331(b)(3)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at 44 CFR Part 9.
69. Will comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c. Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified

materials. "Restricted persons," as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

70. Understands the reporting of subawards and executive compensation rules, including first tier subawards to Cal OES.
- a. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009,
 - b. Where and when to report: you must report on each obligating action described in the following paragraphs to Cal OES. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2013, the obligation must be reported by no later than December 31, 2013.)
 - c. What to report: You must report the information about each obligating action that the submission instructions posted in Information Bulletin 350, to Cal OES. To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>. Subgrantees must report Sub-Recipient executive total compensation to Cal OES by the end of the month following the month during which you make the subaward. Exemptions include: If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report on subawards, and the total compensation of the five most highly compensated executives of any Sub-Recipient.
 - d. Reporting Total Compensation of Recipient Executives: You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if
 - i. The total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. In the preceding fiscal year, you received 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 - iv. Sub-Recipient Executives. Unless you are exempt as provided above, for each first-tier Sub-Recipient under this award, you shall report the names and total compensation of each of the Sub-Recipient's five most highly compensated executives for the Sub-Recipient's preceding completed fiscal year, if in the Sub-Recipient's preceding fiscal year, the Sub-Recipient received 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986.

- 71. Sub-Recipient acknowledges that equipment purchased with grant funds must be accounted for and reconciled with the San Bernardino San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit's property records at each scheduled inventory inspection.
- 72. Sub-Recipient will develop a control tracking system to ensure adequate safeguards to prevent loss, damage or theft of grant funded equipment.
- 73. When equipment purchased with grant funds is no longer needed or is in need of being replaced, Sub-Recipient will request disposition instructions from San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit.
- 74. If items are lost, stolen, or damaged, Sub-Recipient will provide explanation on the Damage, Lost, Stolen, or Retired (DLSR) form of how it happened and how Sub-Recipient is going to prevent it from happening in the future.
- 75. **Personnel Activity Report (PAR)**
Any employee who is partially funded by federal grants must maintain time and effort reporting and document the time they spend working on the grant's objectives. Documentation must reflect "actual" time spent by the employee on grants being charged (2 CFR 225, Appendix B.8.h). Attached is a Personnel Activity Report (PAR) document to assist in proper grant payroll documentation. PARs must itemized/log the time the employee has worked on a funded grant project.

If your agency already has the capability of producing a document equivalent to the attached PAR form from your existing payroll system, you do NOT need to use the attached PAR to your track time.

Salary costs that are not accurately and properly documented are "unallowable costs" and will not be reimbursed. If you have been reimbursed for wages that were not properly recorded and supported, the State or Federal Governments may require your agency to pay back any "unallowable costs."

- 76. Sub-recipients will provide (2) photos in color or black & white of each grant purchased equipment and photo of serial number, if applicable. Provide the intended location of deployment/assignment of the equipment.
- 77. Understands that failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.
- 78. The undersigned represents that he/she is authorized by the above named Applicant to enter into this agreement for and on behalf of the said Applicant.

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: Paul M. Eaton

Title: Mayor Date: December 16, 2014

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 14-104, A MEMORANDUM OF UNDERSTANDING WITH THE SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC HEALTH PREPAREDNESS AND RESPONSE PROGRAM TO PROVIDE USE OF A SITE/FACILITY FOR A CLOSED POINT OF DISPENSING SITE FOR CARE AND PROPHYLAXIS TREATMENT OF FIRST RESPONDERS IN THE EVENT OF BIOTERRORISM OR OTHER PUBLIC HEALTH EMERGENCY

DATE: December 15, 2014

SECTION: AGREEMENTS

ITEM NO.: 3

FILE I.D.: EMR100

DEPT.: FIRE

CONSIDER APPROVAL OF AGREEMENT NO. 14-105, A MEMORANDUM OF UNDERSTANDING WITH THE SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC HEALTH PREPAREDNESS AND RESPONSE PROGRAM TO HOST A MOBILE POINT OF DISPENSING TRAILER

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 14-104 with the San Bernardino County Department of Public Health Preparedness and Response Program (SBC DPH PRP) to provide use of a site/facility for a closed Point of Dispensing (POD) site for care and prophylaxis treatment of first responders in the event of bioterrorism or other public health emergency and Agreement No. 14-105 with the SBC DPH PRP to host a mobile POD trailer.

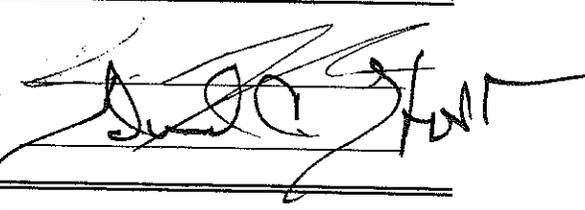
Copies of proposed Agreement Nos. 14-104 and 14-105 are attached for the City Council's review and consideration.

BACKGROUND: The SBC DPH PRP is the lead agency for public health hazards/epidemics that prepares for emergencies caused by bioterrorism, infectious disease, natural disasters, and other public health threats. The SBC DPH PRP's goal is to provide a coordinated response along with emergency responders and partner health agencies to meet public health needs during emergencies. As part of a continued effort to meet this goal, the SBC DPH PRP has requested that the San Bernardino County Operational Area (cities, towns, special districts, and unincorporated areas) complete the Mass Prophylaxis for First Responders Standard Operating Guidelines to keep and utilize in coordination with its Emergency Operations Plans. Additionally, SBC DPH PRP requested that each city/town provide the number of first responders [emergency operations center (EOC), fire, law, and public works] in its jurisdiction and identify a closed Point of Dispensing (POD) site within its jurisdiction for dispensing medications, such as antivirals, antibiotics, vaccines, or emergency medical supplies, to first responders during public health emergencies.

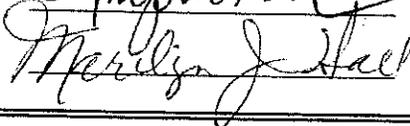
Prepared by:



Reviewed and Approved by:



Proofed by:



Presented by:

Staff has determined that the most advantageous location for its closed POD site is the Police Department because it is a secure facility with limited public access and provides 24-hour seven-days-a-week access. This facility can accommodate the storage and distribution of medications for first responders during a public health emergency. Should the City Council approve proposed Agreement Nos. 14-104 and 14-105, staff would participate in SBC DPH PRP disaster drills/exercises and complete the POD training series to be prepared for its role and responsibilities during a public health emergency.

The SBC DPH PRP purchased mobile POD trailers with funds provided by the Centers for Disease Control and Prevention and the Cities Readiness Initiative. Each mobile POD trailer is outfitted with emergency supplies and safety equipment for use in POD training and public health emergency incident response. Staff recommends a mobile POD trailer be located at the Police Department to ensure the availability of equipment and supplies at the facility in the event of activation of the closed POD site. The POD trailer may be used as a temporary Incident Command Post for POD Operations once equipment and supplies have been removed.

The Deputy City Clerk assigned Agreement Nos. 14-104 and 14-105 for control purposes, and the City Attorney has reviewed the proposed Agreements.

FISCAL IMPACT: The City Council's action to designate a closed POD site and host a mobile POD trailer would result in no immediate fiscal impact; however, there is potential for fiscal impact should a public health emergency arise that warrants activation of the closed POD site and deployment of the POD trailer.

In the event that the closed POD site is activated, the SBC DPH PRP would be allowed to use predesignated space within the Police Department, facility janitorial services, and other facility equipment and supplies in a manner which is dependent upon the incident, though SBC DPH PRP would make every reasonable effort to use equipment and supplies from other sources first. During a public health emergency, the City may need to provide security and support for services in conjunction with the SBC DPH PRP's response to a public health emergency and link POD operations with the City's EOC in the event of activation. Cost associated with activation of a POD site may be recoverable depending on the scale of the emergency and the availability of State and/or Federal assistance programs.

Any items stored in the mobile POD trailer that are destroyed during POD training or a public health emergency would be assessed and replaced by SBC DPH PRP. The City's unauthorized use of these items would be assessed by SBC DPH PRP, and the City would be required to replace the items used.

Paragraph III(A)(2) of proposed Agreement No. 14-104 requires the City to "procure and maintain, at its sole cost and expense, a comprehensive general liability policy," which would not be an additional cost to the existing budget because the City is self insured and maintains a policy that is sufficient to satisfy the requirements of law or as may be necessary to insure it and its employees and agents against any claim for damages occurring in connection with the performance of proposed Agreement No. 14-104.

RECOMMENDATION: The City Council is requested to consider approval of the following Agreements with the San Bernardino County Department of Public Health Preparedness and Response Program:

1. Agreement No. 14-104 to provide use of a site/facility for a closed Point of Dispensing site for care and prophylaxis treatment of first responders in the event of bioterrorism or other public health emergency.
2. Agreement No. 14-105 to host a mobile POD trailer.



MEMORANDUM OF UNDERSTANDING (MOU)

FOR USE OF A SITE/FACILITY

BETWEEN

**San Bernardino County Department of Public Health
Preparedness and Response Program (SBC DPH PRP)**

AND

**City of Montclair
DESIGNATED CITY/TOWN and SITE/FACILITY
PROVIDER
Warehouse, Point of Dispensing (POD) or
Government-Authorized Alternate Care Site (GAACS)**



This **MEMORANDUM OF UNDERSTANDING (MOU)** is entered into by and between San Bernardino County Department of Public Health Preparedness and Response Program (SBC DPH PRP) and City of Montclair, hereinafter referred to as the Site/Facility Provider, and City of Montclair, hereinafter referred to as the City/Town as appropriate.

RECITALS

WHEREAS, the SBC DPH PRP enters into this Agreement along with the City/Town and Site/Facility to prepare, respond, and provide care and prophylaxis treatment in the event of a bioterrorism or other public health emergencies, such as pandemic influenza, in the County, and;

WHEREAS, the SBC DPH PRP will require the Site/Facility to receive, store, stage, and distribute medications and other resources (e.g., antibiotics, antidotes, medical supplies, certain controlled substances, equipment, specialized cargo containers, & portable refrigeration units) received from the State of California in the event that the Strategic National Stockpile (SNS) or the Cities Readiness Initiative (CRI) pharmaceutical caches are requested to address possible large-scale bioterrorism events, or other public health emergencies, such as pandemic influenza; and

WHEREAS, the SBC DPH PRP will require Points of Dispensing (POD) sites to provide mass prophylaxis in the event of a bioterrorism event or public health emergency within the County; and will require Government-Authorized Alternate Care Sites (GA ACS) to evaluate/treat individuals by providing health care services and/or to prepare the transport of patients to health care facilities; and

WHEREAS, the Site/Facility Provider has the capability to provide a POD and/or a GA ACS and the resources that may be used or designated as a warehouse facility for use in receiving, storing, staging, and distributing medication, and has the resources for hosting a mass prophylaxis POD and/or a GA ACS for a bioterrorism, or other public health emergencies, such as pandemic influenza; and

WHEREAS, the City/Town has the personnel and expertise to respond, staff, and support a POD and/or GA ACS in conjunction with the SBC DPH PRP, utilizing the Incident Command System and link with the municipality's EOC, including security and other related services in the event of activation;

NOW, THEREFORE, based on the foregoing recitals, which the parties agree to be true and correct, it is mutually agreed as follows:

I. PURPOSE:

The purpose of this MOU is to define the distribution of duties between the SBC DPH PRP, the City/Town and the Site/Facility Provider, in responding to and preparing for public health related activities in a possible large-scale bioterrorism, or other public health emergencies such as pandemic influenza.



II. AREAS OF AGREEMENT AND COOPERATION:

Now, therefore, it is agreed as follows:

The SBC DPH PRP, Site/Facility Provider, and City/Town agree to cooperate in the following areas of endeavor following an incident of large-scale bioterrorism or other public health emergencies.

A. SBC DPH PRP agrees to:

1. Implement and comply with any emergency activations under this agreement pursuant to the California Emergency Services Act, California Government Code, Chapter 7, Division 1, Title 2, §§ 8550 et.seq. Any emergency activation of a POD or GA ACS under this agreement shall be preceded by a local emergency proclamation, pursuant to Government Code § 8630, and/or a County health emergency proclamation, pursuant to Health & Safety Code § 101080, by a duly authorized San Bernardino County Government official. This local emergency proclamation shall be countywide or for a defined geographical area.
2. Provide 24-hour or more advance notice to the Site/Facility Provider of the POD/GA ACS needed for activation. However, there should be no expectation of adherence to this provision, as it is understood by the parties that rapid response may require immediate attention.
3. Provide mass prophylaxis to first responders within 24 hours of the POD/GA ACS activation in accordance with the SNS Guide.
4. Provide the Field Operations Guide (FOG) to be utilized for POD operational procedures and management. The FOG will include POD organizational charts, job action sheets, and staff training.
5. Utilize Site/Facility's equipment and supplies, such as office and janitorial equipment, in a manner which is dependent upon the event. If the event requires medications and resources to be dispensed to every person in the County, it is estimated that the utilization of the Site/Facility will require at least ten (10) days.

B. Site/Facility agrees to:

1. Grant use of a site/facility for a POD/GA ACS as referenced above. Utilization will be for the purposes of SBC DPH and its designated staff, California Department of Public Health (CDPH), Centers for Disease Control and Prevention (CDC), County, State, and Federal disaster agencies, employees, contractors, and other authorized volunteers during a public health emergency; and grant space, or other enclosed facility as needed for administrative POD management.



2. Allow the SBC DPH PRP use of office, janitorial, and other equipment and supplies as needed, to implement and activate a POD/GA ACS. The SBC DPH PRP will make every reasonable effort to use equipment and supplies from other sources first.
3. Coordinate with SBC DPH PRP, City/Town, and local municipality emergency response for security and support services.
4. Designate three (3) points of contact, at each Site/Facility, including an alternate backup for each contact: (See Appendix A)
 - Administrative – (Primary point of contact). This person will have authority to allow access to facility and all the related resources.
 - Janitorial – This person will have access to equipment and other site resources, and allow facility access.
 - Security - This person will have facility access, including all site resources, and will work with County and local law enforcement in developing and executing security plans.
5. Participate in SBC DPH PRP disaster drills/exercises and complete the POD training series to increase understanding of roles and responsibilities during a public health emergency.

C. City/Town agrees to:

1. Provide emergency and law personnel for the purpose of security and support for the provision of services. Provide personnel and expertise in conjunction with SBC DPH PRP to respond to a public health emergency. Utilize the DPH approved staff list to support a POD and/or GA ACS. This list will be linked with the City/Town Emergency Operation Center (EOC) in the event of activation.
2. Coordinate with SBC DPH PRP to determine the number of POD/GA ACS sites required in the event of a public health emergency. The number of sites will be based on the population served within a given area of a city/town and/or unincorporated area.
3. Participate in SBC DPH PRP disaster drills/exercises and complete the entire POD training series to increase understanding of roles and responsibilities during a public health emergency.

Comment: The California Emergency Services Act provides for broad immunity against liability for person acting within the scope of the Act. Further “extraordinary powers” are made available to government officials to take necessary actions to mitigate substantial threats to public safety.

III. GENERAL PROVISIONS

A. Mutual Indemnity and Insurance

1. Each party hereto (hereafter, “Indemnifying Party”) shall indemnify, defend and hold harmless the other party, its officers, agents, employees, and volunteers against any loss, cost, damage, expense, claim, suit, demand, or liability of any kind or character,



including but not limited to reasonable attorney fees, arising from or relating to any negligent or wrongful act or omission of the Indemnifying Party, its officers, agents, or employees, which occurs in the performance of, or otherwise in connection with, this MOU, but only in proportion to and to the extent such loss, cost, damage, expense, claim, suit, demand, or liability of any kind or character, including reasonable attorney fees, is caused by or results from the negligent or wrongful act or omission of the Indemnifying Party, its officers, agents, or employees.

2. Site/Facility Provider shall procure and maintain, at its sole cost and expense, a comprehensive general liability policy, as well as such policies of professional and other insurance with limits necessary to (i) satisfy requirements of law or (ii) as may be necessary to insure it and its employees and agents against any claim for damages occasioned in connection with performance of this MOU.
3. SBC DPH's indemnity of City/Town and Site/Facility Provider is subject to State or Federal law, other provisions of this MOU or any rule, law or regulation giving SBC DPH, its officers, employees, agents, and authorized volunteers immunity when responding to such disasters, events, or acts.
4. The SBC DPH and City/Town are self-insured.

B. Appendices

All appendices referenced in this MOU and attached hereto are incorporated by this reference as if set forth fully herein.

C. Term and Termination

This Agreement shall become effective upon the execution by authorized individuals of both organizations. Either party may terminate this Agreement at any time by giving ninety (90) days advance written notice to the other party.

D. Modification

This MOU, or any of its specific provisions, may be amended in writing when signed by all currently authorized representatives of the parties.

E. Notices

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:



To the City/Town /Site/Facility Provider:

City of Montclair
Attention: Paul Eaton, Mayor
P.O. Box 2308
Montclair, CA 91763

To the SBC DPH:

San Bernardino County Department of Public Health
Attn: Preparedness and Response Program
247 S. Boyd St.
San Bernardino, CA 92415-0059
Tel. 909-252-4406

AUTHORITY

The persons executing this MOU on behalf of their respective entities hereby represent and warrant that they have the power, right and legal capacity and appropriate authority to enter into this MOU on behalf of the entity for which they sign and to bind the entity to its obligations hereunder.

IV. SIGNATURES

Executed as of the day and year last signed below:

City of Montclair- Montclair Police Facility

Site/Facility Address: 4870 Arrow Highway, Montclair, CA 91763

Authorized Signer (Print): Paul Eaton Title: Mayor

Signature: _____ Date signed: _____

SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC HEALTH

Director of Public Health (Print Name): Trudy Raymundo

Signature: _____ Date signed: _____

Preparedness and Response Program Coordinator:

(Print Name): Matt Baca

Signature: _____ Date signed: _____



SITE/FACILITY PROVIDER CONTACTS

Administrative (Primary)

Name: On-Call Duty Commander

Phone: (909) 621-4771 (24-hour Police Department Dispatch)

Administrative (Backup)

Name: Angelic Bird

Title: Administrative Aide

Phone: Office (909) 447-3542 or Cell (951) 533-1359

Janitorial (Primary)

Name: Mike McGehee

Title: Facilities & Grounds Superintendent

Phone: Office (909) 625-9443 or Cell (909) 721-1744

Janitorial (Backup)

Name: Watch Commander

Phone: (909) 621-4771 (24-hour Police Department Dispatch)

Security (Primary)

Name: Watch Commander

Phone: (909) 621-4771 (24-hour Police Department Dispatch)

Security (Backup)

Name: N/A

Phone: _____





MEMORANDUM OF UNDERSTANDING (MOU)

FOR USE OF

MOBILE POINTS OF DISPENSING (POD) TRAILERS

BETWEEN

**San Bernardino County Department of Public Health
Preparedness and Response Program (SBC DPH PRP)**

**AND
HOST AGENCIES**



MEMORANDUM OF UNDERSTANDING (MOU)

Mobile Points of Dispensing (POD) trailers hereinafter referred to as Mobile POD trailers, have been purchased by the San Bernardino County Department of Public Health Preparedness and Response Program (**SBC DPH PRP**) through grant funding provided by the Centers for Disease Control and Prevention (CDC), and Cities Readiness Initiative (CRI). Each Mobile POD trailer is outfitted with emergency supplies and safety equipment for use in POD training and for health emergency incident response.

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered into by and between the SBC DPH PRP and the city/town assigned Mobile POD trailer(s) within San Bernardino County. The city/town will hereinafter be referred to as Host Agency.

RECITALS

WHEREAS, the SBC DPH PRP and the Host Agency enters into this MOU based on the following:

- A. The Host Agency will store the Mobile POD trailer in a secure location with limited public access and provide a reservation policy that ensures 24-hour, seven-days-a-week access to the Mobile POD trailers.
- B. Mobile POD trailers are equipped by the SBC DPH PRP with supplies and equipment to support an emergency response event.
- C. SBC DPH PRP and the Host Agency agree to the terms set forth in this MOU with regard to services such as storage, access, deployment, inventory replenishment and maintenance.

NOW, THEREFORE, based on the forgoing recitals that the parties agree to be true and correct, it is mutually agreed as follows:

A. SERVICES

HOST AGENCY RESPONSIBILITIES:

TRAILER STORAGE

Mobile POD trailers will be stored in a secure location with limited public access. When possible, the Mobile POD trailers are to be parked in an enclosed site/facility and/or under a carport type structure. Mobile POD trailers shall be locked at all times when not deployed or in use. The storage site should be a Government property such as a fire station, a law enforcement facility, or a public works yard. Any Host Agency which cannot provide such a location must provide written documentation to justify reasons why this request cannot be met. Mobile POD trailers may be relocated by the Host Agency within its geographical boundaries, as long as SBC DPH PRP provides written authorization to the Host Agency. The Host Agency must make this request via writing, facsimile and/or email transmission.



ACCESS AND DEPLOYMENT

The Host Agency must submit a reservation policy that will be kept on file with SBC DPH PRP. Host Agencies must ensure 24-hour, seven-days-a-week access to the Mobile POD trailer(s) to the SBC DPH PRP. For policy and procedures for accessing or reserving a Mobile POD trailer refer to the CRI Coordinator at (909) 252-4406.

INVENTORY AND INVENTORY REPLENISHMENT

A Safety/Inventory checklist will be placed in each trailer, which each Host Agency must complete when utilizing a Mobile POD trailer. A master Safety/Inventory checklist can be found in the trailer's Field Operations Guide (FOG) document. The Safety/Inventory checklist will allow the user to verify that the Mobile POD trailer is fully stocked, including disposable items. Any items destroyed during POD training will be assessed and replaced by SBC DPH PRP. However, any unauthorized use of these items by the municipality will be assessed by SBC DPH PRP and will be requested to be replaced by the municipality. This completed inventory checklist will be signed by the user upon receipt and faxed to the SBC DPH PRP. Any stock used during a training session exclusive from the SBC DPH PRP, which has been acquired from the trailer, will be replaced at the Host Agency's expense. When the Mobile POD trailer has been restocked and returned to its assigned storage location, the jurisdiction will fax a copy of the completed inspection checklist to the SBC DPH PRP confirming its readiness for deployment. A detailed description of the Mobile POD trailer inventory will be provided by the SBC DPH PRP.

Completed Safety/Inventory checklists are to be sent quarterly by the Host Agency to the SBC DPH PRP. Safety/Inventory checklists reports are due on annually beginning _____. Mailing instructions are located at the bottom of the Safety/Inventory checklist.

TRAILER MAINTENANCE

Host Agencies must insure that the Mobile POD trailers are ready for deployment and activation. Any Mobile POD trailer deficiencies, defects or damage must be reported to the SBC DPH PRP at (909) 252-4406.

SBC DPH PRP RESPONSIBILITIES:

PROVISION OF MOBILE POD TRAILERS

The SBC DPH PRP will provide an enclosed cargo type Mobile POD trailer for deployment to partnering Host Agencies within the County of San Bernardino. Mobile POD trailers will be equipped with emergency response equipment and materials necessary for the safe deployment of a Mobile POD trailer. Host Agencies may not place additional equipment in the Mobile POD trailer.



B. INDEMNIFICATION

Host Agency hereto (hereafter, "INDEMNIFYING PARTY") shall indemnify, defend with counsel acceptable to the County of San Bernardino, and hold harmless the SBC DPH PRP, and their employees and volunteers from and against any loss, cost, damage, expense, claim, suit, demand, or liability of any kind or character, including but not limited to, reasonable attorney fees arising from or relating to any negligent or wrongful act of omission of the INDEMNIFYING PARTY, its officers, agents, or employees, which occurs in the performance of, or otherwise in connection with this MOU, but only in proportion to and to the extent of such loss, cost, damage, expense, claim, suit, demand, or liability of any kind or character, including reasonable attorney fees, is caused by or results from the negligent or wrongful act or omission of the INDEMNIFYING PARTY, its officers, agents or employees.

C. TERM AND TERMINATION

This agreement shall become effective on _____ . Either party may terminate this MOU **upon thirty (30) days** written notice. Should either party terminate this MOU, the terminating party shall be responsible for all costs associated with termination of the MOU. The terminating party will be responsible for returning the Mobile POD trailer to the designated location provided by the SBC DPH PRP. Prior to its return, a final safety and inventory inspection will be conducted by both the Host Agency and the SBC DPH PRP.

D. NOTICES

Notices concerning this agreement shall be in writing and shall be addressed as follows:

To: Mobile POD Trailer Host Agency

Attention: Executive Director of the Office of Public Safety

Address: P.O. Box 2308

City: Montclair Zip Code: 91763

**To: San Bernardino County Department of Public Health
Preparedness and Response Program
247 S. Boyd St.
San Bernardino, CA 92415-0059
Tel. 909-252-4406**



E. MODIFICATIONS

No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and duly signed by parties hereof.

F. AUTHORITY

The person signing this MOU for the Host Agency hereby represents that he/she is authorized to sign this agreement on behalf of the Host Agency and to bind the Host Agency to its performance of its obligation hereunder.

Executed as of the date and year signed below.

HOST AGENCY

Date: _____

Name of Host Agency: City of Montclair

Name of Authorized Signor: Paul Eaton

Title: Mayor

Signature: _____

**SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC HEALTH
PREPAREDNESS AND RESPONSE PROGRAM**

Department Director: _____ Date signed: _____

Program Manager: _____ Date signed: _____



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 14-106 WITH THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT OFFICE OF EMERGENCY SERVICES TO RECEIVE APPROXIMATELY \$13,050 FROM THE FY2014 HOMELAND SECURITY GRANT PROGRAM	DATE: December 15, 2014 SECTION: AGREEMENTS ITEM NO.: 4 FILE I.D.: GRT115 DEPT.: POLICE
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REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 14-106 with the San Bernardino County Fire Protection District Office of Emergency Services (OES) to receive approximately \$13,050 from the FY2014 Homeland Security Grant Program (HSGP) to purchase emergency preparedness equipment. Funding through HSGP is reimbursable.

A copy of proposed Agreement No. 14-106 is attached for the City Council's review and consideration.

BACKGROUND: The HSGP is designed to assist organizations, government agencies, and communities in implementing programs and measures to prevent, protect against, mitigate, respond to, and recover from threats, hazards, acts of terrorism, and other catastrophic events that pose a significant risk to local communities and the nation.

The State of California Governor's Office of Emergency Services established the subgrantee of HSGP for San Bernardino County as the San Bernardino County Fire Protection District OES. In its capacity as subgrantee, OES is tasked with applying for Department of Homeland Security Grant funds on behalf of regional jurisdictions. Through this process, the Montclair Police Department would receive approximately \$13,050 for the purchase of equipment; however, agencies are required to request reimbursement through the OES after purchases are completed.

The Police Department proposes to utilize HSGP funding to purchase a Throwbot tactical micro-robotic reconnaissance system to be used during high-risk operations and catastrophic events.

FISCAL IMPACT: Should the City Council approve proposed Agreement No. 14-106, the City would be required to pay the initial cost of the equipment purchase and request reimbursement from OES. Funding for grant program expenses would be appropriated in Safety Department Grant Fund 1163.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 14-106 with the San Bernardino County Fire Protection District Office of Emergency Services to receive approximately \$13,050 from the FY2014 Homeland Security Grant Program.

Prepared by: *Judy B...*
Proofed by: *Sharon Aguirre*

Reviewed and Approved by: *[Signature]*
Presented by: *[Signature]*

San Bernardino County Fire Protection District (SBCFPD)
FY2014 Homeland Security Grant Program
CFDA 97.067
Sub-Recipient Agreement
Grant No. 2014-00093

Name of Applicant: Montclair Police Department
 Address: 4870 Arrow Highway
 City: Montclair State: CA Zip Code: 91763
 Telephone Number: 909-448-3600 Fax Number: 909-626-4892
 E-Mail Address: mdemoet@cityofmontclair.org

As the duly authorized representative of the applicant, I certify that the applicant named above:

1. Will assure that the Funding Opportunity Announcement for this program is hereby incorporated into your award agreement by reference. By accepting this award, the Sub-Recipient agrees that all allocations and use of funds under this grant will be in accordance with the requirements contained in the FY2014 Homeland Security Grant Program Funding Opportunity Announcement, the California Supplement to the FY2014 Homeland Security Grant Program Funding Opportunity Announcement, and all applicable laws and regulations.
2. All allocations and use of funds under this grant will be in accordance with the Allocations, and use of grant funding must support the goals and objectives included in the State and/or Urban Area Homeland Security Strategies as well as the investments identified in the Investment Justifications which were submitted as part of the California FY2014 Homeland Security Grant Program application. Further, use of FY2014 funds is limited to those investments included in the California FY2014 Investment Justifications submitted to DHS/FEMA and Cal OES and evaluated through the peer review process.
3. Understands that in the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, sub-recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate sub-recipient acceptance of the changes to the award. Please call the San Bernardino San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit at (909) 387-5931. Or via e-mail to: esampson@sbcfire.org.
4. Has the legal authority to apply for Federal assistance and has the institutional, managerial and financial capability to ensure proper planning, management and completion of the grant provided by the U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) and sub-granted through the State of California, California Governor's Office of Emergency Services (Cal OES).
5. **Will assure that grant funds are used for allowable, fair, and reasonable costs only and will not be transferred between grant programs (for example: State Homeland Security Program and Urban Area Security Initiative) or fiscal years.**
6. Will comply with any cost sharing commitments included in the FY2014 Investment Justifications submitted to DHS/FEMA/Cal OES, where applicable.

7. Will establish a proper accounting system in accordance with generally accepted accounting standards and awarding agency directives.
8. Will give the San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit, Cal OES and DHS/FEMA, through any authorized representatives, access to, and the right to examine, all paper or electronic records, books, and documents related to the FY14 HSGP grant award, and will permit access to its facilities, personnel and other individuals and information as may be necessary, as required by San Bernardino County Fire Protection District (SBCFPD), Cal OES and DHS/FEMA, through any authorized representative, with regard to examination of grant related records, accounts, documents, information and staff.
9. Agrees, and will require any sub-recipient, contractor, successor, transferee, and assignee to acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.
 - a. Sub-recipients must cooperate with any compliance review or complaint investigation conducted by DHS or Cal OES.
 - b. Sub-recipients must give San Bernardino County Fire Protection District (SBCFPD), DHS and Cal OES access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by San Bernardino County Fire Protection District (SBCFPD), DHS and Cal OES program guidance, requirements, and applicable laws.
 - c. Sub-recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance, and sub-recipients must submit timely, complete, and accurate reports to the appropriate San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit and maintain appropriate backup documentation to support the reports.
 - d. If, during the past three years, the Sub-Recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit to be sent to Cal OES/DHS Office of Civil Rights and Civil Liberties.
 - e. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the sub-recipient, or the sub-recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the San Bernardino County Fire Protection District (SBCFPD), Grant Administration Unit office.

The United States has the right to seek judicial enforcement of these obligations.

10. Will comply with any other special reporting, assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement, or detailed in the program guidance.
11. Agrees that funds utilized to establish or enhance State and Local fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines, follow the Federal and State approved privacy policies, and achieve (at a minimum) the baseline level of capability as defined by the Fusion Capability Planning Tool.

12. Understands that a hold is in place on Fusion Center activities and the applicant is prohibited from obligating, expending, or drawing down HSGP – UASI funds in support of their State and/or Major Urban Area Fusion Center. Cal OES will notify the San Bernardino County Fire Protection District (SBCFPD), Protection District in writing when DHS/FEMA has lifted the hold.
13. Will initiate and complete the work within the applicable timeframe (sub-grantee performance period), in accordance with grant award terms and requirements, after receipt of approval from San Bernardino County Fire Protection District (SBCFPD), and will maintain procedures to minimize the amount of time elapsing between the award of funds and the disbursement of funds.
14. Will provide timely, completed, accurate and maintain appropriate support documentation to support the reports, and other such information as may be required by the awarding agency.
15. Will provide timely notifications to San Bernardino County Fire Protection District (SBCFPD), of any developments that have a significant impact on award-supported activities, including changes to key program staff.
16. Agrees to be non-delinquent in the repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424B, item number 17 for additional information and guidance.
17. Will comply with the requirements of 31 U.S.C. § 3729, which set forth that no sub-grantee, recipient or sub-recipient of federal payments, shall submit a false claim for payment, reimbursement, or advance. Administrative remedies may be found in 38 U.S.C. §§ 3801-3812, addressing false claims and statements made.
18. Will comply with all applicable provisions of DHS/FEMA's regulations, including Title 44 of the Code of Federal Regulations, Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
19. Will comply with the Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"), which are also located found within DHS regulations at Title 44, Code of Federal Regulations (CFR) Part 13, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; will comply with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215.
20. Will comply with the financial and administrative requirements set forth in the current edition of the DHS Financial Management Guide; OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220; OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225; OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230; and OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as applicable.
21. Will comply with all provisions of the Federal Acquisition Regulations, including but not limited to Title 48 CFR Part 31.2, part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations.

22. Will comply with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
23. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes, or presents the appearance of, personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business, or other connections.
24. Understands and agrees that Federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval from DHS/FEMA and Cal OES.
25. Will comply with all applicable lobbying prohibitions and laws, including those found 31 U.S.C. § 1352., and agrees that none of the funds provided under this award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal of any Federal contract, grant, loan, or cooperative agreement.
26. Agrees that, to the extent contractors or subcontractors are utilized, will use small, minority-owned, women-owned, or disadvantaged businesses, to the extent practicable.
27. Will comply with Title 2 of the Code of Federal Regulations Part 225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority **may not be charged to other Federal awards** to overcome fund deficiencies.
28. **Will ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Sub-recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds.**
29. Will comply, if applicable, with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4801 et seq.), which prohibits the use of lead based paint in construction or rehabilitation of structures.
30. Will comply with all federal and state laws and regulations relating to civil rights protections and nondiscrimination. These include, but are not limited to:
 - a. Title VI of the Civil Rights Act of 1964, Public Law 88-352, (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 et seq.), which prohibits discrimination on the basis of gender in educational programs and activities. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.
 - c. The Americans with Disabilities Act, as amended, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § 12101 et seq.).
 - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.
 - e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.

- f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
 - g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. § 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
 - h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq., as implemented by 24 CFR Part 100), as amended, relating to nondiscrimination in the sale, rental and financing of housing.
 - i. Title 44 of the Code of Federal Regulations (CFR) Parts 7, 16, and 19 relating to nondiscrimination.
 - j. The requirements of any other nondiscrimination provisions in the specific statute(s) under which the application for Federal assistance is being made and any other applicable statutes.
 - k. The requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified individual with a disability in the United States will, solely by reason of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.
 - l. Will, in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, gender, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs.
 - m. Will provide an Equal Employment Opportunity Plan, if applicable, to the Department of Justice Office of Civil Rights within 60 days of grant award.
 - n. Will comply, and assure the compliance of all its sub-grantees and contractors, with the nondiscrimination requirements and all other provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1.
31. Will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq. [P.L. 91-646]), which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs. These requirements apply to all interested in real property acquired for project purposes regardless of Federal participation in purchases. Will also comply with Title 44 CFR, Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted programs.
32. Will comply with all provisions of DHS/FEMA's regulation 44 CFR Part 10, Environmental Considerations.
33. Will comply with all applicable Federal, State, and Local environmental and historical preservation (**EHP**) requirements. Failure to meet Federal, State, and Local **EHP** requirements and obtain applicable permits may jeopardize Federal funding. Agrees not to undertake any project having the potential to impact **EHP** resources without the prior written approval of DHS/FEMA and Cal OES, including, but not limited to, ground disturbance, construction, modification to any structure, physical security enhancements, communications towers, any structure over 50 years old, and purchase and/or use of any sonar equipment. The subgrantee must comply with all conditions and restrictions placed on the project as a result of the **EHP** review. Any construction-related activities initiated without the necessary **EHP** review and approval will result in a noncompliance finding, and may not be eligible for reimbursement with DHS/FEMA and Cal OES funding. Any change to the scope of work will require re-evaluation of compliance with the **EHP**. If ground-disturbing activities occur during the project implementation, the subgrantee must ensure monitoring of the disturbance. If any potential archeological resources are discovered, the subgrantee will immediately cease activity in that area and notify DHS/FEMA/ and Cal OES and the appropriate State Historic Preservation Office.

34. Any construction activities that have been initiated prior to the full environmental and historic preservation review could result in a non-compliance finding. Sub-grantees must complete the DHS/FEMA EHP Screening Form (OMB Number 1660-0115/FEMA Form 024-0-01) and submit it, with all supporting documentation, to San Bernardino County Fire Protection District (SBCFPD), Attention: Grants Administration Unit for reviewing. The San Bernardino County Fire Protection District (SBCFPD) will then submit to the Cal OES program representative to be processed by the DHS/FEMA GPD EHP.
35. Sub-recipients should submit the FEMA EHP Screening Form for each project as soon as possible to the San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit before starting their project. The Screening Form for these types of projects is available at: www.fema.gov/doc/government/grant/bulletins/info329_final_screening_memo.doc.
36. Will ensure that the facilities under its ownership, lease or supervision, which shall be utilized in the accomplishment of this project, are not on the Environmental Protection Agency's (EPAs) List of Violating Facilities, and will notify Cal OES and the DHS/FEMA of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating if a facility to be used in the project is under consideration for listing by the EPA.
37. Will provide any information requested by DHS/FEMA and Cal OES to ensure compliance with applicable laws including, but not limited to, the following:
 - a. Institution of environmental quality control measures under the Archaeological and Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), and Environmental Justice (EO12898) and Environmental Quality (EO11514).
 - b. Notification of violating facilities pursuant to EO 11738.
 - c. Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451 et seq.).
 - d. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523).
 - e. California Environmental Quality Act (CEQA), California Public Resources Code Sections 21080-21098, and California Code of Regulations, Title 14, Chapter 3 §§ 15000-15007.
 - f. Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
 - g. Applicable provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC § 3501 et seq.), which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.
38. Will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, § 8607.1(e) and CCR Title 19, §§ 2445, 2446, 2447, and 2448.
39. Agrees that sub-recipients collecting Personally Identifiable Information (PII) must have a publically-available privacy policy that describes what PII they collect, how they plan to use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Sub-recipients may also find DHS Privacy Impact Assessments, guidance and templates online at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf, respectively. Sub-recipients will be notified of the above requirements by SBCFPD if is necessary.

40. Agrees that all DHS/FEMA-funded project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, and approvals are obtained.
41. Will comply with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225(a), whereby all sub-grantees, recipients, and sub-recipients must ensure that all conference, meeting, convention, or training space, funded in whole or in part with Federal funds, complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. § 2225.
42. Will comply with the Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General Decision B138942.
43. Agrees that all publications created or published with funding under this grant shall prominently contain the following statement: ***“This document was prepared under a grant from FEMA’s Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA’s Grant Programs Directorate or the U.S. Department of Homeland Security.”*** The sub recipients and recipient also agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: ***“Purchased with funds provided by the U.S. Department of Homeland Security.”***
44. Acknowledges that DHS/FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: a) the copyright in any work developed under an award or subaward; and b) any rights of copyright to which a recipient or sub-recipient purchases ownership with Federal support. The recipient must affix the applicable copyright notices of 17 U.S.C. section 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g. classified information or other information subject to national security or export control laws or regulations). The recipient and Sub-recipients agrees to consult with DHS/FEMA and Cal OES regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
45. Sub-recipients receiving Federal financial assistance to be used to perform eligible work approved in the submitted application for Federal assistance and after the receipt of Federal financial assistance, through the State of California, agree to the following:
 - a. Promptly return to the State of California all funds received which exceed the approved, actual expenditures as determined by the Federal or State government.
 - b. In the event the approved amount of the grant is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California.
 - c. Property and equipment purchased under the HSGP reverts to Cal OES if the grant funds are deobligated or disallowed and not promptly repaid.
 - d. HSGP funds used for the improvement of real property must be promptly repaid following deobligation or disallowment of costs, and Cal OES reserves the right to place a lien on the property for the amount owed.

Therefore, if any procurement with the HSGP grant funds is determined to be ineligible or inappropriate, the money must be returned to Cal OES. If a procurement was done incorrectly or if a

piece of equipment purchased was not on the AEL list, then that money must be returned because the item is not allowed.

46. Understands that sub-recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.
47. Will comply, if applicable, with the Laboratory Animal Welfare Act of 1966 (P. L. 89-544, as amended, 7 U.S.C. § 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
48. Will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 U.S.C. § 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.
49. Agrees that "Classified national security information," as defined in Executive Order (EO) 12958, as amended or updated via later executive order(s), means information that has been determined pursuant to EO 12958 to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form. No funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information if the award recipient or Sub-Recipient has not been approved for and granted access to such information by appropriate authorities.
50. Agrees that where an award Sub-Recipient has been approved for and has access to classified national security information, no funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information by the contractor, Sub-Recipient, or other entity without prior written approval from the DHS Office of Security, Industrial Security Program Branch (ISPB), or, an appropriate official within the Federal department or agency with whom the classified effort will be performed. Such contracts, subawards, or other agreements shall be processed and administered in accordance with the DHS "Standard Operating Procedures, Classified Contracting by States and Local Entities," dated July 7, 2008; EOs 12829, 12958, 12968, and other applicable executive orders; the National Industrial Security Program Operating Manual (NISPOM); and other applicable implementing directives or instructions. Security requirement documents may be located at: <http://www.dhs.gov/xopnbiz/grants/index.shtml>
51. Immediately upon determination by the award recipient that used funding under this award may be used to support a contract, subaward, or other agreement involving access to classified national security information pursuant to paragraph 47, and prior to execution of any actions to facilitate the acquisition of such a contract, subaward, or other agreement. For additional information the Sub-Recipient will need to contact San Bernardino County Fire Protection District (SBCFPD) and obtain approval and processing instructions.
52. Will comply with the requirements regarding Data Universal Numbering System (DUNS) numbers. If recipients are authorized to make subawards under this award, they must first notify potential sub-recipients that no entity may receive or make a subaward to any entity unless the entity has provided a DUNS number.

For purposes of this award term, the following definitions will apply:

- a. "Data Universal Numbering System (DUNS)" number means the nine digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number

may be obtained from D&B by telephone (currently 866-705-5711) or the Internet, currently at <http://fedgov.dnb.com/webform>.

- b. "Entity", as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C, as a Governmental organization, which is a State, local government, or Indian Tribe; or a foreign public entity; or a domestic or foreign nonprofit organization; or a domestic or foreign for-profit organization; or a Federal agency, but only as a Sub-Recipient under an award or subaward to a non-Federal entity.
 - c. "Subaward" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient, award to an eligible Sub-Recipient. It does not include your procurement of property and services needed to carry out the project or program (for further explanation, see section 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations") and may be provided through any legal agreement, including an agreement that you consider a contract.
 - d. "Sub-Recipient" means an entity that receives a subaward from you under this award, and is accountable to you for the use of the Federal funds provided by the subaward.
53. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. § 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for Federally-assisted construction sub-agreements.
54. Agrees that equipment acquired or obtained with grant funds:
- a. Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement, in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the applicant, and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan.
 - b. Is consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.
55. Will comply with Homeland Security Presidential Directive (HSPD)-5, Management of Domestic Incidents. The adoption of the National Incident Management System (NIMS) is a requirement to receive Federal preparedness assistance, through grants, contracts, and other activities. The NIMS provides a consistent nationwide template to enable all levels of government, tribal nations, nongovernmental organizations, and private sector partners to work together to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity.
56. Will comply with OMB Standard Form 424B Assurances – Non construction Programs, whereby the awarding agency may require sub-grantees and sub-recipients to certify to additional assurances.
57. Will not make any award or permit any award (subgrant or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension." As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 17, for prospective participants in primary covered transactions, the applicant will provide protection against waste, fraud and abuse, by debarring or suspending those persons deemed irresponsible in their dealings with the Federal government. Applicant certifies that it and its principals:
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency.

- b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and
 - d. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.
58. Will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
59. **Will obtain, via San Bernardino County Fire Protection District (SBCFPD), the prior approval from Cal OES on any use of the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.**
60. Will comply with the requirements of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. The Sub-Recipient must notify the San Bernardino County Fire Protection District (SBCFPD), if an employee of the Sub-Recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. These regulations are codified at 2 CFR 3001.
61. Will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007. In accordance with Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a Sub-Recipient engages in severe forms of trafficking in persons during the period of time that the award is in effect, procures a commercial sex act during the period of time that the award is in effect, or uses forced labor in the performance of the award or subawards under the award. Full text of the award term is provided at 2 CFR § 175.15.
62. Will comply with Title VI of the Civil Rights Act of 1964 prohibition against discrimination on the basis of national origin, which requires that Subrecipients of federal financial assistance take reasonable steps to provide meaningful access to their programs and services. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subrecipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. Sub-Recipient shall comply with DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768 (April 18, 2011), resulting from Executive Order 13166. For assistance and information regarding LEP obligations, refer to DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

63. Will comply with the requirements of 42 U.S.C. § 7401 et seq. and Executive Order 11738, which provides for the protection and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.
64. Will comply with the requirements of the Federal regulations at 45 CFR Part 46 and the requirements in DHS Management Directive 026-04, Protection of Human Subjects, prior to implementing any work with human subjects. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part 46.
65. Will comply with the requirements of the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. § 4331 et seq., which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for its grant-supported activities, DHS requires the environmental aspects of construction grants (and certain non-construction projects as specified by the Component and awarding office) to be reviewed and evaluated before final action on the application.
66. Will comply with the requirements of section 1306(c) of the National Flood Insurance Act, as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at 44 CFR Part 63.
67. Will comply with the requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 et seq.), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DHS support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.
68. Will comply with the requirements of Executive Order 11990, which provides that federally-funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of section 101(b)(3) of NEPA (42 U.S.C. § 4331(b)(3)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at 44 CFR Part 9.
69. Will comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c. Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified

materials. "Restricted persons," as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

70. Understands the reporting of subawards and executive compensation rules, including first tier subawards to Cal OES.
- a. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009,
 - b. Where and when to report: you must report on each obligating action described in the following paragraphs to Cal OES. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2013, the obligation must be reported by no later than December 31, 2013.)
 - c. What to report: You must report the information about each obligating action that the submission instructions posted in Information Bulletin 350, to Cal OES. To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>. Subgrantees must report Sub-Recipient executive total compensation to Cal OES by the end of the month following the month during which you make the subaward. Exemptions include: If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report on subawards, and the total compensation of the five most highly compensated executives of any Sub-Recipient.
 - d. Reporting Total Compensation of Recipient Executives: You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if
 - i. The total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. In the preceding fiscal year, you received 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 - iv. Sub-Recipient Executives. Unless you are exempt as provided above, for each first-tier Sub-Recipient under this award, you shall report the names and total compensation of each of the Sub-Recipient's five most highly compensated executives for the Sub-Recipient's preceding completed fiscal year, if in the Sub-Recipient's preceding fiscal year, the Sub-Recipient received 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986.

- 71. Sub-Recipient acknowledges that equipment purchased with grant funds must be accounted for and reconciled with the San Bernardino San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit's property records at each scheduled inventory inspection.
- 72. Sub-Recipient will develop a control tracking system to ensure adequate safeguards to prevent loss, damage or theft of grant funded equipment.
- 73. When equipment purchased with grant funds is no longer needed or is in need of being replaced, Sub-Recipient will request disposition instructions from San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit.
- 74. If items are lost, stolen, or damaged, Sub-Recipient will provide explanation on the Damage, Lost, Stolen, or Retired (DLSR) form of how it happened and how Sub-Recipient is going to prevent it from happening in the future.
- 75. **Personnel Activity Report (PAR)**
Any employee who is partially funded by federal grants must maintain time and effort reporting and document the time they spend working on the grant's objectives. Documentation must reflect "actual" time spent by the employee on grants being charged (2 CFR 225, Appendix B.8.h). Attached is a Personnel Activity Report (PAR) document to assist in proper grant payroll documentation. PARs must itemized/log the time the employee has worked on a funded grant project.

If your agency already has the capability of producing a document equivalent to the attached PAR form from your existing payroll system, you do NOT need to use the attached PAR to your track time.

Salary costs that are not accurately and properly documented are "unallowable costs" and will not be reimbursed. If you have been reimbursed for wages that were not properly recorded and supported, the State or Federal Governments may require your agency to pay back any "unallowable costs."

- 76. Sub-recipients will provide (2) photos in color or black & white of each grant purchased equipment and photo of serial number, if applicable. Provide the intended location of deployment/assignment of the equipment.
- 77. Understands that failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.
- 78. The undersigned represents that he/she is authorized by the above named Applicant to enter into this agreement for and on behalf of the said Applicant.

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: Paul M. Eaton

Title: Mayor Date: December 16, 2014

MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
DECEMBER 1, 2014, AT 8:03 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 8:03 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
November 17, 2014.**

Moved by City Manager Starr, seconded by Mayor Pro Tem Ruh,
and carried unanimously to approve the minutes of the Personnel
Committee meeting of November 17, 2014.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

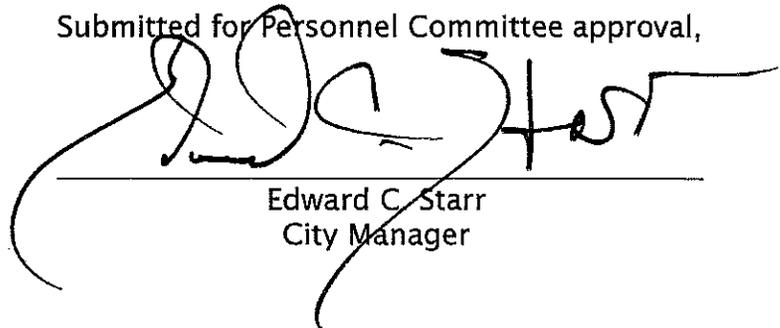
At 8:04 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:22 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 8:22 p.m., Mayor Pro Tem Ruh adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager