

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

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

April 20, 2015

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/MCF meetings are now available in audio format on the City's website at www.cityofmontclair.org 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, Montclair Housing Authority Commissioners, and Montclair Community Foundation Board of Directors

II. INVOCATION

In keeping with our long-standing tradition of opening our Council meetings with an invocation, this 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. Foothill Gold Line Update by Habib Balian, Executive Director, Metro Gold Line Foothill Extension Construction Authority
- B. 2015 Volunteer of the Year Awards
- C. Proclamation Declaring May 7, 2015 as the "National Day of Prayer" in the City of Montclair

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

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

VII. PUBLIC HEARINGS

- A. First Reading – Consider Adoption of Ordinance No. 15-948 Adding Chapter 11.65 to the Montclair Municipal Code Related to Reasonable Accommodations for Disabled Individuals [CC] 5
- B. Consider Tabling the Public Hearing for Adoption of Ordinance No. 15-950 Amending Sections 9.20.460 and 9.20.465 of the Montclair Municipal Code Related to the Equivalent Dwelling Unit Value [CC] 16

VIII. CONSENT CALENDAR

- A. Approval of Minutes
 - 1. Minutes of the Regular Joint Council/Successor Agency Board/ MHC Board/MHA Commission/MCF Board Meeting of April 6, 2015 [CC/SA/MHC/MHA/MCF]
- B. Administrative Reports
 - 1. Consider Receiving and Filing of Treasurer's Report [CC] 20
 - 2. Consider Approval of Warrant Register and Payroll Documentation [CC] 21
 - 3. Consider Receiving and Filing of Treasurer's Report [SA] 22
 - 4. Consider Approval of Warrant Register [SA] 23
 - 5. Consider Receiving and Filing of Treasurer's Report [MHC] 24
 - 6. Consider Approval of Warrant Register [MHC] 25
 - 7. Consider Receiving and Filing of Treasurer's Report [MHA] 26
 - 8. Consider Approval of Warrant Register [MHA] 27
 - 9. Consider Setting a Public Hearing to Consider Ordinance No. 15-949 Amending the Land Use Matrix (Table 3-1) of the North Montclair Specific Plan and Chapter 11.78 of the Montclair Municipal Code to Conditionally Permit Micro-breweries in the MIP (Manufacturing Industrial Park) Land Use District of the North Montclair Specific Plan [CC] 28
 - 10. Consider Authorizing Staff to Advertise for Bid Proposals for the Traffic Signal Improvement Project At Central Avenue and San Bernardino Street [CC] 34
 - 11. Consider Authorization of a \$1,796.89 Appropriation from the Contingency Fund to Purchase a Stackable Washer and Dryer for Fire Station No. 152 from Best Buy [CC] 35
 - 12. Consider Issuing a Permit for Express Transportation Systems, Inc., to Operate and Provide Taxicab Services Within the City of Montclair [CC] 38
 - 13. Consider Declaring City Unit 437 as Surplus and Authorizing its Sale at Auction or Scrap [CC] 44

- 14. Consider Formation of a Special Joint Ad Hoc Committee with the Monte Vista Water District to Consider Water Conservation and Drought-Related Issues Affecting the Local Community [CC]

Consider Appointing Two Members of the City Council to Serve on the Water Committee [CC]

Consider Appointing the City Manager and the Public Works Director to Serve on the Water Committee [CC]

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C. Agreements

- 1. Consider Approval of Agreement No. 15-26 with Geo-Advantec, Inc., for \$30,000 for On-Call Testing And Inspection Services for Miscellaneous City Projects [CC]

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- 2. Consider Appropriation of \$90,000 from the Gas Tax Fund For the Benson Avenue Block Wall Replacement Project [CC]

Consider Award of Contract to Aguilera Brothers Construction, Inc., in the Amount of \$79,180 for the Benson Avenue Block Wall Replacement Project [CC]

Consider Approval of Agreement No. 15-28 with Aguilera Brothers Construction, Inc., for Construction of the Benson Avenue Block Wall Replacement Project [CC]

Consider Authorization of an \$11,000 Construction Contingency [CC]

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D. Resolutions

- 1. Consider Adoption Of Resolution No. 15-3071 Authorizing the City of Ontario to Submit an Application for Cycle 2 Active Transportation Program Funding on Montclair's Behalf Through California Department of Transportation and Southern California Association of Governments for Design and Construction of G/Orchard Street Crosstown Bike Route and San Antonio Avenue Bike Corridor [CC]

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- 2. Consider Adoption of Resolution No. 15-02, a Resolution of the Successor Agency to the City Of Montclair Redevelopment Agency Approving and Authorizing Execution of Agreement No. 15-17, a Purchase and Sale Agreement Between the Successor Agency to the City of Montclair Redevelopment Agency (City Of Montclair) and Press On Properties, LLC, Regarding Property Located at 4960 Palo Verde Street, Montclair, California (1008-332-04) [SA]

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IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

- A. City Attorney
- B. City Manager/Executive Director
- C. Mayor/Chairman

- D. Council/SA Board/MHC Board/MHA Commissioners/MCF Board
- E. Committee Meeting Minutes *(for informational purposes only)*
 - 1. Minutes of the Personnel Committee Meeting of April 6, 2015 113
- XII. ADJOURNMENT OF SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS, MONTCLAIR HOUSING AUTHORITY COMMISSIONERS, AND MONTCLAIR COMMUNITY FOUNDATION BOARD OF DIRECTORS**
- XIII. QUACH APPEAL HEARING**
- XIV. ADJOURNMENT OF CITY COUNCIL**

The next regularly scheduled City Council, Successor Agency Board, Montclair Housing Corporation Board, and Montclair Housing Authority Commission meetings will be held on Monday, May 4, 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, Montclair Housing Authority Commission, and Montclair Community Foundation Board after distribution of the Agenda packet are available for public inspection in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Deputy City Clerk at (909) 625-9416. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

I, Andrea M. Phillips, 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 April 16, 2015.

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF ORDINANCE
NO. 15-948 ADDING CHAPTER 11.65 TO
THE MONTCLAIR MUNICIPAL CODE
RELATED TO REASONABLE ACCOMMO-
DATIONS FOR DISABLED INDIVIDUALS

FIRST READING

DATE: April 20, 2015
SECTION: PUBLIC HEARINGS
ITEM NO.: A
FILE I.D.: GPL250
DEPT.: COMMUNITY DEV.

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

A copy of proposed Ordinance No. 15-948 is attached for City Council review and consideration.

BACKGROUND: On February 3, 2014, the City Council adopted Resolution No. 14-3018 approving a General Plan Amendment adopting the 2014-2021 Housing Element Update. The "Policy Program" chapter of the adopted Housing Element sets forth 25 Policy Actions that are required to be undertaken by the City to successfully implement the adopted Housing Element. The Policy Actions being addressed by this agenda item include the following:

Policy Action 3.1 requires staff to "Develop and adopt procedures to provide reasonable accommodations for persons with disabilities in compliance with the provisions of SB 520. These procedures shall include a formal written application and process."

The Federal Fair Housing Act and the California Fair Employment and Housing Act require that local governments make reasonable accommodations (*i.e.*, modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." The purpose of the proposed Ordinance is to comply with the laws and provide a process for individuals with disabilities to make requests for, and be provided with reasonable accommodations in the application of the City's land use and zoning regulations. It is similar to a process where the City grants a variance from development standards. For example, the accommodation could include allowing a wheelchair ramp to encroach into the front yard setback.

The State Housing Element Law statute requires that each city have an approved Housing Element as part of its General Plan, and that the Housing Element must address reasonable accommodation procedures for disabled individuals. The purpose of the Ordinance is to meet both the Federal and State requirements.

Prepared by: 
Proofed by: 

Reviewed and Approved by: 
Presented by: 

The proposed Ordinance would add Chapter 11.65 to the Montclair Municipal Code, "Reasonable Accommodations for Disabled Individuals." The Ordinance would establish criteria and a formal procedure for persons with disabilities to make a request to the City for reasonable accommodations in the application of the City's zoning regulations for residential development. The Ordinance provides for two types of reasonable accommodation requests, "Minor" and "Major," which are defined as follows:

- ❑ "Reasonable Accommodation, Minor" is defined as any deviation requested and/or granted from the strict application the City's laws, rules, policies, practices and/or procedures, including land use and zoning regulations of this Title, and which can be removed or terminated in sixty (60) days or less after the need for the reasonable accommodation ends.
- ❑ "Reasonable Accommodation, Major" is defined as any deviation requested and/or granted from the strict application of the City's laws, rules, policies, practices and/or procedures, including land use and zoning regulations of this Title, resulting in a physical modification to the property which cannot be restored or terminated within sixty (60) days or less after the need for the reasonable accommodation ends.

The process is summarized below:

1. Application (Section 11.65.040)

The Ordinance establishes requirements for an applicant to submit to the City factual and background information relative to the request for reasonable accommodation. *(Draft application is attached to this agenda report.)*

2. Review (Section 11.65.050)

- a. Minor Reasonable Accommodation Application: The Community Development Director has the authority to consider and act on the application or to refer the matter to the Planning Commission.
- b. Major Reasonable Accommodation Application: The Planning Commission has the Authority to review, approve or deny the request.

3. Noticing

a. Minor Reasonable Accommodation Application:

Notice of the Community Development Director's meeting to review and act on the application shall be made in writing 10 days prior to the meeting and shall be mailed first class, postage pre-paid to the applicant and the adjacent property owners.

b. Major Reasonable Accommodation Application:

Notice of the Planning Commission meeting to review and act on the application shall be made in writing 10 days prior to the meeting and

shall be mailed first class, postage pre-paid to the applicant and the adjacent property owners within a 300-foot radius of the subject property boundaries.

4. Decision

A decision shall be made based on consideration of factors such as:

- The dwelling subject to the reasonable accommodation request will be occupied as a primary residence by the applicant/owner, making specific housing available to one or more individuals protected under the Fair Housing Laws;
- The request for reasonable accommodation will not impose an undue financial or administrative burden on the City; and
- The request will not require a fundamental alteration of the City's zoning regulations, development standards, building codes, policies and/or procedures.

5. Fees

There is no fee associated with the application for reasonable accommodation. However, fees adopted by City Council Resolution associated with building permits or other permits required to construct the requested improvements shall be paid at the time of permit issuance.

Staff notes that this is one of several General Plan and/or Municipal Code amendments related to implementation of the Policy Actions contained in the adopted Housing Element that are intended to be submitted to the Planning Commission and City Council for consideration. At its meeting on April 13, 2015, the Planning Commission unanimously recommended City Council approval of the proposed Ordinance.

FISCAL IMPACT: There would be no fiscal impact related to the City Council's adoption of the first reading of Ordinance No. 15-948.

RECOMMENDATION: Staff recommends the City Council adopt the first reading of Ordinance No. 15-948 adding Chapter 11.65 to the Montclair Municipal Code related to reasonable accommodations for disabled individuals.



APPLICATION FOR REASONABLE ACCOMMODATION

PLANNING DIVISION
COMMUNITY DEVELOPMENT DEPARTMENT
5111 BENITO STREET, P.O. BOX 2308, MONTCLAIR, CA 91763
(909) 625-9477
www.cityofmontclair.org

Applicants requesting accommodations under Fair Housing Laws or the Americans With Disabilities Act shall complete the following information. Attach additional sheets if necessary containing any relevant information supporting the request for reasonable accommodation. Applicants shall submit one or more of the following supporting documents to substantiate eligibility for a reasonable accommodation:

- A letter from a medical doctor or other qualified health care professional
- A State-issued disabled person license or placard
- Another acceptable form of evidence reliably demonstrating the applicant's disability

APPLICANT INFORMATION

Property Owner Name(s): _____

Property Address/City/Zip: _____

Phone Number: (____) _____ E-mail: _____

Applicant's Name (if different): _____

Phone Number: (____) _____ E-mail: _____

Is the applicant a disabled person under the Federal Fair Housing or Americans With Disabilities Acts? ___ Yes ___ No

Type of residence: Single-Family Duplex Multi-Family (3+ units) Other _____

Type of accommodation(s) required: Building Code Zoning Code Other _____

Specify the accommodation(s) that is/are requested and describe the proposed alterations to the property:

This request is for a:

Minor Reasonable Accommodation - any deviation requested and/or granted from the strict application the laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations of Title 11 of the Montclair Municipal Code, which can be removed or terminated within 90 days or less after the need for the reasonable accommodation ends.

Major Reasonable Accommodation - any deviation requested and/or granted from the strict application of the laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations of Title 11 of the Montclair Municipal Code, resulting in a physical modification to the property which cannot be restored or terminated within 90 days or less after the reasonable accommodation is terminated.

I/We, the undersigned, hereby declare under penalty of perjury that the foregoing is true and correct. Furthermore, I/we attest that the property that is the subject of this request for reasonable accommodation is the primary residence of the disabled person for whom the accommodation is requested.

Property Owner Signature: _____ Date: _____

Applicant's Signature: _____ Date: _____

ORDINANCE NO. 15-948

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADDING CHAPTER 11.65 TO THE MONTCLAIR MUNICIPAL CODE RELATED TO REASONABLE ACCOMMODATIONS FOR DISABLED INDIVIDUALS

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

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

WHEREAS, the City, through its consultant, RBF Consulting, prepared the 2014-2021 Housing Element, as an update to its previously adopted Housing Element in compliance with State law; and

WHEREAS, in January 2014, HCD provided the City with a letter of substantial compliance indicating that upon adoption by the City Council, the Housing Element would fully comply with State law; and

WHEREAS, on February 3, 2014, the City Council adopted Resolution No. 14-3018 approving a General Plan Amendment adopting the 2014-2021 Housing Element Update; and

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

WHEREAS, Policy Action 3.12 requires staff to "Develop and adopt procedures to provide reasonable accommodations for persons with disabilities in compliance with the provisions of SB 520. These procedures shall include a formal written application and process;" and

WHEREAS, in order to be in full compliance with the state's certification of the City's Housing Element, the City desires to provide a procedural process for disabled individuals to seek reasonable accommodation with respect to the City's zoning regulations and development standards; and

WHEREAS, such a procedural process for disabled individuals to seek reasonable accommodation is intended to comply with Federal and State requirements for fair housing and is intended to reasonably allow disabled individuals to integrate into residential areas; and;

WHEREAS, a grant of reasonable accommodation shall be specific to applying individuals and shall not apply to subsequent or changes in the ownership or uses of property by individuals other than those specifically

granted a reasonable accommodation pursuant to the provisions of this Ordinance, except as may be required by Federal and/or State law; and

WHEREAS, the Planning Commission reviewed the subject Ordinance at its regular meeting on March 23, 2015, and recommended City Council adoption; and

WHEREAS, the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Sections 15301(e) and 15303(e) of the State CEQA Guidelines. While the code amendment, in and of itself, does not approve any construction activities, it establishes criteria and procedures to provide reasonable accommodations for disabled individuals that would result in the construction of minor additions to existing residential structures.

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

SECTION I. Amendment of Code.

Chapter 11.65 is hereby added to the Montclair Municipal Code as follows:

**CHAPTER 11.65
REASONABLE ACCOMMODATIONS FOR DISABLED INDIVIDUALS**

Sections:

- 11.65.010 Intent and purpose.**
- 11.65.020 Definitions.**
- 11.65.030 Public notice of availability of accommodation process.**
- 11.65.040 Requesting reasonable accommodation.**
- 11.65.050 Decision on application.**
- 11.65.060 Required findings.**
- 11.65.070 Appeals.**
- 11.65.080 Waiver of time periods.**

11.65.010 Intent and purpose.

The intent of this Chapter, pursuant to Fair Housing Laws, is to provide individuals with disabilities reasonable accommodation in the application of the City's rules, policies, practices and procedures as necessary to ensure equal access to housing. The purpose of this Chapter is to provide a process for individuals with disabilities to make requests for, and be provided, reasonable accommodation, when reasonable accommodation is warranted based upon sufficient evidence, from the various laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations.

11.65.020 Definitions.

Applicant means a person, business, or organization making a written request to the City for reasonable accommodation in the strict application of land use or zoning provisions of this Title.

Director means the Director of Community Development.

Disabled or handicapped person or individual means an individual who has a physical or mental impairment that limits one or more of that person's major life activities; anyone who is regarded as having such impairment; or anyone who has a record of having such impairment, but not including an individual's current, illegal use of a controlled substance.

Fair Housing Laws means the "Fair Housing Amendments Act of 1988" (42 U.S.C. § 3601, *et seq.*), including reasonable accommodation required by 42 U.S.C. § 3604 (f)(3)(B), and the "California Fair Employment and Housing Act" (California Government Code Section 12900, *et seq.*), including reasonable accommodation required specifically by California Government Code Sections 12927(c)(1), 12955, and 65583(c)(3) as any of these statutory provisions now exist or may be amended from time to time.

Reasonable Accommodation, Major means any deviation requested and/or granted from the strict application of the laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations of this Title, resulting in a physical modification to the property which cannot be restored or terminated within 90 days or less after the reasonable accommodation is terminated.

Reasonable Accommodation, Minor means any deviation requested and/or granted from the strict application of the laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations of this Title, which can be removed or terminated within 90 days or less after the need for the reasonable accommodation ends.

11.65.030 Public notice of availability of accommodation process.

The City shall prominently display at the Community Development Department public counter in City Hall a notice advising individuals with disabilities or their representatives that they may request a reasonable accommodation in accordance with the procedures established in this Chapter. City employees shall direct individuals to the display whenever they are requested to do so or reasonably believe that individuals with disabilities or their representatives may be entitled to a reasonable accommodation.

11.65.040 Requesting reasonable accommodation.

A. In order to make specific housing available to an individual with a disability, a disabled individual or representative may request reasonable accommodation, pursuant to this Chapter, relating to the application of various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.

B. If an individual or representative needs assistance in making a request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Community Development Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant may be represented

at all stages of the proceeding by a person designated by the applicant as his or her representative.

C. A request for reasonable accommodation with respect to the laws, rules, policies, practices and/or procedures of the City shall be filed on an application form provided by the Community Development Department, shall be signed by the owner of the property, and shall include the following information:

1. A description of how the property will be used by the disabled individual(s);
2. The basis for the claim that the Fair Housing Laws apply to the individual(s) and evidence satisfactory to the City supporting the claim, which may include a letter from a medical doctor or other licensed health care professional, a disabled person license or placard, or other appropriate evidence that establishes that the individual(s) needing the reasonable accommodation is disabled/handicapped pursuant to the Fair Housing Laws;
3. The specific reason the requested accommodation is necessary to make particular housing available to the disabled individual(s);
4. Verification by the applicant that the property is the primary residence of the person for whom reasonable accommodation is requested;
5. A filing fee in an amount as determined from time to time by Resolution of the City Council, but not to exceed the reasonable estimated costs to the City in processing the application.

11.65.050 Decision on application.

A. The Director shall have the authority to consider and act on any application for a Minor Reasonable Accommodation. The Director shall issue a written determination within 30 days of the date of receipt of a completed application and may: (1) grant the accommodation request; (2) grant the accommodation request subject to specified nondiscriminatory conditions; (3) deny the request; or (4) refer the matter to the Planning Commission, which shall render a decision on the application in the same manner as it considers an appeal. Notice of the Director's consideration of a Minor Reasonable Accommodation application shall be made in writing, ten (10) days prior to a decision and shall be mailed first class and postage pre-paid to the applicant and the adjacent property owners.

B. The Planning Commission shall have the authority to consider and act on any application for a Major Reasonable Accommodation or any Minor Reasonable Accommodation request referred to it by the Director. The Planning Commission shall consider an application at the next reasonably available public meeting after submission of an application for reasonable accommodation, after the submission of any additional information required pursuant to this Section, or after referral from the Director. The Planning Commission may: (1) grant the accommodation request; (2) grant the accommodation request subject to specified nondiscriminatory conditions; or (3) deny the request. Notice of the Planning Commission meeting to review and act on a Major Reasonable Accommodation application, or Minor Reasonable Accommodation application referred by the Director, shall be made in writing ten (10) days prior to the meeting and shall be mailed first class and postage pre-paid to the applicant and all property owners within a 300-foot radius of the project boundary.

C. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of determination shall be sent to the applicant by first class mail.

D. If necessary to reach a determination on any request for reasonable accommodation, the Director may request further information from the applicant consistent with this Chapter, specifying in detail what information is required. In the event a request for further information is made, the 30-day period to issue a written determination shall be stayed until the applicant reasonably responds to the request.

E. If, based upon all of the evidence presented to the Director or the Planning Commission, the findings required in this Chapter may reasonably be made, the Director, the Planning Commission, or City Council, as applicable, shall grant the requested reasonable accommodation.

F. A reasonable accommodation granted pursuant to this Chapter shall not require the approval of any variance as to the reasonable accommodation.

G. The reasonable accommodation shall be subject to any reasonable conditions imposed on the approval that are consistent with the purposes of this Chapter to further fair housing. Such conditions may generally include, but are not limited to the following restrictions:

1. That the reasonable accommodation shall only be applicable to a particular individual(s);
2. That the reasonable accommodation shall only be applicable to the specific use for which application is made; and/or
3. That any change in use or circumstances which negates the basis for the granting of the approval shall render the reasonable accommodation null and void and/or revocable by the City.

11.65.060 Required findings.

The following findings shall be made in order to approve a request for reasonable accommodation:

A. The housing that is the subject of the request for reasonable accommodation shall be occupied as the primary residence by an individual protected under the Fair Housing Laws.

B. The request for reasonable accommodation is necessary to make specific housing available to one or more individuals protected under the Fair Housing Laws.

C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.

D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City.

11.65.070 Appeals.

A. Within ten (10) days of the date the City issues a written decision on a reasonable accommodation application, any person aggrieved or affected by a decision on an application requesting the accommodation may appeal such determination in writing to the Planning Commission or City Council, as applicable.

B. All appeals shall contain a statement of the grounds for the appeal.

C. No such appeal shall be accepted unless there is, paid concurrently with the filing of such appeal, a filing and processing fee in a sum set forth by Resolution of the City Council. Upon receipt of a timely filed appeal, together with the filing and processing fee, the Secretary of the Planning Commission or City Clerk shall set the matter for a hearing before the Planning Commission or City Council, as applicable, at its next reasonably available public meeting.

D. The Planning Commission or City Council, as applicable, shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed, or after an application has been referred to it by the Director. All determinations shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.

E. An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted.

F. An applicant requesting the accommodation may appeal an adverse determination or any conditions or limitations imposed by the Planning Commission's decision to the City Council in accordance with this Section. The decision of the City Council shall be final.

11.65.080 Waiver of time periods.

Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this chapter or may request a continuance regarding any decision or consideration by the city of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the city, shall not constitute failure by the city to provide for prompt decisions on applications and shall not be a violation of any required time period set forth in this chapter.

SECTION II. Severability.

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

SECTION III. Effective Date.

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

SECTION IV. Posting.

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

APPROVED AND ADOPTED this XX day of XX, 2015.

Mayor

ATTEST:

Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 15-948 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2015, and finally passed not less than five (5) days thereafter on the XX day of XX, 2015, by the following vote, to-wit:

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

Andrea M. Phillips
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER TABLING THE PUBLIC HEARING FOR ADOPTION OF ORDINANCE NO. 15-950 AMENDING SECTIONS 9.20.460 AND 9.20.465 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO THE EQUIVALENT DWELLING UNIT VALUE

DATE: April 20, 2015

SECTION: PUBLIC HEARINGS

ITEM NO.: B

FILE I.D.: SEW125

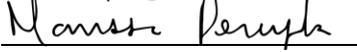
DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: On March 10, 2015, Inland Empire Utilities Agency (IEUA) proposed new rates for connections to sewer systems that discharge to its sewage treatment facilities. In anticipation of this change going into effect July 1, 2015, staff requested City Council approval to set a public hearing for April 20, 2015, to consider Ordinance No. 15-950. Since setting the public hearing at the April 6, 2015 meeting, staff has learned that IEUA will not proceed with a connection fee increase until January 1, 2016.

BACKGROUND: The Regional Sewage Supplemental Capital Outlay Fee for residential, commercial, and industrial structures, commonly known as the connection fee, is set forth in Chapter 9.20.460 of the Montclair Municipal Code. This fee, which is established by the Inland Empire Utilities Agency (IEUA) and assessed by the City at the time a building permit is issued, must be paid to IEUA for each new building connected to a sewer. On April 6, 2015, the City Council set a public hearing for April 20, 2015, to consider an increase to this IEUA fee.

The current rate is \$5,107 per equivalent dwelling unit (EDU). IEUA has proposed multiple-year step increases, but the first increase will not go into effect until January 1, 2016. The new rate proposed at this time is \$6,289 per EDU, which is somewhat lower than the EDU rate previously proposed at \$6,605. However, the rate is still somewhat in a state of flux and, rather than adopting the rate at this time, staff recommends waiting until fall 2015 to conduct a public hearing related to Ordinance No. 15-950.

The connection fee is a pass-through fee collected by the City and sent to IEUA when a request is made for them. The interest earned on these fees until a call is made is retained by the City and can be used by the City for any sewer-related purpose. All agencies served by IEUA are authorized to do this. In addition to the interest earned on the connection fees, a few agencies, including the City of Montclair, add a surcharge onto the connection fee in order to expand their own facilities.

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

FISCAL IMPACT: By delaying this item until fall 2015, the City will need to readvertise the public hearing at a cost of approximately \$500.

RECOMMENDATION: Staff recommends the City Council table the public hearing for adoption of Ordinance No. 15-950 amending Sections 9.20.460 and 9.20.465 of the Montclair Municipal Code related to the equivalent dwelling unit value.

ORDINANCE NO. 15-950

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTIONS 9.20.460 AND 9.20.465 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO THE REGIONAL SEWAGE SUPPLEMENTAL CAPITAL OUTLAY FEE

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

Section I. Amendment to Code. Section 9.20.460 of Title 9 of the Montclair Municipal Code is hereby amended as follows:

Section 9.20.460: Equivalent dwelling unit value.

The Regional Sewage Supplemental Capital Outlay Fee for residential, commercial, and industrial structures shall be the equivalent dwelling unit (EDU) number multiplied by the EDU value of Five Thousand Two Hundred Sixty Dollars (\$5,260) as established by the Inland Empire Utilities Agency effective July 1, 2015; Six Thousand Six Hundred Five Dollars (\$6,605) as established by the Inland Empire Utilities Agency effective October 1, 2015; Six Thousand Eight Hundred Dollars (\$6,800) as established by the Inland Empire Utilities Agency effective July 1, 2016; and Seven Thousand Dollars (\$7,000) as established by the Inland Empire Utilities Agency effective July 1, 2017. The EDU value is based on construction costs and takes into consideration the current Engineering News-Record Construction Cost Index nationwide using the 20-city average.

Section 9.20.465 is hereby is hereby amended as follows:

Section 9.20.465: Sanitary Sewer Expansion Fee

The Sanitary Sewer Expansion Fee for residential, commercial, and industrial structures shall be the equivalent dwelling unit (EDU) number multiplied by the EDU value of Six Hundred Sixty Dollars (\$660) effective July 1, 2015; Six Hundred Eighty Dollars (\$680) effective July 1, 2016; and Seven Hundred Dollars (\$700) effective July 1, 2017.

Section II. Severability.

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

Section III. Effective Date.

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

Section IV. Posting.

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

APPROVED AND ADOPTED this XX day of XX, 2015.

Mayor

ATTEST:

Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 15-950 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2015, and finally passed not less than five (5) days thereafter on the XX day of XX, 2015, by the following vote, to-wit:

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

Andrea M. Phillips
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: April 20, 2015

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 March 31, 2015, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending March 31, 2015.

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 March 31, 2015.

Prepared by:

Janet Kuelbeck

Reviewed and
Approved by:

Donald J. Parker

Proofed by:

Andrea M. Phillips

Presented by:

[Signature]

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION **DATE:** April 20, 2015
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 April 20, 2015, and Payroll Documentation dated April 5, 2015, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated April 20, 2015, totals \$627,055.85. The Payroll Documentation dated April 5, 2015, totals \$574,846.14 gross, with \$403,283.79 net being the total cash disbursement.

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

Prepared by: Andrea M Phillips Reviewed and Approved by: [Signature]
Proofed by: Stephanie Hick Presented by: [Signature]

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: April 20, 2015
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 March 31, 2015, 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 March 31, 2015.

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 March 31, 2015.

| | | | |
|--------------|---------------------------|---------------------------|-------------------------|
| Prepared by: | <u>Michael Piotrowski</u> | Reviewed and Approved by: | <u>Ronald L. Parker</u> |
| Proofed by: | <u>Andrea M. Phillips</u> | Presented by: | <u>[Signature]</u> |

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** April 20, 2015
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 March 31, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 03.01.15–03.31.15 in the amounts of \$111,022.79 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds; \$0.00 from the Tax Exempt Bond Proceeds; and \$0.00 from the Taxable Bond Proceeds and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft 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 March 31, 2015.

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: April 20, 2015
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 March 31, 2015, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending March 31, 2015.

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 March 31, 2015.

| | | | |
|--------------|---------------------------|---------------------------|-------------------------|
| Prepared by: | <u>Michael Piotrowski</u> | Reviewed and Approved by: | <u>Ronald L. Parker</u> |
| Proofed by: | <u>Andrea M. Phillips</u> | Presented by: | <u>[Signature]</u> |

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** April 20, 2015
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 March 31, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 03.01.15–03.31.15 in the amount of \$63,207.46 for the Montclair Housing Corporation and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending March 31, 2015.

| | |
|--|---|
| Prepared by: <u>Michael Piotrowski</u> | Reviewed and Approved by: <u>Ronald L. Parker</u> |
| Proofed by: <u>Andrea M. Phillips</u> | Presented by: <u>[Signature]</u> |

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: April 20, 2015

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 March 31, 2015, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending March 31, 2015.

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 March 31, 2015.

Prepared by:

Michael Piotrowski

Reviewed and
Approved by:

Ronald L. Parker

Proofed by:

Andrea M. Phillips

Presented by:

[Signature]

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** April 20, 2015
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 March 31, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 03.01.15–03.31.15 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 Chairperson Raft recommends the Montclair Housing Authority Board of Directors approve the Warrant Register for the period ending March 31, 2015.

Prepared by: Michael Piotrowski Reviewed and Approved by: Ronald L. Parker
Proofed by: Andrea M. Phillips Presented by: [Signature]

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 15-949 AMENDING THE LAND USE MATRIX (TABLE 3-1) OF THE NORTH MONTCLAIR SPECIFIC PLAN AND CHAPTER 11.78 OF THE MONTCLAIR MUNICIPAL CODE TO CONDITIONALLY PERMIT MICROBREW-ERIES IN THE MIP (MANUFACTURING INDUSTRIAL PARK) LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN

DATE: April 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 9
FILE I.D.: LDU457/750
DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: Amendments to the Municipal Code and adopted Specific Plans require public hearing review and approval by the City Council.

BACKGROUND: In late 2014, staff was approached by an applicant interested in establishing a microbrewery in a business park lease space within the boundaries of the North Montclair Specific Plan. The Specific Plan, which was adopted in 1998, makes no reference to microbreweries as an allowable use in any land use district within its planning area. If the proposed amendment is approved, microbreweries would be added to the Land Use Matrix (Table 3-1) so they could be considered for approval in the MIP land use district of the Specific Plan, subject to approval of a Conditional Use Permit (CUP). Further, Section 11.78.030.C of the Montclair Municipal Code would be amended to be consistent with the Specific Plan. That Municipal Code section currently identifies microbreweries as a land use that could be allowed with a CUP, but only within the C-2 (Limited Commercial) and C-3 (General Commercial) zoning districts of the City. There are presently no microbreweries within the City limits.

The Planning Commission reviewed this item at its meeting on April 13, 2015 and unanimously recommended Council approval of the amendments to the Specific Plan and Municipal Code.

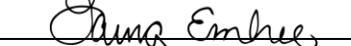
FISCAL IMPACT: The cost to publish a Notice of Public Hearing in the *Inland Valley Daily Bulletin* related to Ordinance No. 15-949 should not exceed \$500.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, May 4, 2015, at 7:00 p.m. in the Council Chambers to consider Ordinance No. 15-949 amending the land use matrix (Table 3-1) of the North Montclair Specific Plan and Chapter 11.78 of the Montclair Municipal Code to conditionally permit microbreweries in the MIP (Manufacturing Industrial Park) land use district of the North Montclair Specific Plan.

Prepared by: 

Reviewed and Approved by:



Proofed by: 

Presented by:



ORDINANCE NO. 15-949

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING THE LAND USE MATRIX (TABLE 3-1) OF THE NORTH MONTCLAIR SPECIFIC PLAN AND CHAPTER 11.78 OF THE MONTCLAIR MUNICIPAL CODE TO CONDITIONALLY PERMIT MICROBREWERIES IN THE MIP (MANUFACTURING INDUSTRIAL PARK) LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN.

WHEREAS, on January 12, 2015, Holualoa Montclair Business Park submitted a request to amend to the North Montclair Specific Plan to allow a microbrewery as a conditionally permitted use within the Manufacturing Industrial Park (MIP) land use district of the Specific Plan; and

WHEREAS, the amendment would apply to all properties with the Manufacturing Industrial Park (MIP) land use district designation within the boundaries of the North Montclair Specific Plan; and

WHEREAS, the North Montclair Specific Plan was adopted on January 5, 1998 (Resolution No. 2163). The planning area covered by the Specific Plan was originally approximately 640 acres and bounded by the north City boundary, Palo Verde Street on the south, Benson Avenue on the east, and the San Antonio Flood Control Channel on the west; and

WHEREAS, the North Montclair Specific Plan planning area consists primarily of retail commercial and light industrial uses, with Montclair Plaza and related commercial developments serving as the area's primary focus; and

WHEREAS, in 2006, the planning area covered by the North Montclair Specific Plan was modified and reduced in size when the North Montclair Downtown Specific Plan (NMDSP) was created from a portion of the northernmost area of the Specific Plan; and

WHEREAS, Section VI-9.C.1. of the North Montclair Specific Plan allows amendments to land use designations and development criteria upon review and approval of the Planning Commission and City Council; and

WHEREAS, the Specific Plan amendment will be consistent with the City's General Plan land use map, proposed uses and surrounding uses; and

WHEREAS, the North Montclair Specific Plan did not specifically identify microbreweries as permitted or conditionally permitted use when it was adopted in 1998; and

WHEREAS, the addition of microbreweries to the list of uses allowed with a CUP in the MIP land use district would simply allow both uses to be combined into a new specified use; and

WHEREAS, a microbrewery is a small-scale brewery operation that is dedicated solely to the production of specialty beers. In most cases, a tasting room at the manufacturing plant is an element of the business; and

WHEREAS, “Beer” is an alcoholic drink brewed mainly from malted barley, hops, yeast and water although other sources of fermentable carbohydrate (*i.e.*, maize and wheat) and other natural ingredients may be added to create different styles and flavors. Beer comes in many styles, the most common of which are ales, porters, browns, stouts, or lagers; and

WHEREAS, a microbrewery use is subject to the requirements of California Department of Alcoholic Beverage Control (ABC). According to ABC, a Brew Pub or Microbrewery is considered a small beer manufacturer and requires the issuance of a Type 23 license. As a “small manufacturing facility,” ABC controls its size of operation, either through the area allowed for production or through a cap on the volume of daily or annual production. Production is measured in barrels and the maximum number of barrels that can be produced is capped at 60,000 per year. A producer of more than 60,000 barrels is considered to be a large scale manufacturer and requires a different ABC license; and

WHEREAS, the Department of Alcoholic Beverage Control (ABC) requires that only beverages produced at that location can be served within the tasting room; and

WHEREAS, a microbrewery operation is subject to the County Health Department review and periodic inspections; and

WHEREAS, if approved, the Land Use Matrix (Table 3-1) contained in the North Montclair Specific Plan would be amended to add microbreweries under "5. Eating/Drinking Establishments" as a conditionally permitted use within the MIP (Manufacturing Industrial Park) land use district of the North Montclair Specific Plan as depicted in Exhibit "A", and

WHEREAS, Section 11.78.030.C of the Montclair Municipal Code would also be amended to allow microbreweries as a conditionally permitted use in said land use district; and

WHEREAS, the Planning Commission reviewed the subject Ordinance at its regular meeting on April 6, 2015, and recommended City Council adoption; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the proposed amendment to allow microbreweries as a conditionally permitted use within the MIP land use district of the North Montclair Specific Plan is deemed to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the State CEQA Guidelines. The proposed amendment is a minor alteration to land use limitations contained in the North Montclair Specific Plan, which already permits the manufacturing of products in general, and the sale of alcoholic beverages subject to a CUP.

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

Section I. Amendment of North Montclair Specific Plan.

Table 3-1 of the North Montclair Specific Plan is hereby amended as follows:

**TABLE 3-1
LAND USE MATRIX (CONTINUED)**

| LAND USE ACTIVITY | R1/ SL | R1 | R3 | C2 | C3 | MIP | I |
|---|-----------|----|----|----|----|----------------|---|
| 5. Eating and Drinking Establishments Commercial establishments which serve prepared food or beverages for consumption on or off the premises. Examples of allowable uses include, but are not limited to, the following: | | | | P | P | P' | |
| a) Delicatessen/Sandwich Shop | | | | | | | |
| b) Night Clubs/Bars/Lounges | | | | | C | | |
| c) Restaurants – No Drive-Thrus | | | | P | P | P' | |
| d) Restaurants – With Drive-Thrus | | | | | C | C' | |
| e) Restaurants – Serving Alcoholic Beverages | | | | | | | |
| f) <u>Microbrewery with on-site tasting</u> | | | | | | C ⁵ | |
| g) <u>Microbrewery in conjunction with a bona fide eating establishment</u> | | | | | | C ⁵ | |
| 6. Entertainment/Recreation Establishments | | | | | | | |
| a) Auditorium, Convention Halls and Theaters | | | | | C | | |
| b) Commercial Recreation Facilities | | | | | C | | |
| 7. Financial | | | | | | | |
| Commercial establishments which engage in monetary transactions not directly related to the sale of a product/service (i.e. banks, savings and loans, etc.) | | | | P | P | P' | |
| 8. Medical/Care Facilities Commercial establishments which provide needed services of a medical/care nature. Examples of allowable uses include, but are not limited to, the following: | | | | | | | |
| a) Child Day Care (up to 6) | P | P | P | P | P | P | P |
| b) Child Day Care (7 or more children) | C | C | C | C | C | | C |
| c) Doctors/Dentists Office | | | | | P | C' | P |
| d) Outpatient–Treatment Programs | | | | | C | | P |
| e) Residential Care Facilities (convalescent care) | | | C | | | | P |

**TABLE 3-1
LAND USE MATRIX (CONTINUED)**

| LAND USE ACTIVITY | R1/ SL | R1 | R3 | C2 | C3 | MIP | I |
|--|-------------------|-----------|-----------|-----------|-----------|------------|----------|
| d) Laboratories (medical, mechanical, optical) | | | | | | P | |
| e) Processing (bottling, cleaning/dyeing, packaging; except hazardous materials) | | | | | | P | |
| f) Research/Development (design of new products) | | | | | | P | |
| g) Repairing (appliances, electronic equipment, plumbing/electrical shops) | | | | | | P | |
| h) Storage (household items, office files, self-serve storage [indoors only]) | | | | | | P | |
| i) Treatment, Light (non-toxic coating/plating) | | | | | | P | |
| j) Wholesaling (household goods, office supplies, electronic components) | | | | | | P | |
| k) Welding, Machine and Sheet Metal Shops | | | | | | P | |
| 13. Other | | | | | | | |
| a) Assembly Facilities (clubs, lodges, meeting halls) | | | | | C | | |
| b) Bus and Rail Facilities | | | | | | P | |
| c) Funeral Parlors/Mortuaries | | | | | C | | C |
| d) Ice and Cold Storage Plants | | | | | | C | |
| e) Parking Structures | | | | | P | P | |
| f) Parks and Playgrounds | P | P | P | P | | | |
| g) Private Schools (trade schools) | | | | | C | C | |
| h) Public Schools | | P | | | | | |
| i) Private Schools (parochial, elementary, business) | | | | | C | | |
| j) Public Utility Facilities | | | | | C | C | |
| k) Religious Facilities | C | C | C | C | C | | C |

- 1 Retail or wholesale uses are permitted or conditionally permitted provided that they do not occupy more than 50% of the building/property area and provide the appropriate parking ratio for commercial use.
- 2 Subject to the provisions of Section 9-6.101 of the Montclair Municipal Code.
- 3 Subject to the provisions of Section 9-6.200 of the Montclair Municipal Code.
- 4 Subject to the provisions of Section 9-4.1816 of the Montclair Municipal Code.
- 5 Maximum of one (1) Microbrewery use per multi-tenant center. Minimum 100-foot separation from adjacent residential district boundary.

Section II. Amendment of Code.

Section 11.78.030.C of the Montclair Municipal Code is hereby amended as follows:

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

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

Section III. Severability.

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

Section IV. Effective Date.

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

Section V. Posting.

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

APPROVED AND ADOPTED this XX day of XX, 2015.

Mayor

ATTEST:

Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 15-949 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2015, and finally passed not less than five (5) days thereafter on the XX day of XX, 2015, by the following vote, to-wit:

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

Andrea M. Phillips
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING STAFF TO ADVERTISE FOR BID PROPOSALS FOR THE TRAFFIC SIGNAL IMPROVEMENT PROJECT AT CENTRAL AVENUE AND SAN BERNARDINO STREET

DATE: April 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 10
FILE I.D.: SSP150
DEPT.: PUBLIC WORKS

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

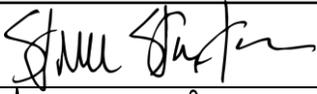
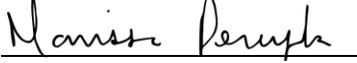
BACKGROUND: In 2013, staff prepared an application for federal funding to assist with the cost of traffic signal improvements at the intersection of Central Avenue and San Bernardino Street. The application for funding was made after the City Engineer reviewed accident records at the subject intersection, revealing a higher rate of accidents than what would be expected at such an intersection. The accidents all had a similar cause: left turns failing to yield to through traffic movements.

The federal Highway Safety Improvement Program, commonly known as HSIP, was offering funding for traffic signal related upgrades. The purpose of this program is to improve driver, pedestrian, and resident safety with respect to traffic-related incidents. Funds were made available to cities throughout the state on a competitive basis. Conditions of the grant require a 50 percent local match for the project. On March 26, 2015, staff received a Form E-76, a notice from the state authorizing staff to proceed with advertising and awarding a construction contract.

Intersection improvements include new traffic signal equipment that will allow for protected left turn phasing in all four directions, replacement of noncompliant Americans with Disabilities Act (ADA) pedestrian ramps, removal of existing asphalt concrete pavement markings, and the addition of new striping and notification signs.

FISCAL IMPACT: At the January 21, 2014, Council meeting, staff recommended adding the project to the 2013-2018 Capital Improvement Program and appropriating funds for the design and matching construction funds. The total project cost is estimated to be \$245,000 with a maximum reimbursement of \$112,500 coming from HSIP. Depending on the actual bid, an additional appropriation may be required at the time of the contract award. The cost of advertising this project should not exceed \$3,500.

RECOMMENDATION: Staff recommends the City Council authorize staff to advertise for bid proposals for the Traffic Signal Improvement Project at Central Avenue and San Bernardino Street.

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

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION OF A \$1,796.89 APPROPRIATION FROM THE CONTINGENCY FUND TO PURCHASE A STACKABLE WASHER AND DRYER FOR FIRE STATION NO. 152 FROM BEST BUY

DATE: April 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 11
FILE I.D.: FRD056
DEPT.: FIRE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing a \$1,796.89 appropriation from the Contingency Fund to purchase a stackable washer and dryer for Fire Station No. 152 from Best Buy.

BACKGROUND: In January 2014, the Fire Department changed its shift schedule to mirror that of the Upland Fire Department. This change was made in accordance with the current staff merger between the two Fire Departments, and as a result, requires firefighters to be on duty for a 48-hour tour. In an effort to reduce the risk of spreading infectious diseases, carcinogenic substances, and other hazardous agents, members of the Fire Department have been asked to clean their uniforms using the station extractors. The extractors are designed to clean firefighter turnout equipment, which has significantly increased the wear and tear on uniforms.

In order to continue protecting personnel and their families, and at the same time reduce costs associated with the increased wear and tear on uniforms, the Fire Department has researched the feasibility of placing washers and dryers at each fire station. According to the City's Facilities and Grounds Superintendent, the installation of a washer and dryer at Fire Station No. 151 would be cost-prohibitive; however, infrastructure exists at Fire Station No. 152 to make the installation at that location.

Bid quotations for one (1) LG 4.3 cubic foot washer and one (1) LG 7.4 cubic foot dryer, both stackable, were received from the following three vendors:

| <i>Vendor</i> | <i>Bid Amount</i> |
|--------------------|-------------------|
| Howard's Appliance | \$ 2,261.34 |
| Sears | \$ 2,416.96 |
| Best Buy | \$ 1,796.89 |

Staff recommends the washer and dryer be purchased from Best Buy as it is the lowest responsive bidder.

Prepared by: 

Reviewed and
Approved by:



Proofed by: 

Presented by:



FISCAL IMPACT: The cost to purchase a stackable washer and dryer for Fire Station No. 152 is \$1,796.89. Should the City Council approve this item, \$1,796.89 would be transferred from the Contingency Fund to the Buildings & Grounds Household Expenses Account No. 1001-4536-51110-400 to pay for the purchase.

Costs associated with the installation of the washer and dryer has been estimated by the Public Works Department to be minimal on the condition that the washer and dryer may be installed using the pre-identified connections. This item cannot be determined with complete certainty until the installation process commences. If the costs are minimal, they will be paid for using funds from the approved Fiscal Year 2014-15 budget.

RECOMMENDATION: Staff recommends the City Council authorize a \$1,796.89 appropriation from the Contingency Fund to purchase a stackable washer and dryer for Fire Station No. 152 from Best Buy.

CITY OF MONTCLAIR BID QUOTATION FORM

Department Fire Date 4/2/2015

Purchase Requisition No. _____

Item(s) Description: Stackable washer and dryer

Reason for Purchase: Provide mechanism for firefighters to clean and disinfect uniforms at the workplace.

Employee Obtaining Quotes Sergio Mejia

VENDORS CONTACTED

BID QUOTES*

| | | | | | |
|-----------------|---------------------------|---|----------------------|----------|----------|
| (1) NAME | <u>Best Buy</u> | | | 1,659.94 | |
| | ADDRESS | <u>8960 Central Avenue, Montclair, CA 91763</u> | | 0.00 | |
| | PHONE NO. | <u>909-621-7156</u> | NAME OF REP. | | |
| | COMMENTS | | <u>Phillip H.</u> | Subtotal | |
| | | | | Tax | |
| | | | | Shipping | |
| | | | Labor | 0.00 | |
| | | | Total | 1,796.89 | |
| (2) NAME | <u>Sears</u> | | | 2,232.76 | |
| | ADDRESS | <u>5080 E. Montclair Plaza Ln., Montclair, CA 91763</u> | | Subtotal | |
| | PHONE NO. | <u>909-445-1500</u> | NAME OF REP. | Tax | |
| | COMMENTS | | | Shipping | |
| | | | | Labor | 0.00 |
| | | | | Total | 2,416.96 |
| (3) NAME | <u>Howard's Appliance</u> | | | 0.00 | |
| | ADDRESS | <u>1458 W. 7th Street, Upland, CA 91786</u> | | Subtotal | |
| | PHONE NO. | <u>909-949-8584</u> | NAME OF REP. | Tax | |
| | COMMENTS | | <u>Manny Berumen</u> | Shipping | |
| | | | | Labor | 0.00 |
| | | | | Total | 2,261.34 |

*Quotations are to include tax and delivery charges

RECOMMENDED VENDOR AND JUSTIFICATION

Staff recommends utilizing Best Buy as they provided the lowest quote.

MFD A-4

AGENDA REPORT

SUBJECT: CONSIDER ISSUING A PERMIT FOR EXPRESS TRANSPORTATION SYSTEMS, INC., TO OPERATE AND PROVIDE TAXICAB SERVICES WITHIN THE CITY OF MONTCLAIR

DATE: April 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 12
FILE I.D.: TRN600/FLP100
DEPT.: FINANCE

REASON FOR CONSIDERATION: Express Transportation Systems, Inc. has submitted an application for consideration by the City Council to grant a permit to operate taxicabs within the City of Montclair.

BACKGROUND: Chapter 4.68 of the City of Montclair’s Municipal Code (Code) governs the operation of taxicabs within the City of Montclair. Section 4.68.020 states no owner shall operate any taxicab owned or controlled by such owner in the business of carrying passengers for hire or maintain any taxicab stand unless such owner has a permit so to do. Presently, Yellow Cab of Ontario and Bell Cab of San Bernardino are the only two companies permitted to operate within the City and those permits were granted/renewed in 1998. Other transportation companies provide passenger delivery services to the City of Montclair, but are not authorized to pickup passengers within the City.

Express Transportation Systems, Inc. (Applicant) has filed an application to obtain a taxicab permit to operate up to 25 taxicabs with the designations of either Checker Cab or AA Inland Empire Cab. Presently, the Applicant provides services to several west end Inland Empire cities including Pomona, Claremont, Upland, Ontario and Chino—80% of the Applicant's business is nonemergency medical transportation.

The Applicant advises that company taxicabs drop off passengers in the City of Montclair; however, customers are advised that they must contact other transportation providers for pickup service within the City of Montclair.

The Applicant is not requesting to have designated taxicab stands at any public street location; instead, the Applicant has indicated drivers either take their taxicabs home or to the Applicant’s yard in either Riverside or Los Angeles when not in use.

Application Information

The formal process for applying for a taxicab permit is detailed in Section 4.68.030 of the Montclair Municipal Code. The Applicant has complied with the submission process and the application has been reviewed and found to comply with all Municipal

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

Code requirements. The application is over 120 pages in size so it has not been attached to this report; however, the original and/or an electronic copy is available from the City Clerk's office should anyone wish to examine it.

The application provided the following information on the Applicant and the vehicles designated for use in Montclair:

- Business name and company ownership information.
- The business name and monogram/insignia to be used. Pictures of vehicles displaying the proposed designations were provided.
- Description of each taxicab designated for operation in Montclair, along with independent inspection reports from an outside company indicating the operational safety of each vehicle. Evidence of vehicle safety equipment and driver training was provided, as required by the Municipal Code.
- The Driver's License status of each driver designated to operate vehicles proposed for service in Montclair.
- Applicant's proposed rates to be charged.
- Applicant's policy on substance abuse and their preemployment and random drug testing procedures, including 2014 results. For 2014, Applicant indicated that 36 preemployment, 10 random and 10 panel tests were performed, all of which came up negative for drugs present in the systems of tested drivers.
- Applicant's complaint policy and procedures, which include posted information in each vehicle on who in the company to contact to report complaints.
- Copies of Applicant's general liability and automotive liability insurance coverage in the amount required by the Montclair Municipal Code. Additionally, insurance policies designate the City of Montclair as an additional named insured, and contains a 30-day advance cancellation notice to the City. Evidence of workers compensation coverage was also provided.

Additionally, as part of the application process, the Applicant has signed an indemnification statement to defend all actions arising out its operations under a taxicab operations permit and they have agreed to obtain a surety bond, as required by the Municipal Code, prior to any permit actually being issued.

Review Results and Approval Requirements

Section 4.68.040 of the Municipal Code requires that upon receipt of an application for a taxicab permit, the City Council shall make an investigation and may thereafter grant the same if it shall find:

1. *That the bond or policy of insurance required by the provisions of this chapter has been furnished, that the same is in the form required, and that the surety thereon is approved by the Council.*

Staff reviewed the insurance certificate provided for general liability and automotive liability insurance and found them to be active and in the amounts specified by the Municipal Code. The workers compensation certificate was in the name of the Applicant from the State Compensation Fund. The Applicant has agreed to obtain the required surety bond coverage prior to the issuance of the permit.

- 2. That each taxicab described is adequate and safe for the purpose for which it is to be used and is equipped as required by the provisions of this chapter.*

Staff reviewed the details of each vehicle designated by the Applicant for operation in Montclair, along with its statements as to vehicle safety equipment and driver training to be provided and found the Applicant to be in compliance. Vehicle inspection reports provided by an independent company were also reviewed. Each inspection report indicated that the subject vehicle passed and was safe for operation.

- 3. That the applicant is of good moral character, has complied with all the terms and conditions of this chapter, and is competent to operate a taxicab business.*

The Applicant currently provides taxicab services to neighboring communities and appears to be operating in good standing. City staff conducted a general internet review of the Applicant and did not note any complaints or comments that would suggest problems with Applicant's operations.

- 4. That the public convenience or necessity requires the operation of such taxicabs within the City.*

As indicated by the Applicant, the majority of its operations are for nonemergency medical transportation and since they are currently not permitted to pick up passengers within the City, regular and potentially new customers are inconvenienced. With the growing need for transportation both medical and general, providing residents and outside individuals using Montclair businesses with an expanded list of options to meet their transportation needs would be beneficial.

- 5. That the name, monogram or insignia to be used upon the taxicabs is not in conflict with and does not imitate any other name, monogram or insignia used by any other person licensed by the Council in such a manner as to be misleading or tend to deceive or defraud the public.*

Staff reviewed pictures provided by the Applicant showing the names, colors and insignia used internally by Applicant and its subsidiaries. Provide names and images appear distinct and should not mislead or deceive the public.

6. *If a taxicab stand has been applied for, that the location of the taxicab stand is such that it will not congest or interfere with travel on any street and is not prohibited by any law of the City.*

The Applicant is not requesting to have any taxicab stand designated for its use.

7. *That the schedule of rates of fare proposed to be charged is fair and reasonable.*

City staff has review the Applicant's proposed rates and found that they conform to the current rate resolution approved and adopted by the Montclair City Council. Taxicab rates were last adjusted March 2004 and a copy of Resolution No. 04-2495 is attached.

FISCAL IMPACT: There is no cost to the City to grant the Applicant a permit to provide taxicab services in the City of Montclair. The General fund would benefit from the business license fees generated in licensing the Applicant to operate within the City.

RECOMMENDATION: Staff recommends the City Council approve the application for Express Transportation Systems, Inc. to provide taxicab services in the City of Montclair, and to issue a permit for such service when Express Transportation Systems, Inc. posts a surety bond in the form and amounts required by the Montclair Municipal Code.

RESOLUTION NO. 04-2495

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR REVISING
THE SCHEDULE OF RATES FOR TAXICAB
SERVICES

WHEREAS, Section 5-5.20 of the Montclair Municipal Code provides that the City Council shall set taxicab service rates in the City of Montclair; and

WHEREAS, the last effective change to the schedule of rates for taxicab services occurred in August 2000; and

WHEREAS, Yellow Cab Company has submitted a written request for adjustment to the schedule of rates for taxicab services; and

WHEREAS, the Montclair City Council has examined the adjusted taxicab service fee schedule and has determined that the rates hereinafter enumerated are fair, reasonable, and commensurate with the services rendered.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby establishes the following taxicab service rates:

Taxicab Service Rates: The schedule of maximum rates that may be charged for taxicab services shall be as follows:

| | |
|-----------------|--|
| Meter rate: | \$2.00 for the first one-tenth mile (flag drop) |
| | \$0.20 for each additional one-tenth mile (\$2.00 per mile) |
| Wait-time rate: | \$0.24 for each 36 seconds of waiting time/traffic delay (\$24 per hour) |

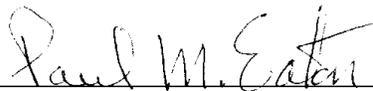
BE IT FURTHER RESOLVED that this fee schedule shall become effective thirty (30) days following adoption by the Montclair City Council.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a copy of this resolution to the taxicab companies serving Montclair.

BE FURTHER RESOLVED that the taxicab company requesting the rate adjustment, and each taxicab company serving Montclair that incorporates the rate adjustment into their fee schedule, shall equally be assessed all costs associated with the advertisement of the public hearing to consider such rate adjustments and any other costs deemed necessary and appropriate by the Montclair City Council.

BE IT FINALLY RESOLVED that Bell Cab Company and Yellow Cab Company shall, at least once within fifteen (15) days after the date of adoption of this fee schedule, publish the same in the *INLAND VALLEY DAILY BULLETIN*. Proof of such publication shall be forwarded to the City Clerk of the City of Montclair within a reasonable period of time.

APPROVED AND ADOPTED this 1st day of March, 2004.



Mayor

ATTEST:



City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 04-2495 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council, held on the 1st day of March, 2004, and that it was adopted by the following vote, to-wit:

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



Donna M. Jackson
City Clerk

AGENDA REPORT

SUBJECT: CONSIDER DECLARING CITY UNIT 437 AS
SURPLUS AND AUTHORIZING ITS SALE
AT AUCTION OR SCRAP

DATE: April 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 13
FILE I.D.: EQS052
DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: The City Council is requested to consider declaring City equipment that is no longer in service as surplus, so it may be sold at auction or scrapped.

BACKGROUND: Unit 437 was purchased used in 1998 because of a need for a man lift or scissor lift. It has reached the end of its useful service life, is no longer in use, has been replaced by a new lift in this year's budget, and is proposed to be declared as surplus for sale by auction. The equipment identification number and estimated value is listed below:

Unit 437/Scissor Lift
Serial Number 2407
\$4,000

FISCAL IMPACT: The City anticipates receipt of \$4,000 from the sale of this scissor lift by an auction company. Proceeds from the sale would be returned to the Equipment Replacement Fund.

RECOMMENDATION: Staff recommends the City Council declare City Unit 437 as surplus and authorize its sale at auction or scrap.

Prepared by: 
Proofed by: Marissa Peruph

Reviewed and Approved by: 
Presented by: 

AGENDA REPORT

SUBJECT: CONSIDER FORMATION OF A SPECIAL JOINT AD HOC COMMITTEE WITH THE MONTE VISTA WATER DISTRICT TO CONSIDER WATER CONSERVATION AND DROUGHT-RELATED ISSUES AFFECTING THE LOCAL COMMUNITY

CONSIDER APPOINTING TWO MEMBERS OF THE CITY COUNCIL TO SERVE ON THE WATER COMMITTEE

CONSIDER APPOINTING THE CITY MANAGER AND THE PUBLIC WORKS DIRECTOR TO SERVE ON THE WATER COMMITTEE

DATE: April 20, 2015

SECTION: ADMIN. REPORTS

ITEM NO.: 14

FILE I.D.: CYC150

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider the formation of a special joint ad hoc committee with the Monte Vista Water District (MVWD). The establishment of new committees requires City Council approval, and the City Council must also appoint City Council Members and City officials to serve on the special joint ad hoc committee.

BACKGROUND: At the April 6, 2015, meeting of the City Council, MVWD General Manager Mark Kinsey gave a presentation outlining MVWD's planned implementation of rules established by the State Water Resources Control Board pursuant to Executive Order B-29-15, signed by Governor Brown on April 1, 2015. The City of Montclair and MVWD are now considering the formation of a special joint ad hoc committee to consider water conservation and drought-related issues affecting the local community.

The proposed committee would consist of two City Council Members, two MVWD Board Members, and Council- and Board-appointed City and MVWD officials. The MVWD Board will consider appointments to the committee at its April 22, 2015 meeting.

FISCAL IMPACT: There would be no fiscal impact related to the City Council's establishment of an ad hoc committee.

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

1. Form a special joint ad hoc committee with the Monte Vista Water District to consider water conservation and drought-related issues affecting the local community.
2. Appoint two members of the City Council to serve on the Water Committee.
3. Appoint the City Manager and the Public Works Director to serve on the Water Committee.

Prepared by: Andrea M Phillips

Proofed by: M Juts

Reviewed and Approved by: 

Presented by: 

AGENDA REPORT

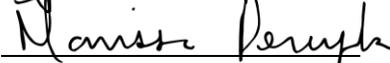
| | |
|--|---|
| SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-26 WITH GEO-ADVANTEC, INC., FOR \$30,000 FOR ON-CALL TESTING AND INSPECTION SERVICES FOR MISCELLANEOUS CITY PROJECTS | DATE: April 20, 2015 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: STA670 DEPT.: PUBLIC WORKS |
|--|---|

REASON FOR CONSIDERATION: Most City projects require some type of testing of materials or special inspection services City staff is not able to provide. The City Council is requested to consider approval of Agreement No. 15-26 with Geo-Advantec, Inc., to provide testing and inspection services on an "on-call" basis. Awards of contracts and agreements with the City require City Council approval.

BACKGROUND: Capital Improvement Projects often require special inspections that include soils compaction, concrete testing, and/or certain construction-inspection services, which City staff cannot perform. The City currently has one other on-call service contract with a geotechnical testing and inspection firm. However, that firm is not certified under Caltrans guidelines. The addition of this contract will allow the City to have on retainer a geotechnical consultant certified under Caltrans guidelines, typically required on federally funded projects.

FISCAL IMPACT: This agreement is written for an amount not to exceed \$30,000 and will cover a two-year period, terminating June 30, 2017. Purchase orders will be written based on quotations received for individual City projects, and will be charged to those City projects. The sum of these purchase orders will not exceed \$30,000, except as provided for in the Agreement. The Agreement authorizes the City Manager to increase the contract amount by no more than 15 percent.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-26 with Geo-Advantec, Inc., for on-call testing and inspection services for miscellaneous City projects.

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

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

**On-Call Special Inspection and Material Testing Services
For Public Works Projects**

THIS AGREEMENT is made and effective as of May 1, 2015, between the City of Montclair, a municipal corporation ("City") and Geo-Advantec, 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 May 1, 2015, and shall remain and continue in effect until June 30, 2017, or until tasks described herein are completed, whichever is later, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

Consultant shall perform inspections, special inspections, and materials as requested by City. The performance of testing and inspection shall also include the preparation of all necessary maps, plans, reports, and documents as determined necessary by City. Consultant shall complete the tasks according to the schedule of performance established for each individual project.

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed

\$30,000 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 fifteen percent (15%) of the amount of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

(c) Consultant will submit invoices monthly for actual services performed. Said invoices shall specify each project for which services were provided, and 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 calendar 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.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

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

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

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

10. INSURANCE

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

| | |
|---|-----------|
| Commercial general liability at least as broad as ISO CG 0001 (per occurrence) | 1,000,000 |
| Commercial general liability at least as broad as ISO CG 0001 (general aggregate) | 2,000,000 |
| Commercial auto liability at least as broad as ISO CA 0001 (per accident) | 1,000,000 |
| Professional Liability (per claim and aggregate) | 1,000,000 |
| 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 policy shall contain or be endorsed to contain a provision including the Indemnitees as additional insureds. Consultant shall promptly file with City such certificate or certificates and endorsements if applicable. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or 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: Shawn Arianna
President/Principal
Geo-Advantec, Inc.
457 West Allen Avenue
Suite 113
San Dimas, CA 91773

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.

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. NOT USED

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. 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.

CONTRACTOR:

CITY:

GEO-ADVANTEC, INC.
457 West Allen Avenue
Suite 113
San Dimas, CA 91773

CITY OF MONTCLAIR, CALIFORNIA

By: _____
Name

Paul M. Eaton
Mayor

Title

ATTEST:

By: _____
Name

Andrea M. Phillips
Deputy City Clerk

Title

EXHIBIT A

Geo-Advantec Inc.

Geotechnical Engineering, Earthquake Engineering, Engineering Geology

For: The City of Montclair

| ENGINEERING SERVICES | | | |
|---|------------|----------------------|-------------------|
| ENGINEERING AND PROFESSIONAL SERVICES | | | |
| Principal Geotechnical Engineer/Principal Engineering Geologist | \$ | 150.00 | Per Hour |
| Senior Geotechnical Engineer/ Senior Engineering Geologist | \$ | 135.00 | Per Hour |
| Registered Civil Engineer | \$ | 125.00 | Per Hour |
| Project Manager | \$ | 90.00 | Per Hour |
| Staff Engineer/Staff Geologist/Field Engineer | \$ | 75.00 | Per Hour |
| Administration | \$ | 30.00 | Per Hour |
| Drafter | \$ | 50.00 | Per Hour |
| GEOTECHNICAL INVESTIGATIVE/PRE-CONSTRUCTION PHASE | | | |
| FIELD DRILLING AND TESTING | | | |
| Field testing/sampling Helper (Technician) | \$ | 80.00 | Per Hour |
| Drilling - Hollow Stem Auger (6-8" diameter) (Minimum \$1200/day) | \$ | 240.00 | Per Hour |
| Drilling - Mud Rotary Wash Drilling (Minimum \$1800/day) | \$ | 280.00 | Per Hour |
| Drilling - Cone Penetration Test | \$ | 4,400.00 | Per 8 Hr. Shift |
| INSPECTION SERVICES | | | |
| GEOTECHNICAL MONITORING | | | |
| DURING CONSTRUCTION TESTING AND INSPECTION SERVICES | | | |
| Soil Technician / Field Engineer | \$ | 80.00 | Per Hour |
| Technician / Field Engineer - Pile Monitoring & Inspection | \$ | 80.00 | Per Hour |
| Deputy Grading Inspector (City of LA) | \$ | 80.00 | Per Hour |
| Nuclear Gauge Equipment | \$ | 40.00 | Per Day |
| MATERIALS SPECIAL INSPECTION | | | |
| Inspector/Concrete, Batch Plant Inspection | \$ | 80.00 | Per Hour |
| Inspector/Masonry | \$ | 80.00 | Per Hour |
| Inspector/Welding/Steel/Tagging & Sampling | \$ | 80.00 | Per Hour |
| Inspector/Post-Tension | \$ | 80.00 | Per Hour |
| Inspector/Fireproofing | \$ | 80.00 | Per Hour |
| Inspector/UT | \$ | 80.00 | Per Hour |
| REPORTS | | | |
| Soils (Geotechnical/Geohazard Evaluation) Report | | | Varies - Lump Sum |
| DSA-293 Report | \$ | 500.00 | Each Project |
| DSA-291 Report | \$ | 500.00 | Each Project |
| Final Grading / Compaction Report (Comprehensive) | \$ | 1,500.00 | Each |
| Pad Certificate Report | \$ | 7,000.00 | Each |
| Utility Trench Compaction Report - (Length <5000 L.F.) | \$ | 1,000.00 | Each |
| Wall Backfill Report | \$ | 1,000.00 | Each |
| Monthly Interim In-Grading Report | \$ | 1,000.00 | Each |
| Pile/Shoring Monitoring Report | \$ | 1,200.00 | Each |
| Plan Review (Grading/ Foundation) | \$ | 750.00 | Each |
| Materials Testing Final Verification Report | \$ | 500.00 | Each Project |
| LABORATORY AND MATERIAL TESTING | | | |
| SOIL AND AGGREGATE | | | |
| CLASSIFICATION & PHYSICAL CHARACTERISTICS | | | |
| ASTM | CTM | | |
| C29 | CT212 | Unit Weight | \$ 25.00 Each |
| D4829 | | Expansion Index | \$ 125.00 Each |
| C117, D1140 | | Finer than #200 Wash | \$ 50.00 Each |

Proposal No.15-1049
(Effective 01/01/2015)

MASTER SCHEDULE FEE
Prevailing Wage Rates

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Geo-Advantec Inc.

Geotechnical Engineering, Earthquake Engineering, Engineering Geology

| LABORATORY AND MATERIAL TESTING | | | | |
|---|---------------|---|-----------|----------|
| SOIL AND AGGREGATE | | | | |
| CLASSIFICATION & PHYSICAL CHARACTERISTICS | | | | |
| ASTM | CTM | | | |
| C136 | CT202 | Sieve Analysis- Coarse & Fine Including Wash Aggregate | \$ 140.00 | Each |
| C136 | CT202 | Sieve Analysis- Coarse Aggregate | \$ 110.00 | Each |
| C136 | CT202 | Sieve Analysis- Fine Including Wash Aggregate | \$ 110.00 | Each |
| D1140, D422 | | Particle-Size Distribution - Sieve Analysis + Hydrometer Combined | \$ 185.00 | Each |
| D422 | | Hydrometer Analysis only | \$ 125.00 | Each |
| D4318 | | Atterberg Limits LL, PL, & PI of Soils | \$ 125.00 | Each |
| D2435 | | Consolidation | \$ 125.00 | Each |
| D2419 | CT217 | Sand Equivalent Value of Soil and Fine Aggregate (Set of Three) | \$ 100.00 | Each Set |
| C127 | CT206 | Specific Gravity and Absorption (Coarse Aggregate) | \$ 65.00 | Each |
| C127 | CT206 | Absorption Only, Coarse Aggregate | \$ 90.00 | Each |
| C128 | CT207 | Specific Gravity and Absorption (Fine Aggregate) | \$ 160.00 | Each |
| C128 | CT207 | Absorption Only, Fine Aggregate | \$ 90.00 | Each |
| D854 | CT203 | Specific Gravity (Soil) by Hydrometer (Water Pycnometer) | \$ 140.00 | Each |
| D2216 | | Water Moisture Content | \$ 20.00 | Each |
| D3080 | | Direct Shear (3 Points) | \$ 250.00 | Each |
| D3080 | | Direct Shear Remolded sample (3 points) | \$ 300.00 | Each |
| D1557-A,B | | Maximum Density 4 in. Mold Passing No.4 or 3/8 in. Sieve | \$ 140.00 | Each |
| D1557-C | | Maximum Density 6 in. Mold Passing or 3/4 in. Sieve | \$ 150.00 | Each |
| D2844 | CT301 | R-Value (3 Points) | \$ 300.00 | Each |
| D2844 | CT301 | R-Value, Untreated Material | \$ 280.00 | Each |
| D2844 | CT301 | R-Value, Treated Material | \$ 300.00 | Each |
| D4791 | | Flat and Elongated Particles | \$ 180.00 | Each |
| | CT 229 | Durability Index (fine and coarse) in Aggregate | \$ 250.00 | Each |
| | CT 229 | Durability Index (fine or coarse) in Aggregate | \$ 160.00 | Each |
| C142 | | Clay Lumps and Friable Particles in Aggregate | \$ 150.00 | Each |
| C40 | | Organic Impurities in Fine Aggregates for Concrete | \$ 140.00 | Each |
| | CT205 | Percentage of Crushed Particles | \$ 180.00 | Each |
| C131 | CT211 | Los Angeles Rattler Test, (Abrasion Testing Machine), Small-Size | \$ 240.00 | Each |
| C535 | CT211 | Los Angeles Rattler Test, (Abrasion Testing Machine), Large-Size | \$ 280.00 | Each |
| C88 | CT214 | Sodium/Magnesium Sulfate Soundness of Aggregate, Per Sieve | \$ 90.00 | Each |
| | CT216 | Soil Impact (Tests for Relative Compaction of Soils & Aggregates) | \$ 180.00 | Each |
| | CT216 | Soil Impact- Check Point | \$ 140.00 | Each |
| C227 | CT227 | Cleaness Value of Coarse Aggregate | \$ 190.00 | Each |
| CHEMICAL PROPERTIES | | | | |
| | CTM | | | |
| | 643 | Resistivity | \$ 75.00 | Each |
| | 643 | pH | \$ 50.00 | Each |
| | 417 | Sulphate | \$ 60.00 | Each |
| | 422 | Chloride | \$ 60.00 | Each |
| | 643, 417, 422 | Corrosivity Series | \$ 185.00 | Each |
| CONCRETE | | | | |
| ASTM | CTM | | | |
| C39 | CT521 | Compression Tests, 6x12 and/or 4x8 Cylinders | \$ 23.00 | Each |
| C495 | | Compression, Lightweight Insulating Concrete | \$ 45.00 | Each |
| C42 | | Concrete Cores, Compression (excludes sampling) | \$ 35.00 | Each |

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MASTER SCHEDULE FEE
Prevailing Wage Rates

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Geo-Advantec Inc.

Geotechnical Engineering, Earthquake Engineering, Engineering Geology

| CONCRETE | | | | |
|-------------------------|--------------|--|-----------|------|
| ASTM | CTM | | | |
| C42 | | Drilling Cores from Shotcrete Panel (Lab) | \$ 75.00 | Each |
| C109 | | Compression, Hydraulic Cement, Mortar 2" Cube Specimen | \$ 45.00 | Each |
| C496 | | Splitting Tensile Strength 6"x12" Cylinder | \$ 90.00 | Each |
| C293 | CT523 | Flexural Strength Test (6"x6"x21" Beam) | \$ 110.00 | Each |
| C157 | | Drying Shrinkage (Set of 3) | \$ 360.00 | Each |
| C138 | | Unit Weight of Concrete Cylinders | \$ 45.00 | Each |
| C192 | | Review of Existing Mix Design | \$ 150.00 | Each |
| | | Concrete Mix Design Review, Job Spec | \$ 100.00 | Each |
| MATERIALS TESTING | | | | |
| ASTM | CTM | UBC | | |
| C78 | | Flexural Strength of Concrete (Simple Beam w/ Third-Point Loading) | \$ 55.00 | Each |
| | CT523 | Flexural Strength of Concrete | \$ 75.00 | Each |
| | | 7-6 Fireproofing Density Test | \$ 45.00 | Each |
| | | High Strength Bolt, Nut, & Washer Conformance, set | \$ 55.00 | Each |
| | | Mechanically Spliced Reinforcing Tensile Test | \$ 75.00 | Each |
| A416 | | Pre-Stress Still Strand (7 wire) | \$ 145.00 | Each |
| A615, A706 | | Reinforcing Tensile or Bend Up to No.11 | \$ 35.00 | Each |
| | | Welded Reinforcing Tensile Test: Up to No. 11 bars | \$ 45.00 | Each |
| N/A | | Welding Procedure Review | \$ 75.00 | Each |
| HOT MIX ASPHALT TESTING | | | | |
| ASTM | CTM | | | |
| D1561 | CT304, 375 | Laboratory Test Maximum Density (LTMD) | \$ 350.00 | Each |
| D1650 | CT304, CT366 | Stabilometer Value | \$ 240.00 | Each |
| D4546 | | Swell | \$ 110.00 | Each |
| D2726 | CT308 | Specific Gravity & Density of Core | \$ 60.00 | Each |
| D2041 | CT309 | Theoretical Maximum Specific Gravity & Density (Rice) | \$ 180.00 | Each |
| | CT370 | Moisture Content by Microwave Oven | \$ 60.00 | Each |
| D5444 | CT202 | Sieve Analysis of Extracted Sample | \$ 150.00 | Each |
| C136 | CT202 | Sieve Analysis of Bin Aggregate Sample, each | \$ 60.00 | Each |
| C136 | CT202 | Sieve Analysis of Combined Aggregate Sample | \$ 200.00 | Each |
| D1188 | | Unit Weight - Molded Specimen or Cores | \$ 45.00 | Each |
| D2726, D6926 | | Compacted Maximum Density - MARSHALL | \$ 200.00 | Each |
| D2172 | CT310 | Extraction, % Asphalt, including Gradation | \$ 135.00 | Each |
| D1560 | CT366 | Hveem Stability and Unit Weight CTM or ASTM | \$ 100.00 | Each |
| MASONRY TESTING | | | | |
| ASTM | | UBC | | |
| C140 | | Compression Test of CMU Block (gross) | \$ 50.00 | Each |
| C140 | | Absorption & Moisture Content | \$ 50.00 | Each |
| C426 | | Linear Shrinkage | \$ 150.00 | Each |
| C140 | | Unit Weight | \$ 60.00 | Each |
| C140 | | Dimensional Measurements | \$ 40.00 | Each |
| C1006 | | Splitting Tensile Strength | \$ 80.00 | Each |
| C140 | | Compression Test of Masonry Core | \$ 60.00 | Each |
| | | 21-16 Compression Test of 2" x 4" Mortar Cylinder | \$ 45.00 | Each |
| | | 21-17 Compression Test of Composite Prism | \$ 90.00 | Each |
| | | 21-18 Compression Test of 3" x 3" Grout Prism | \$ 50.00 | Each |

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MASTER SCHEDULE FEE
Prevailing Wage Rates

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Geo-Advantec Inc.

Geotechnical Engineering, Earthquake Engineering, Engineering Geology

| REINFORCING BARS | | | | |
|--|-------|--|-----------|------|
| ASTM | CTM | | | |
| Resistance Butt Welded Splices (Ultimate Butt Splice) | | | | |
| A370 | CT670 | Sample, up to #11/36mm | \$ 50.00 | Each |
| A370 | CT670 | Control Bar, up to 11/36mm | \$ 50.00 | Each |
| Mechanical Splices (Ultimate Butt Splice or Service Splice) | | | | |
| A370 | CT670 | Sample with Slip, up to #11/36mm | \$ 130.00 | Each |
| A370 | CT670 | Sample with no Slip, up to #11/36mm | \$ 60.00 | Each |
| A370 | CT670 | Control Bar, up to #11/36mm | \$ 60.00 | Each |
| A370 | CT670 | Sample with Slip, #14/43mm | \$ 160.00 | Each |
| A370 | CT670 | Sample with no Slip, #14/43mm | \$ 110.00 | Each |
| Mechanical Splices (Ultimate Butt Splice or Service Splice) | | | | |
| A370 | CT670 | Control Bar, #14/43mm | \$ 110.00 | Each |
| A370 | CT670 | Sample with Slip, #18/57mm | \$ 230.00 | Each |
| A370 | CT670 | Sample with no Slip, #18/57mm | \$ 190.00 | Each |
| A370 | CT670 | Control Bar, #18/57mm | \$ 190.00 | Each |
| Headed Bars | | | | |
| A970 | | Sample, up to #11/36mm | \$ 90.00 | Each |
| A970 | | Sample, #14/43mm | \$ 160.00 | Each |
| A970 | | Sample, #18/57mm | \$ 190.00 | Each |
| MISCELLANEOUS TESTING EQUIPMENT | | | | |
| | | Core Drill – Asphalt and Concrete Coring | \$ 150.00 | Day |
| | | Skidmore Wilhelm Bolt Tension Calibrator | \$ 90.00 | Day |
| | | Torque Wrench, Over 750 Ft-Lb | \$ 90.00 | Day |
| | | Torque Wrench, Up to 750 Ft-Lb | \$ 60.00 | Day |

WORKING HOURS

- GAI regular workweek is Monday through Friday.
- Monday through Friday overtime hours (1.5 times regular rate) apply after eight (8) hours per day. Premium time hours (2 times regular rate) apply after twelve (12) hours per day. Saturday overtime hours are 1.5 times the contracted hourly rate. Sundays and Holidays hours are 2.0 times the contracted hourly rate. Holidays observed by GAI are New Year's, Memorial, Independence, Labor, Veterans, Thanksgiving and Christmas.
- Regular and overtime hour charges shall be in one-hour increments.

MINIMUM CHARGES FOR CONSTRUCTION PHASE INSPECTIONS

- All soils monitoring and technicians are based on a minimum of two (2) hours. Over two hours shall be a minimum of four (4) hours. All materials inspectors are based on a minimum of (4) hours. Over (4) hours will be a minimum of eight (8) hours. If an inspector or technician is scheduled to perform a service and no work is performed, a two (2) hour minimum charge for soil technicians and a four (4) hour minimum charge for material inspectors will apply and referred to as a show-up charge.

TRAVEL & MILEAGE

- No travel time and mileage costs for engineering staff and materials/special inspection personnel. For soils technicians performing construction inspection and testing, travel time will be charged at a rate of \$45.00/hr. and mileage at \$0.55 per mile from GAI's closet office.
- The travel time and mileage fee may be subject to change per the negotiation with the client and written approval.

SCHEDULING & CANCELLATIONS

- A 24-hour notice is required when scheduling an inspection or technician. For same day scheduling and for after 3:00 pm the preceding day, the inspector/technician will be deployed to the site if a technician is available.

PREVAILING WAGE

- The prices quoted within and for during construction monitoring and inspection services for Prevailing Wage are provided in Page 1. The Prevailing Wage our hourly rates will increase the proportional percentage increase every July 1 in accordance with the wage listed by the Director of Industrial Relations which is tied to Operating Engineers Local 12 documented annual increases plus corresponding changes in our general administration and overhead expenses. These adjustments shall become the agreed upon basis for charges by GAI to Client.

Proposal No.15-1049
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MASTER SCHEDULE FEE
Prevailing Wage Rates

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Geo-Advantec Inc.

Geotechnical Engineering, Earthquake Engineering, Engineering Geology

LABORATORY TESTING

- A soils sample pick-up charge of 2-hour minimum with an hourly rate of \$45 will be billed in addition to the prices quoted for testing for soils.
- Concrete Cylinder and mortar sample pick-up within a 40 miles distance from GAI's office will be billed \$5 per cylinder/sample. Over 40 miles and less than 100 miles, will be \$10 per cylinder/sample.
- For rebars, masonry units and prisms and other samples, a sample pick-up charge of 2-hour minimum with an hourly rate of \$45 will be billed in addition to the prices quoted for testing for soils
- Material samples will be discarded after testing, unless notification by Client has been made to GAI's laboratory prior to testing. If Client requires samples be retrieved after testing or stored at GAI's laboratory for an extended duration of time, arrangements can be made at no additional cost to the client.

TERMS OF PAYMENT

- Client agrees invoices rendered for professional or technical services will be prepared monthly and are due upon presentation. Invoices will be deemed past due if unpaid within thirty (30) days from date of invoice.
- GAI reserves the right to terminate services to a Client if Client's account is not paid within sixty (60) days from the date of invoice. Upon such termination of services, the entire amount accrued for all services performed shall immediately become due and payable to GAI. Client waives any and all claims against GAI, its subsidiaries, affiliates, servants and agents in connection with termination of work/services pursuant to this agreement.

AGENDA REPORT

SUBJECT: CONSIDER APPROPRIATION OF \$90,000 FROM THE GAS TAX FUND FOR THE BENSON AVENUE BLOCK WALL REPLACEMENT PROJECT

CONSIDER AWARD OF CONTRACT TO AGUILERA BROTHERS CONSTRUCTION, INC., IN THE AMOUNT OF \$79,180 FOR THE BENSON AVENUE BLOCK WALL REPLACEMENT PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 15-28 WITH AGUILERA BROTHERS CONSTRUCTION, INC., FOR CONSTRUCTION OF THE BENSON AVENUE BLOCK WALL REPLACEMENT PROJECT

CONSIDER AUTHORIZATION OF AN \$11,000 CONSTRUCTION CONTINGENCY

DATE: April 20, 2015

SECTION: AGREEMENTS

ITEM NO.: 2

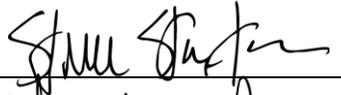
FILE I.D.: STA540

DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Awards of contracts and agreements with the City require City Council approval.

BACKGROUND: In 2011, a request was brought before the City's Public Works Committee to close off an existing walkway that connected Caroline Street with Benson Avenue. The complaint was that there was easy access for people to burglarize and vandalize homes in the neighborhood and that people would use the walkway as an escape route. The Public Works Committee's decision at the time was that if the residents wanted to see it closed off then the residents would have to contribute funds towards the closing of the walkway. At the time, none of the residents were willing to do so.

In June 2014, the issue was again brought before the Committee, this time concerning both Caroline Street and Deodar Street. The Public Works Director/City Engineer was directed to conduct a survey of residents living in the area, potentially impacted by such a closure. A survey form was sent to 12 residents that live at the end of the cul-de-sacs on Deodar Street and Caroline Street. Of the 12 survey forms sent, 11 replied back in support of the closure. There were no objections to the closure. The one resident who did not respond attended the Public Works Committee meeting in August and stated that she had not responded because she wanted to find out whether there would be a cost to her for the closure. If not, she also supported the closures. Staff also contacted Ontario-Montclair School District to see if there was a concern with that route being used for kids living in the area. No response was received from the District.

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

Staff has attempted to find a way for the affected residents to share in the cost of the improvements, as originally suggested by the Public Works Committee in 2011. All the work required is within the public right-of-way of Benson Avenue. No easements are necessary. There is no mechanism by which the City can require the affected residents to pay for the improvements. Therefore, staff recommends that the cost be borne by the City.

The Benson Avenue Block Wall Replacement Project is intended to close pedestrian access from Benson Avenue to the Deodar Street and Caroline Street cul-de-sacs. Sections of the wall less than five feet in height will be removed and replaced with a nominal five-foot high wall, effectively closing off access between the two cul-de-sacs and Benson Avenue.

On Thursday, April 9, 2015, the Deputy City Clerk's designee received and opened seven bid proposals for construction of the Benson Avenue Block Wall Replacement Project. The bid results are shown below. Following the bid opening, the seven bid proposals were reviewed for completeness and accuracy. The bid proposal of the apparent low bidder, Aguilera Brothers Construction, Inc., provided all the required documents and was deemed the lowest responsible, responsive bidder for the project. A reference check of Aguilera Brothers Construction, Inc., was performed and was found to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the plans and specifications.

| <i>Bidder</i> | <i>Bid Amount</i> |
|---|-------------------|
| Engineer's Estimate | \$75,000.00 |
| Aguilera Brothers Construction, Inc. | \$79,180.00 |
| Craftsman Construction, Inc. | \$84,186.00 |
| Aramexx Construction | \$111,180.00 |
| Parsam Construction, Inc. | \$116,260.00 |
| Roadway Engineering & Contracting, Inc. | \$143,630.00 |
| Robert D. Gosney Construction | \$148,400.00 |
| AG Construction | \$152,300.00 |

FISCAL IMPACT: The subject project is included in the Fiscal Years 2013–2018 Capital Improvement Program (CIP) as unfunded. Staff recommends using Gas Tax as the funding source.

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

1. Appropriate \$90,000 from the Gas Tax Fund for the Benson Avenue Block Wall Replacement Project.
2. Award contract to Aguilera Brothers Construction, Inc. in the amount of \$79,180 for construction of the Benson Avenue Block Wall Replacement Project.
3. Approve Agreement No. 15–28 with Aguilera Brothers Construction, Inc., for construction of the Benson Avenue Block Wall Replacement Project.
4. Authorize an \$11,000 construction contingency.

KNOW ALL MEN BY THESE PRESENTS: That the following Agreement is made and entered into as of the date executed by the City Clerk and the Mayor, by and between **Aguilera Brothers Construction, Inc.**, hereinafter referred to as "CONTRACTOR," and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

A. Recitals.

- (i) Pursuant to Notice Inviting Sealed Bids or Proposals, bids were received, publicly opened, and declared on the date specified in said notice.
- (ii) CITY did accept the bid of CONTRACTOR.
- (iii) CITY has authorized the City Clerk and Mayor to enter into a written contract with CONTRACTOR for furnishing labor, equipment, and material for the construction of:

BENSON AVENUE BLOCK WALL REPLACEMENT PROJECT

"PROJECT" hereinafter.

B. Resolution.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK: CONTRACTOR shall furnish all necessary labor, tools, materials, appliances, and equipment for and do all work contemplated and embraced for the PROJECT. Said PROJECT to be performed in accordance with specifications and standards on file in the Office of the City Engineer and in accordance with bid prices hereinafter mentioned and in accordance with the instructions of the Engineer.

2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The aforesaid specifications are incorporated herein by reference thereto and made a part hereof with like force and effect as if all of said documents were set forth in full herein. Said documents, the Notice Inviting Bids, the Instructions to Bidders, the Proposal and any City-issued addenda, together with this written Agreement, shall constitute the contract between the parties. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by the CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this written Agreement shall control.

3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within ten (10) calendar days from the date of notice of award of the contract and to complete his portion of PROJECT within the time specified in the Special Provisions. CONTRACTOR agrees further to the assessment of liquidated damages in the amount specified in the Special Provisions or the Standard Specifications, whichever is higher, for each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may

become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

4. **INSURANCE:** The CONTRACTOR shall not commence work under this contract until he has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been obtained. The CONTRACTOR shall take out and maintain at all times during the life of this contract the following policies of insurance:

a. Compensation Insurance: Before beginning work, the CONTRACTOR shall furnish to the Engineer a policy of insurance or proper endorsement as proof that he has taken out full compensation insurance for all persons whom he may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this contract.

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

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

b. For all operations of the CONTRACTOR or any subcontractor in performing the work provided for herein, insurance with the following minimum limits and coverage:

- (1) Public Liability – Bodily Injury (not auto) \$1,000,000 each person; \$2,000,000 each accident.
- (2) Public Liability – Property Damage (not auto) \$500,000 each accident; \$1,000,000 aggregate.
- (3) Contractor's Protective – Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
- (4) Contractor's Protective – Property Damage \$500,000 each accident; \$1,000,000 aggregate.
- (5) Automobile – Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
- (6) Automobile – Property Damage \$500,000 each accident.

c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:

- (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
 - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
- d. Each such policy of insurance provided for in paragraph b. shall:
- (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
 - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
 - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
 - (4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
 - (5) Otherwise be in form satisfactory to CITY.
- e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.

5. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

The CONTRACTOR will indemnify CITY against and will hold and save CITY harmless from any and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of the CONTRACTOR, his agents, employees, subcontractors, or invitees provided for herein, whether or not there is concurrent passive or active negligence on the part of CITY but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY and in connection therewith:

- a. The CONTRACTOR will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations, or liabilities and will pay all costs and expenses including attorneys' fees incurred in connection therewith.
- b. The CONTRACTOR will promptly pay any judgment or award rendered against the CONTRACTOR or CITY covering such claims, damages, penalties, obligations, and liabilities arising out of or in connection with such work, operations, or activities of the CONTRACTOR hereunder or reasonable settlement in lieu of judgment or award, and the CONTRACTOR agrees to save and hold the CITY harmless therefrom.
- c. In the event CITY is made a party to any action or proceeding filed or prosecuted against the CONTRACTOR for damages or other claims arising out of or in connection with the project, operation, or activities of the CONTRACTOR hereunder, the CONTRACTOR agrees to pay to CITY any and all costs and expenses incurred by CITY in such action or proceeding together with reasonable attorneys' fees.

Money due to the CONTRACTOR under and by virtue of the contract, as shall be considered necessary by CITY, may be retained by CITY until disposition has been made of such actions or claims for damage as aforesaid.

6. NONDISCRIMINATION: No discrimination shall be made in the employment of persons upon public works because of the race, color, sex, sexual preference, sexual orientation, or religion of such persons; and every contractor for public works violating this section is subject to all the penalties imposed for a violation of Division 2, Part 7, Chapter 1 of the Labor Code in accordance with the provisions of § 1735 of said Code.

7. INELIGIBLE SUBCONTRACTORS: The CONTRACTOR shall be prohibited from performing work on this project with a subcontractor who is ineligible to perform on the project pursuant to § 1777.1 and § 1777.7 of the Labor Code.

8. CONTRACT PRICE AND PAYMENT: CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **April 8, 2015**.

9. ATTORNEYS' FEES: In the event that any action or proceeding is brought by either party to enforce any term or provision of this Agreement, the prevailing party shall recover its reasonable attorneys' fees and costs incurred with respect thereto.

10. HUD FEDERAL LABOR STANDARDS: Labor Standards (HUD form 4010) apply to this project and are attached."

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

CONTRACTOR:

CITY:

**AGUILERA BROTHERS , INC.
CONSTRUCTION, INC.**
288 Country View Ct.
Santa Paula, CA 93060

CITY OF MONTCLAIR, CALIFORNIA

By: _____

Name

Paul M. Eaton
Mayor

Title

ATTEST:

By: _____

Name

Andrea M. Phillips
Deputy City Clerk

Title

By: _____

Name

Title

AGENDA REPORT

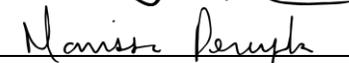
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|--|--|
| SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 15-3071 AUTHORIZING THE CITY OF ONTARIO TO SUBMIT AN APPLICATION FOR CYCLE 2 ACTIVE TRANSPORTATION PROGRAM FUNDING ON MONTCLAIR'S BEHALF THROUGH CALIFORNIA DEPARTMENT OF TRANSPORTATION AND SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS FOR DESIGN AND CONSTRUCTION OF G/ORCHARD STREET CROSTOWN BIKE ROUTE AND SAN ANTONIO AVENUE BIKE CORRIDOR | DATE: April 20, 2015 SECTION: RESOLUTIONS ITEM NO.: 1 FILE I.D.: TRN100 DEPT.: PUBLIC WORKS |
|--|--|

REASON FOR CONSIDERATION: The City of Ontario is in the process of preparing an application for state grants for developing bike routes through portions of Ontario. There is some logic in extending the proposed bike routes through adjacent cities, including the City of Montclair, rather than terminating the routes at city boundaries. The City of Ontario is requesting authorization from the City of Montclair to act on Montclair's behalf in applying for these grant funds. A resolution in support of this request requires City Council approval.

BACKGROUND: In September 2013, SB99 and AB101 were adopted, creating the Active Transportation Program (ATP) for the purpose of increasing biking and walking trips, improving non-motorized safety and mobility for non-motorized users, advancing the active transportation efforts of regional agencies to achieve greenhouse gas (GHG) reduction goals, enhancing public health (including reducing childhood obesity), ensuring that disadvantaged communities fully share the benefits of the program, and to provide a broad spectrum of projects to benefit many types of active transportation users.

On March 26, 2015, the California Transportation Commission approved a call-for-projects which will bundle three years of funding into one grant process. ATP projects do not require a local match. However, additional points are awarded for applications that provide a local match. Projects which are not awarded a portion of the \$180 million to be dispersed by the State may be awarded funds from Southern California Association of Governments' share of \$76 million of the available ATP grant funding. Qualifying projects include infrastructure, non-infrastructure, or a combination of both.

The City of Ontario is applying for ATP grant funding for two proposed bike routes (G/Orchard Street Crosstown Bike Route and San Antonio Avenue Bike Corridor). They are both consistent with the San Bernardino County Non-Motorized Transportation Plan and the ATP program goal of increasing regional efforts. The routes being

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

proposed provide east-west and north-south access across the City of Ontario and into the cities of Montclair to the west, Upland to the north, and Chino to the south. These routes provide access for local residents to numerous public schools, public facilities, employment and commercial centers, and transit, and to the Pacific Electric Recreational Trail. A map showing these routes is attached as Exhibit "A." This application is a collaborative effort between the four west valley cities of Ontario, Chino, Montclair, and Upland. Each city will provide its fair share of the proposed local match in addition to the \$126,667 recently authorized by San Bernardino Association of Governments (SANBAG) from Transportation Development Act Article 3 funds. The ATP application allocates points for projects that leverage local funds.

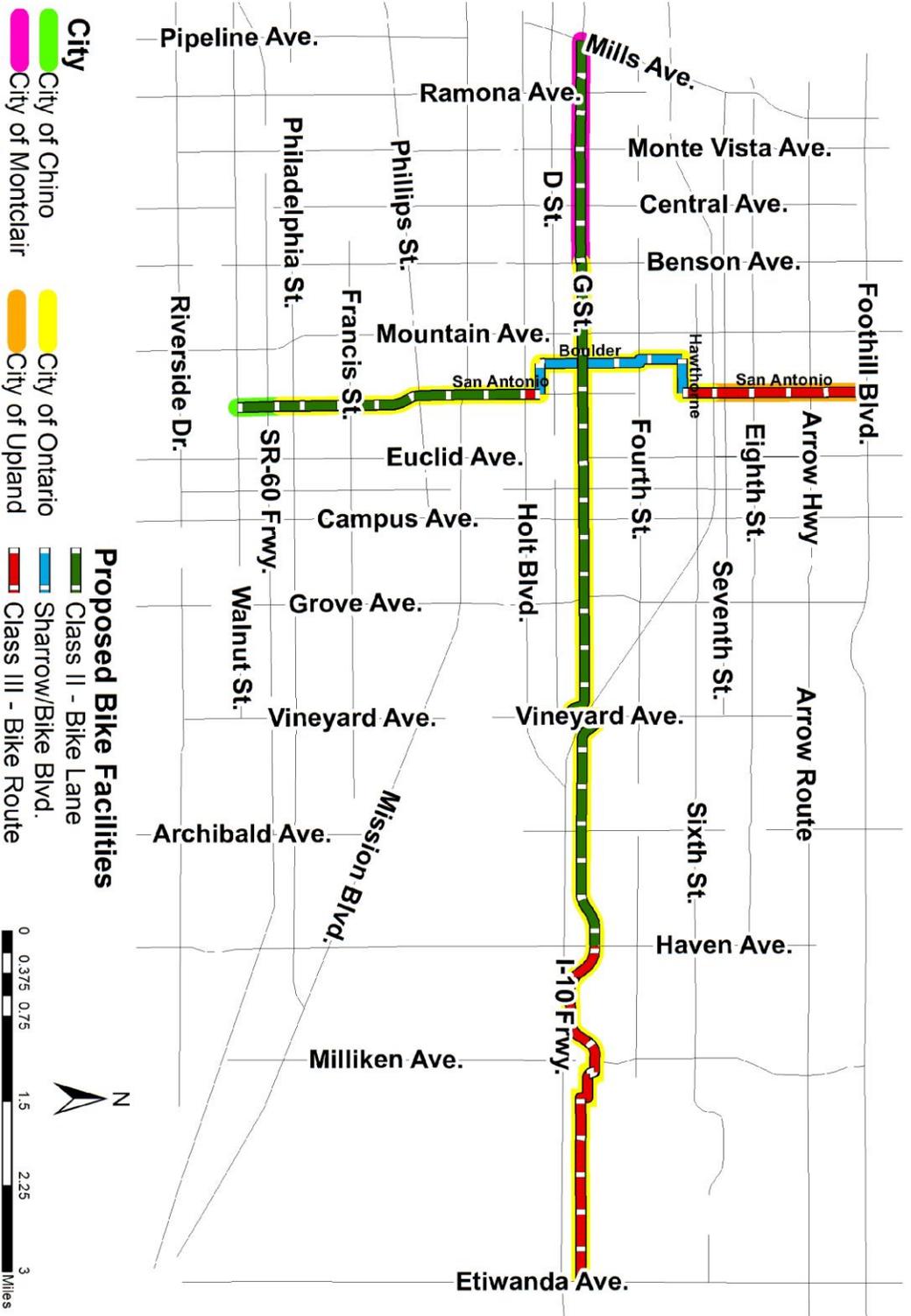
FISCAL IMPACT: The requested grant amounts were determined by City of Ontario staff and are estimates for the design and construction of the G/Orchard Street Crosstown Bike Route and the San Antonio Avenue Bike Corridor. The grant application is for \$792,000 for both projects. If the City of Ontario receives the grant awards, appropriations and corresponding revenue adjustments will be required. The anticipated funding match requirements for each city are as follows:

| | |
|-----------|----------|
| Ontario | \$25,007 |
| Montclair | \$3,920 |
| Chino | \$740 |
| Upland | \$2,740 |

All the partnering cities will provide match funds in proportion to the bike improvements of the corridors that are within their jurisdiction. The City of Montclair would not be contributing funds to any portion of the San Antonio Avenue Bike Corridor.

RECOMMENDATION: Staff recommends that the City Council adopt Resolution No. 15-3071 authorizing the City of Ontario to submit an application for Cycle 2 Active Transportation Program funding on Montclair's behalf through California Department of Transportation and Southern California Association of Governments for design and construction of G/Orchard Street Crosstown Bike Route and San Antonio Avenue Bike Corridor.

EXHIBIT A CYCLE 2 ATP PROPOSED BIKE ROUTES



RESOLUTION NO. 15-3071

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING THE CITY OF ONTARIO TO SUBMIT AN APPLICATION FOR CYCLE 2 ACTIVE TRANSPORTATION PROGRAM (ATP) FUNDING THROUGH CALIFORNIA DEPARTMENT OF TRANSPORTATION AND SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS FOR DESIGN AND CONSTRUCTION OF G/ORCHARD STREET CROSSTOWN BIKE ROUTE AND SAN ANTONIO AVENUE BIKE CORRIDOR

WHEREAS, on March 26, 2015, the California Transportation Commission issued a call-for-projects for Active Transportation Program; and

WHEREAS, the City of Montclair recognizes the need to plan for and construct non-motorized transportation infrastructure to provide alternative modes of travel; and

WHEREAS, the City of Ontario desires to submit an application for ATP funds to design and construct a portion of its master planned bicycle network in conjunction with the adjacent cities of Montclair, Upland, and Chino generally described as being on G/Orchard Street and San Antonio Avenue as shown in Exhibit A; and

WHEREAS, the City of Montclair desires to participate with the cities of Ontario, Chino, and Upland in that portion of work located within the City of Montclair City limits.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby authorize the City of Ontario to make an application for Cycle 2 Active Transportation Program on Montclair's behalf through California Department of Transportation and Southern California Association of Governments for design and construction of G/Orchard Street Crosstown Bike Route and San Antonio Avenue Bike Corridor.

APPROVED AND ADOPTED this XX day of XX, 2015.

Mayor

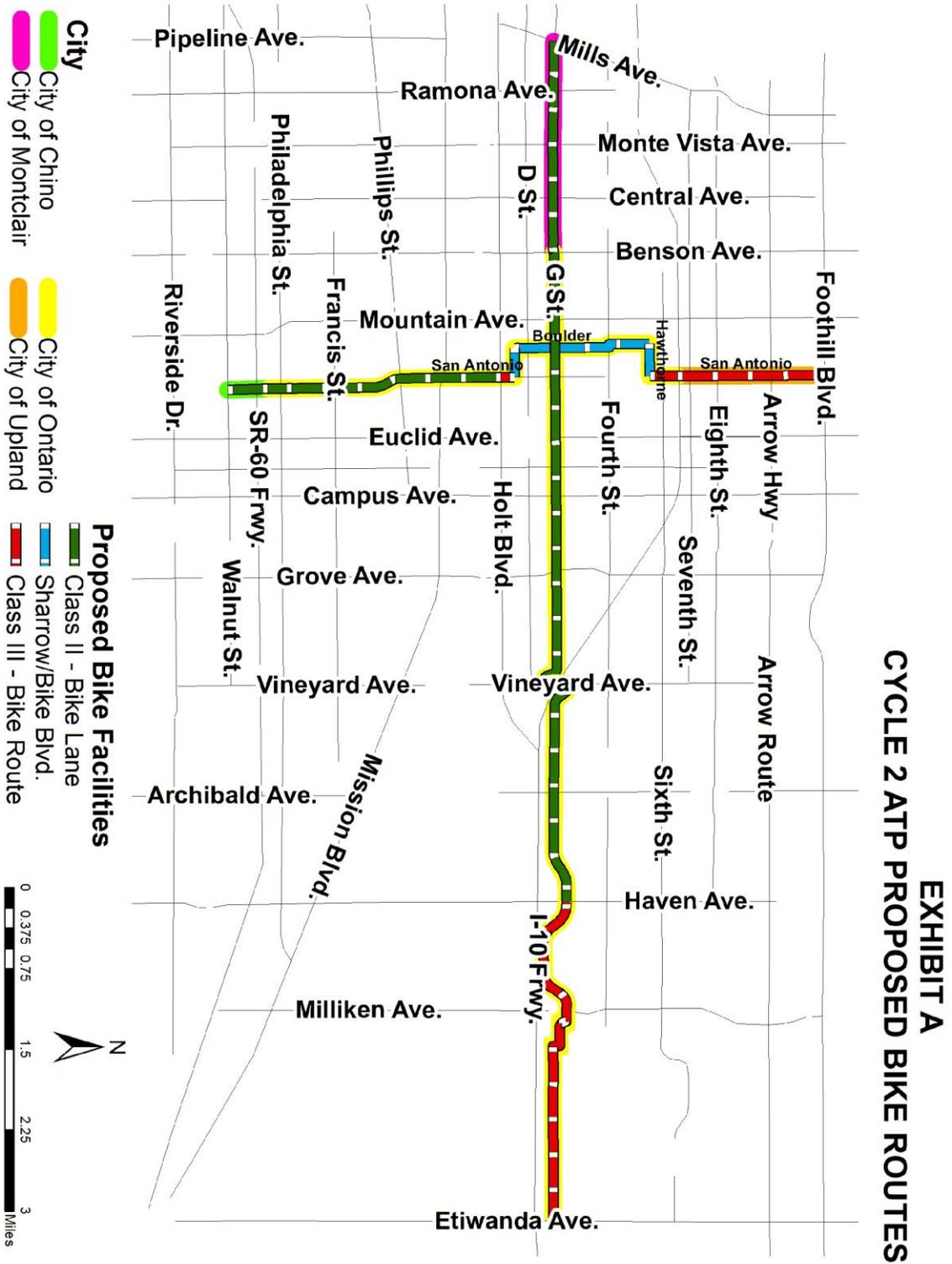
ATTEST:

Deputy City Clerk

I, Andrea Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 15-3071 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2015, and that it was adopted by the following vote, to-wit:

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

Andrea M. Phillips
Deputy City Clerk



**EXHIBIT A
CYCLE 2 ATP PROPOSED BIKE ROUTES**

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 15-02, A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT NO. 15-17, A PURCHASE AND SALE AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY (CITY OF MONTCLAIR) AND PRESS ON PROPERTIES, LLC, REGARDING PROPERTY LOCATED AT 4960 PALO VERDE STREET, MONTCLAIR, CALIFORNIA (1008-332-04)

DATE: April 20, 2015

SECTION: RESOLUTIONS

ITEM NO.: 2

FILE I.D.: SAG090

DEPT.: ECON. DEV.

REASON FOR CONSIDERATION: AB 1X 26 dissolved redevelopment agencies in the State of California as of February 1, 2012. On June 27, 2012, AB 1484 was enacted to make technical and substantive amendments to AB 1X 26. These laws are collectively referred to the "Dissolution Act." One of the responsibilities of the Successor Agency pursuant to the Dissolution Act is to prepare a Long-Range Property Management Plan (LRPMP) that governs the disposition and use of the real properties of the former redevelopment agency. The Successor Agency prepared its LRPMP and submitted it to the Department of Finance (DOF) on November 14, 2013. DOF issued its letter approving the Successor Agency's LRPMP on February 12, 2015. The letter from DOF approving the LRPMP is included as part of this report as Attachment A.

One of the properties proposed for sale in the LRPMP is located at 4960 Palo Verde Street. The property was improved by the former Redevelopment Agency with pavement, landscaping, and lighting. The property was then and is currently leased to Ontario Nissan, Inc. (Metro Nissan), for purposes of new automobile storage and sales. The LRPMP suggested that the property be offered to sale to the tenant. The proposed draft Purchase and Sale Agreement, Agreement No. 15-17, details the terms of sale for the property to the representatives of Metro Nissan. The Purchase and Sale Agreement is attached to Resolution No. 15-17 as Exhibit A.

BACKGROUND: As the Successor Agency Board of Directors will recall, the original plan for the disposition of assets contemplated in AB 1X 26 was the immediate sale and disposition of all redevelopment assets. However, pursuant to AB 1484, the disposition of assets became subject to the preparation of a Long-Range Property Management Plan (LRPMP) that requires the approval of DOF. In general, the LRPMP addresses the disposition and use of the real properties of the former redevelopment agency.

Pursuant to Health and Safety Code Section 34191.5, the LRPMP must be submitted to the Oversight Board and DOF for approval no later than six months following the

Prepared by: Marilyn Staats Reviewed and Approved by: [Signature]

Proofed by: Donald L. Parker Presented by: [Signature]

issuance to the Successor Agency of the DOF's Finding of Completion. The Successor Agency to the City of Montclair Redevelopment Agency received a Finding of Completion from DOF on May 15, 2013; therefore, the deadline for submitting the LRPMP for the former City of Montclair Redevelopment Agency to DOF was November 14, 2013. The Oversight Board approved the original LRPMP on November 13, 2013.

Successor Agency staff worked with DOF on making certain changes and revisions to the LRPMP last calendar year. The Oversight Board approved a revised LRPMP pursuant to Resolution No. 14-06 on August 14, 2014. The revisions to the LRPMP included a number of changes requested by DOF. As indicated, DOF finally approved the LRPMP on February 12, 2015.

The LRPMP proposed the sale of the 4960 Palo Verde Street site (the "Property") to Ontario Nissan, Inc., (Metro Nissan). On July 31, 2014, Press On Properties, LLC, representatives of Metro Nissan, submitted a Letter of Intent to the Successor Agency regarding the property. The property has been continuously leased to Ontario Nissan, Inc., since 1996 in relationship to the sale of new Nissan automobiles. The 1.44 acre site contains no structures but includes paving, landscaping, and lighting improvements. Metro Nissan has used and continues to use the property for new vehicle storage/display.

The Property is subject to a lease which has a termination date of December 20, 2020. If the proposed sale to Metro Nissan is not approved, the marketing of the Property will likely be difficult due to the right of continued possession by Metro Nissan by virtue of the lease.

The owners of and operators of Metro Nissan have held many discussions with Successor Agency regarding their ability to purchase the Palo Verde Street site and the implications that acquisition of the property could have for the dealerships given redevelopment dissolution. The Successor Agency and the Oversight Board also discussed these issues with DOF for some time prior to DOF approval of the LRPMP.

Both the Successor Agency Board of Directors and the Oversight Board considered the proposed Letter of Intent from Press On Properties, LLC, in separate closed sessions. Given the posture of DOF, and with the letter of Intent, Agency Special Counsel prepared the Purchase and Sale Agreement. The draft Agreement was reviewed by counsel for the proposed buyers. In addition, in the interest of expediency, DOF was provided with a copy of the Purchase and Sale Agreement for review. DOF would not provide approval of the proposed Purchase and Sale Agreement until after the Oversight Board took action on the Agreement. The Oversight Board approved the Purchase and Sale Agreement on April 8, 2015 and the Agreement was submitted to DOF for consideration.

The more salient points of the Purchase and Sale Agreement include the following terms:

- The purchase price of the property would be the sum of \$1,000,000; this is the amount offered by Metro Nissan. The property was appraised by an

independent appraiser at \$1,110,000. The sum offered by the buyer is within ten percent of the appraised value. In addition, it should be noted that Ontario Nissan, Inc., currently holds a valid lease which could prevent sale of the property for at least five years.

- The Successor Agency agrees to convey title by grant deed to Press On Properties, LLC. Escrow would be opened with Ticor Title Company or another mutually agreeable escrow company. Within 15 days after the date of the Agreement or the date which DOF consents to the sale of the property, a standard CLTA title insurance policy would be issued at Seller's expense.
- Both parties to the escrow would attempt to agree to do all acts necessary to close escrow within 45 days from the date of the Agreement provided that the parties acknowledge that various conditions (DOF approval) are outside the control of the Successor Agency.
- Title and escrow fees would be divided in the traditional manner. The Successor Agency would be responsible for paying the cost for a CLTA title report. Escrow fees and other ancillary fees would be evenly shared.
- Escrow should close within 90 days of the date of the agreement. Unless the escrow is extended by the parties, the Purchase and Sale Agreement would be terminated after the expiration of 90 days.

FISCAL IMPACT: Successor Agency approval of Resolution No. 15-02, approving the Purchase and Sale Agreement related to 4960 Palo Verde Street would allow for execution of the Purchase and Sale Agreement and would authorize staff to open escrow with Press On Properties, LLC. However, the escrow would not be in a condition to close until the approval of the Agreement is obtained from DOF.

Net proceeds from the sale of the property, after paying for the title insurance and seller's share of closing costs, would be submitted to the Trustee for the Redevelopment Project Area No. V Tax Allocation Bonds. Net sales proceeds would be applied toward reducing tax allocation bond debt for Redevelopment Project Area No. V bonds.

RECOMMENDATION: Staff recommends the Successor Agency Board of Directors for the Successor Agency to the City of Montclair Redevelopment Agency adopt Resolution No. 15-02 approving and authorizing execution of Agreement No. 15-17, a Purchase and Sale Agreement between the Successor Agency to the City of Montclair Redevelopment Agency (City of Montclair) and Press On Properties LLC, regarding property located at 4960 Palo Verde Street, Montclair, CA (1008-332-04).



February 12, 2015

Ms. Marilyn Staats, Deputy City Manager
City of Montclair
5111 Benito Street
Montclair, CA 91763

Dear Ms. Staats:

Subject: Long-Range Property Management Plan

Pursuant to Health and Safety Code (HSC) section 34191.5 (b), the City of Montclair Successor Agency (Agency) submitted a Long-Range Property Management Plan (LRPMP) to the California Department of Finance (Finance) on November 14, 2013. The Agency subsequently submitted a revised LRPMP to Finance on August 25, 2014. Finance has completed its review of the LRPMP, which may have included obtaining clarification for various items.

The Agency received a Finding of Completion on May 16, 2014. Further, based on our review and application of the law, we are approving the Agency's use or disposition of all the properties listed on the LRPMP. Our approval also took into account the following clarification provided by the Agency:

Property No. 2, 4985 Richton Street: It is our understanding the Agency has identified multiple disposition options for the property located at 4985 Richton Street as public use or future development. In the event the property no longer serves a governmental purpose (Montclair Kid's Station Child Care Center or as the Gold Line right of way), the City of Montclair (City) will develop the property pursuant to the North Montclair Downtown Specific Plan. At that time, the City will enter into a compensation agreement with the affected taxing entities.

In accordance with HSC section 34191.4, upon receiving a Finding of Completion from Finance and approval of a LRPMP, all real property and interests in real property shall be transferred to the Community Redevelopment Property Trust Fund of the Agency, unless that property is subject to the requirements of an existing enforceable obligation. Pursuant to HSC section 34191.3 the approved LRPMP shall govern, and supersede all other provisions relating to, the disposition and use of all the real property assets of the former redevelopment agency.

Agency actions taken pursuant to a Finance approved LRPMP which requires the Agency to enter into a new agreement are subject to oversight board (OB) approval per HSC section 34181 (f). Any OB action approving a new agreement in connection with the LRPMP should be submitted to Finance for approval.

Please direct inquiries to Nichelle Thomas, Supervisor, or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Mr. Donald Parker, Finance Director, City of Montclair
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
Ms. Elizabeth Gonzalez, Bureau Chief, Local Government Audit Bureau, California State
Controller's Office
California State Controller's Office

RESOLUTION NO. 15-02

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT NO. 15-17 A PURCHASE AND SALE AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY (CITY OF MONTCLAIR) AND PRESS ON PROPERTIES, LLC, REGARDING PROPERTY LOCATED AT 4960 PALO VERDE STREET, MONTCLAIR, CA (1008-332-04)

WHEREAS, pursuant to AB X1 26, which became effective on June 28, 2011, as modified by the California Supreme Court decision in *California Redevelopment Association, et al. v Ana Matosantos, et al.* (53 Cal. 4th 231(2011)) all California redevelopment agencies, including the City of Montclair Redevelopment Agency, were dissolved effective February 1, 2012; and

WHEREAS, AB 1484, which became effective at the end of June 2012, amended and supplemented AB X1 26; and

WHEREAS, pursuant to Health and Safety Code Section 34175(b) and the California Supreme Court's decision in *California Redevelopment Association, et al. v Ana Matosantos, et al.* (53 Cal.4th 231(2011)), all assets, properties, contracts, leases, books and records, buildings, and equipment of the former City of Montclair Redevelopment Agency (the "Redevelopment Agency") transferred to the control of the Successor Agency (the "Successor Agency") by operation of law; and

WHEREAS, pursuant to Health and Safety Code Section 34191.5(b), the Successor Agency must prepare a long-range property management plan which addresses the disposition and use of the real property of the former Redevelopment Agency and which must be submitted to the Oversight Board for the Successor Agency (the "Oversight Board") and the Department of Finance ("DOF") for approval no later than six months following the issuance by DOF to the Successor Agency of a finding of completion pursuant to Health and Safety Code Section 34179.7; and

WHEREAS, the Successor Agency received DOF's Finding of Completion on May 15, 2013, and the Successor Agency's deadline for submitting the Oversight Board-approved Long-Range Property Management Plan (LRPMP) to DOF is November 14, 2013; and

WHEREAS, the Successor Agency prepared the Long-Range Property Management Plan for the disposition of Successor Agency properties and the Oversight Board approved the Plan on November 13, 2013 (as approved, the "Adopted LRPMP"); and

WHEREAS, the Successor Agency submitted the Adopted LRPMP to DOF on November 14, 2013; and

WHEREAS, a staff member of DOF indicated that certain changes were required to be made to the Adopted LRPMP. Successor Agency staff has incorporated changes to the Adopted LRPMP which, as submitted with such changes, constitutes the "Property Management Plan"; and

WHEREAS, the Oversight Board reviewed and approved the LRPMP, as revised, by its Resolution No. 14-06 on August 13, 2014; and

WHEREAS, DOF approved the Adopted LRPMP on February 12, 2014; and

WHEREAS, the Adopted LRPMP identified the property located at 4960 Palo Verde Street (APN 1008-332-04) as property that should be sold and offered to the existing tenant of the property for purchase; and

WHEREAS, the existing tenant of the property utilizes the property for the storage and sale of new automobiles and desires to maintain use of the property for automobile sales purposes; and

WHEREAS, the representative for the tenant of 4960 Palo Verde Street, Press On Properties, LLC, submitted a Letter of Intent to purchase the property dated July 31, 2014 and now desires to enter into a Purchase and Sale Agreement with a total price of \$1,000,000 cash at the close of escrow, as attached hereto as Exhibit A; and

WHEREAS, on April 8, 2015, the Oversight Board was requested to consider approval of and authorize execution of Agreement No. 15-17, a Purchase and Sale Agreement between the Successor Agency to the City of Montclair Redevelopment Agency and Press On Properties, LLC; and

WHEREAS, the Oversight Board approved the Purchase and Sale Agreement on April 8, 2015 and acknowledged that proceeds of the sale of the property at 4960 Palo Verde Street would be advanced towards the repayment of bond indebtedness in former Redevelopment Project Area No. V.

WHEREAS, the Successor Agency is requested to consider the approval and authorize execution of Agreement No. 15-17, a Purchase and Sale Agreement between the Successor Agency to the City of Montclair Redevelopment Agency and Press On Properties, LLC.

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

Section 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. The Successor Agency hereby approves the Purchase and Sale Agreement, substantially in the form hereto attached as Exhibit A, and directs the Chairman of the Successor Agency to execute the Purchase and Sale Agreement with such immaterial changes as the Successor Agency, in consultation with Successor Agency legal counsel, may deem necessary or advisable, and to take all such actions as may be required to close escrow and convey the subject property pursuant to the Purchase and Sale Agreement.

Section 3. Pursuant to Health and Safety Code Section 34180(j), staff of the Successor Agency is hereby authorized and directed to transmit the Purchase and Sale Agreement to the County Administrative Officer, the County Auditor–Controller, and to DOF.

Section 4. The Successor Agency hereby directs the Successor Agency Executive Director or his designee to take any and all action necessary to carry out the purposes of this Resolution and comply with applicable law.

Section 5. The approval of the Purchase and Sale Agreement does not result in any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

Section 6. The Successor Agency to the City of Montclair Redevelopment Agency Secretary shall certify to the adoption of this Resolution.

Section 7. This Resolution shall become effective immediately upon its adoption.

APPROVED AND ADOPTED this XX day of XX, 2015.

Chairman

ATTEST:

Secretary

I, Andrea M. Phillips, Secretary of the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 15-02 was duly adopted by the Successor Agency Board of Directors at a regular meeting thereof held on the XX day of XX, 2015, and that it was adopted by the following vote, to-wit:

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

Andrea M. Phillips
Secretary

Agreement No. 15-17

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the “Agreement”) is entered into as of _____, 2015 (the “Date of Agreement”), by and between the **SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY** (the “Seller”), and **PRESS ON PROPERTIES, LLC**, a California limited liability company (the “Buyer”), for acquisition by Buyer of certain real property described below.

NOW, THEREFORE, the Buyer and the Seller hereby agree as follows:

1. Agreement to Sell and Purchase; Agreement to Continue to Operate New Automobile Dealership. Buyer agrees to purchase from Seller, and, subject to the prior satisfaction of the “Seller Conditions” as set forth in Section 8.2, below, Seller agrees to sell to Buyer, upon the terms and for the consideration set forth in this Agreement, a parcel of real property, which is improved with a parking lot with paving and lighting thereon, which is located at 4960 Palo Verde Street, Montclair (APN 1008 332 04) in the City of Montclair, County of San Bernardino, State of California, and which is legally described in the Legal Description, attached hereto as Exhibit “A” and incorporated herein (the “Property”); Buyer has represented to Seller and to the City of Montclair, a municipal corporation (“City”) that Buyer intends to continue to operate at the Property uses including the sale of new automobiles under an approved franchise agreement with a manufacturer of automobiles.

2. Purchase Price. The total purchase price for the Property shall be the sum of One Million Dollars (\$1,000,000.00) (the “Purchase Price”). The Purchase Price shall be payable through escrow of the Purchase Price in immediately available funds, in cash, cashier’s check or through wire transfer of funds, prior to the conveyance of the Property to Buyer (the “Closing”).

Buyer is a sophisticated party and is familiar with real property transactions, including the acquisition and use of real property. Buyer or an affiliate thereof has occupied the Property for several years prior to the date this Agreement is entered into and is familiar with the Property. Prior to entering into this Agreement, Buyer has consulted with legal counsel of its choosing and has undertaken such investigation as to the Property, including without limitation as to surface and subsurface conditions and as to the suitability of the Property for such uses as may be undertaken by Buyer, and has determined that the Property is suitable and satisfactory for such purposes.

3. Conveyance of Title. Seller agrees to convey or cause to be conveyed by Grant Deed to Buyer marketable fee simple title to the Property, free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases, and taxes, except such matters which are reasonably acceptable to the Buyer, following Buyer’s review of the preliminary title report as provided in this Section 3. Within fifteen (15) days after the Date of Agreement or, if later, the date by which the California Department of Finance consents to the sale of the Property by Seller, Seller shall cause Ticor Title Company (Irvine office) or another title company mutually agreeable to both parties (the “Title Company”) to deliver to Buyer a standard CLTA preliminary title report (the “Report”) with respect to the title to the Property, together with legible copies of the exceptions (“Exceptions”) set forth in the Report. Seller shall be responsible for arranging for the conveyance

by City to Buyer, or to Seller for conveyance to Buyer, any fee interest of City as to the Property. Buyer shall have ten (10) days from its receipt of the Report within which to give written notice to Seller of Buyer's approval or disapproval of any of such Exceptions. No deeds of trust, mortgages or other liens, except for the lien of property taxes and assessments not yet due, shall be approved Exceptions. If Buyer notifies Seller of its disapproval of any Exceptions in the Report, or is deemed to have disapproved the Report, Seller shall have the right, but not the obligation, to remove any disapproved Exceptions within ten (10) days after receiving written notice of Buyer's disapproval or provide assurances satisfactory to Buyer that such Exception(s) will be removed on or before the Closing. If Seller cannot or does not elect to remove any of the disapproved Exceptions within that period, Buyer shall have five (5) days after the expiration of such ten (10) day period to either give the Seller written notice that Buyer elects to proceed with the purchase of the Property subject to the disapproved Exceptions or to give the Seller written notice that the Buyer elects to terminate this Agreement. The Buyer shall have the right to approve or disapprove any Exceptions reported by the Title Company after Buyer has approved the condition of title for the Property. Seller shall not voluntarily create any new exceptions to title following the date of this Agreement.

4. Title Insurance Policy. Escrow Agent shall, following recording of the Grant Deed, provide Buyer with a CLTA owner's policy of title insurance in the amount of the Purchase Price, issued by the Title Company, together with any endorsements reasonably requested by the Buyer, showing fee simple title as to the Property vested in Buyer, subject only to the exceptions set forth in Section 3 and the printed exceptions and stipulations in the policy.

5. Escrow. Buyer and Seller have opened or shall open an escrow (the "Escrow") in accordance with this Agreement with Ticor Title Company or another escrow company mutually agreeable to both parties (the "Escrow Agent"). This Agreement, together with the escrow instructions prepared by Escrow Agent and executed by Buyer and Seller, constitutes the joint escrow instructions of Buyer and Seller, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this Escrow within forty-five (45) days from the date of this Agreement; provided that the parties acknowledge that various conditions to close may be outside the control of Seller. Seller shall bear the cost of a CLTA owner's title policy as the Property based upon the Purchase Price; the cost of any additional or other coverages shall be borne by Buyer. Any amounts payable by Seller shall be charged against the Purchase Price. Buyer and Seller shall evenly share escrow fees and charges, recording fees, recording fees and notary fees.

5.1 Grant Deed. Seller has executed and delivered a Grant Deed (the "Grant Deed") to Buyer concurrently with this Agreement, in the form of the Grant Deed which is attached hereto as Exhibit "B" and incorporated herein. Buyer agrees to deposit the Purchase Price upon demand of Escrow Agent. Buyer and Seller agree to deposit with Escrow Agent any additional instruments as may be necessary to complete this transaction.

5.2 Insurance. Insurance policies for fire or casualty are not to be transferred, and Seller will cancel its own policies after close of escrow.

5.3 Escrow Account. All funds received in the Escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other escrow trust account in any state or national bank doing business in the State of California. All disbursements shall be made by check from such account.

6. No Tax Adjustment Procedure. The Property is being sold where is, as is. Escrow is not to be concerned with proration of Seller's taxes for the current fiscal year. Seller's pro rata portion of taxes shall be paid by Seller, outside Escrow.

7. Escrow Agent Authorization. Escrow Agent is authorized to, and shall:

7.1 Seller. Pay and charge Seller for any amount necessary to place title in the condition necessary to satisfy Section 3 of this Agreement and for all those escrow fees, charges and costs payable by Seller under Section 5 of this Agreement.

7.2 Buyer. Pay and charge Buyer for all Escrow fees, charges, and costs payable by Buyer under Section 5 of this Agreement.

7.3 Disbursement. Disburse funds, record the Grant Deed and deliver the title policy and the Non-Foreign Transferor Declaration to Buyer, when conditions of the Escrow have been fulfilled by Buyer and Seller. At closing, Escrow Agent shall remit proceeds of sale (net of Seller's share of charges) by wire transfer to Bank of New York Mellon Trust N.A. for the 2006 A Taxable Tax Allocation Bond Issue for City of Montclair Redevelopment Project Area No. V and shall submit a copy of the remittance to Seller.

7.4 Close of Escrow. The term "close of Escrow" or "Closing", if and where written in these instructions, shall mean the date the Grant Deed and other necessary instruments of conveyance are recorded in the office of the San Bernardino County Recorder. Recordation of instruments delivered through this Escrow is authorized, if necessary or proper in the issuance of the policy of title insurance pursuant to Section 4 hereof.

7.5 Time Limits. All time limits within which any matter specified is to be performed may be extended by mutual agreement of the parties. Any amendment of, or supplement to, any instructions must be in writing.

7.6 Time of the Essence. TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS AND ESCROW IS TO CLOSE WITHIN NINETY (90) DAYS OF THE DATE OF AGREEMENT. If (except for deposit of money by Buyer, which shall be made by Buyer upon demand of Escrow Agent before close of Escrow) this Escrow is not in condition to close within ninety (90) days from the Date of Agreement, excepting to the extent such time has been extended by the parties, any party who then shall have fully complied with its instructions, may, in writing, demand the return of its money or property; but if neither party complied, no demand for return shall be recognized until five (5) days after Escrow Agent shall have mailed copies of demand to all other parties at the respective addresses shown in these Escrow instructions, and if any objections are raised within such five (5) day period, Escrow Agent is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or mutual instructions. If escrow has not closed within ninety (90) day from the Date of Agreement, unless such time has been extended by the parties, this Agreement shall be of no further force and effect.

7.7 Escrow Agent Responsibility. The responsibility of the Escrow Agent under this Agreement is expressly limited to Sections 1, 2, 3, 4, 5, 6, 7, 8, 11 and 12 of this Agreement and to its liability under any policy of title insurance issued in regard to this Escrow.

7.8 FIRPTA. Seller and Buyer agree to execute and deliver as directed by

Escrow Agent any instrument, affidavit, and statement, including without limitation the Non-Foreign Transferor Declaration which is attached hereto as Exhibit "C," and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulation promulgated thereunder.

7.9 Tax Requirements. Escrow Agent shall prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

8. Conditions Precedent to Close of Escrow.

8.1. Buyer's Conditions Prior to Closing. The obligation of the Buyer to complete the purchase of the Property is subject to the satisfaction of the following conditions:

a. Seller shall deliver through Escrow an executed and recordable Grant Deed sufficient to convey fee title to the Buyer as set forth in Section 5.1.

b. Seller shall deliver through Escrow a Non-Foreign Transferor Declaration duly executed and in the form of Exhibit "C" attached hereto or such form as may be prepared by the Title Company.

c. Seller shall deliver through Escrow such other funds and documents as are necessary to comply with Seller's obligations under this Agreement.

d. Seller shall not be in default of any of its obligations under the terms of this Agreement, and all representations of Seller herein shall be true and correct.

e. All public agency approvals necessary for the sale and purchase of the Property have been obtained.

f. Buyer shall have approved the condition of title to the Property and Escrow Agent shall have committed to deliver to Buyer a title insurance policy as required by Section 4 hereof.

g. The Buyer shall not have terminated this Agreement.

h. The condition of the Property shall be reasonably satisfactory to the Buyer and in the condition required by this Agreement.

8.2. Seller's Conditions Precedent to Closing. The obligation of Seller to complete the sale of the Property is subject to the satisfaction of the following conditions (collectively, the "Seller Conditions"):

a. The Buyer shall not be in default of any of its obligations under the terms of this Agreement, and all representations of Buyer herein shall be true and correct.

b. The Buyer shall have deposited with the Escrow Agent immediately available funds in an amount equal to the Purchase Price and the Buyer's share of costs described herein.

- c. The Seller shall not have terminated this Agreement.
- d. The California Department of Finance shall have approved the sale of the Property.
- e. The Title Company shall have committed to issue at closing its Title Policy conforming to Section 3 upon payment of the premium therefor.
- f. Buyer shall have delivered or cause to be delivered to Seller or to Escrow Agent for delivery to Seller at closing the "Lease Cancellation Notice" substantially in the form of Exhibit "D" hereto.

9. Acknowledgment Regarding Rent. Seller hereby agrees and acknowledges that no amounts are outstanding as rent payable by Buyer (or Lessee) to Seller and it is not contemplated that any amounts will be payable by Buyer (or Lessee) at or prior to conveyance of the Property hereunder. Lessee shall remain responsible for such possessory interest tax, if any, as may be imposed by the County of San Bernardino in connection with the possession of Lessee under the Lease.

10. Permission to Enter on Premises. Seller hereby grants to Buyer, or its authorized agents, permission to enter upon the Property at all reasonable times prior to close of Escrow for the purpose of making necessary or appropriate inspections.

11. Counterparts. This Agreement may be executed in counterparts, each of which when executed shall, regardless of the date of its execution and delivery, be deemed an original, and all counterparts together shall constitute one and the same instrument.

12. Closing Statement. Seller instructs Escrow Agent to release a copy of Seller's closing statement to Buyer.

13. Loss or Damage to Personal Property. Buyer shall not be responsible for damage to personal property at the Property prior to the conveyance of the Property to Buyer. Buyer's obligation to purchase the Property shall survive without regard to whether damage occurs to personal property located at the Property.

14. Possession and Disposition of Personal Property. Seller shall, prior to the close of Escrow, remove or otherwise dispose of all personal property owned by the Seller which is located on the Property. All personal property owned by Seller remaining on the Property after the Closing shall become the property of Buyer and Buyer may dispose of same without liability as it alone sees fit, and Seller shall be liable for the costs of removal which are incurred by the Buyer. Buyer shall not be liable for any loss of or damage to the Seller's personal property remaining on the Property, regardless of when loss or damage occurs.

15. Warranties, Representations, and Covenants of Seller. Seller hereby warrants, represents, and/or covenants to Buyer that:

15.1 Pending Claims. To the best of Seller's knowledge, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.

15.2 Condition of Property. Until the close of Escrow, Seller shall maintain the Property in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the Property; provided that the foregoing portion of this Section 15.2 shall not affect the obligations of any lessee or other occupant of the Property as to maintenance of the Property prior to the conveyance of the Property to Buyer.

15.3 Seller's Title. Until the close of Escrow, Seller shall not do anything which would impair Seller's title to the Property.

15.4 Utilities. All utilities, without limitation, including gas, electricity, water, sewage, and telephone, are available to the Property.

15.5 Conflict with Other Obligation. To the best of Seller's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions and restrictions, or other agreement or instrument to which Seller or the Property may be bound.

15.6 Change of Situation. Until the close of Escrow, Seller shall, upon learning of any fact or condition which would cause any of the warranties and representations in the section not to be true as of the close of Escrow, immediately give written notice of such fact or condition to Buyer.

15.7 No Liability of City. The Property is being sold by the Seller, which is the successor agency to the former City of Montclair Redevelopment Agency. The City, its officers, agents and employees, shall have no liabilities, obligations or duties hereunder.

16. Contingency. It is understood and agreed between the parties hereto that the completion of this transaction, and the Escrow created hereby, is contingent upon the specific acceptance and approval of the Board of the Seller. The execution of these documents and the delivery of same to Escrow Agent constitute said acceptance and approval.

17. No Broker's Commission. Each party represents to the other that it is not engaged a real estate broker, agent or finder in connection with the marketing, sale or purchase of the Property; there shall be no commissions payable in connection with the sale. Seller and Buyer agree to and do hereby indemnify and hold the other harmless from and against any and all costs, liabilities, losses, damages, claims, causes of action or proceedings which may result from any broker, agent or finder, licensed or otherwise, which it has employed in connection with the transaction covered by this Agreement.

18. Waiver, Consent and Remedies. Each provision of this Agreement to be performed by Buyer and Seller shall be deemed both a covenant and a condition and shall be a material consideration for Seller's and Buyer's performance hereunder, as appropriate, and any breach thereof by Buyer or Seller shall be deemed a material default hereunder. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived. The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of

between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understanding of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

25. Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

26. Governing Law. This Agreement and the exhibits attached hereto have been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California.

27. Invalidity of Provision. If any provision of this Agreement as applied to any party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

28. Amendments. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing and agreed to by Buyer and Seller.

29. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

30. Time of Essence. Time is of the essence of each provision of this Agreement

31. Binding upon Successors. The terms and conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year set forth herein above.

(signatures on following page)

SELLER:

**SUCCESSOR AGENCY TO THE CITY OF
MONTCLAIR REDEVELOPMENT AGENCY**

By: _____
Executive Director

BUYER:

PRESS ON PROPERTIES, LLC, a California
limited liability company

By: _____
David A. Marvin
Its: Managing Member

EXHIBIT "A"

LEGAL DESCRIPTION

That real property located in the City of Montclair, County of San Bernardino, State of California,
and described as follows:

[to come]

APN: 1008 332 04

EXHIBIT "B"

GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

APN: 1008 332 04

DOCUMENTARY TRANSFER TAX

\$ _____

_____ computed on the consideration or value of
property conveyed; OR

_____ computed on the consideration or value less
liens or encumbrances remaining at time of sale.

Signature of Declarant or Agent determining tax -
Firm Name

GRANT DEED

FOR VALUE RECEIVED, the **SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY** hereby grants to **PRESS ON PROPERTIES, LLC**, a California limited liability company, all that certain real property located in the City of Montclair, County of San Bernardino, State of California, more particularly described in Attachment A attached hereto and incorporated herein.

IN WITNESS WHEREOF, grantor has executed this Grant Deed as of _____,
2015.

**SUCCESSOR AGENCY TO THE MONTCLAIR
REDEVELOPMENT AGENCY**

By: _____
Executive Director

ATTACHMENT A

PROPERTY DESCRIPTION

That real property located in the City of Montclair, County of San Bernardino, State of California, and described as follows:

[to come]

APN: 1008 332 04

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
 COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

 Title(s)

 Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

 Number Of Pages

Signer is representing:
 Name Of Person(s) Or Entity(ies)

 Date Of Documents

 Signer(s) Other Than Named Above

EXHIBIT "C"

NON-FOREIGN TRANSFEROR DECLARATION

Section 1445 of the Internal Revenue Code of 1954, as amended ("Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferees that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, the undersigned hereby certifies the following:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The Transferor's U.S. employer identification number or social security number is _____.
3. The Transferor's office address or mailing address is:

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury we declare that we have examined this Certification and to the best of our knowledge and belief it is true, correct, and complete, and further declare that we have authority to sign this document on behalf of the Transferor.

S.S. No. _____

S.S. No. _____

Date: _____

Date: _____

EXHIBIT “D”

LEASE CANCELLATION NOTICE

Ontario Nissan, Inc., dba Metro Nissan of Montclair (“Ontario”) and Metro Nissan of Montclair (“Nissan”, and together with Ontario, “Metro”) holds or has held a leasehold interest in that certain land at 4960 Palo Verde Street, Montclair, APN: 1008 332 04 (the “Property”). Metro is affiliated with or has common ownership with Press On Properties, LLC, a California limited liability company (“Buyer”). Buyer is purchasing the Property from the Successor Agency to the City of Montclair Redevelopment Agency (“Successor Agency”), which is currently the Lessor of the Property. The purchase by Buyer of the Property will benefit each of Metro and Buyer. By signing below, each of Ontario and Metro irrevocably relinquishes and cancels any leasehold interest or any other interest in the Property, effective as of the execution hereof. Each of Ontario and Metro, if requested to do so by the title insurer for the conveyance of the Property to Buyer, execute a quitclaim as to the Property in favor of Buyer.

ONTARIO NISSAN, INC., dba
METRO NISSAN OF MONTCLAIR

METRO NISSAN OF MONTCLAIR

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the “Agreement”) is entered into as of _____, 2015 (the “Date of Agreement”), by and between the **SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY** (the “Seller”), and **PRESS ON PROPERTIES, LLC**, a California limited liability company (the “Buyer”), for acquisition by Buyer of certain real property described below.

NOW, THEREFORE, the Buyer and the Seller hereby agree as follows:

1. Agreement to Sell and Purchase; Agreement to Continue to Operate New Automobile Dealership. Buyer agrees to purchase from Seller, and, subject to the prior satisfaction of the “Seller Conditions” as set forth in Section 8.2, below, Seller agrees to sell to Buyer, upon the terms and for the consideration set forth in this Agreement, a parcel of real property, which is improved with a parking lot with paving and lighting thereon, which is located at 4960 Palo Verde Street, Montclair (APN 1008 332 04) in the City of Montclair, County of San Bernardino, State of California, and which is legally described in the Legal Description, attached hereto as Exhibit “A” and incorporated herein (the “Property”); Buyer has represented to Seller and to the City of Montclair, a municipal corporation (“City”) that Buyer intends to continue to operate at the Property uses including the sale of new automobiles under an approved franchise agreement with a manufacturer of automobiles.

2. Purchase Price. The total purchase price for the Property shall be the sum of One Million Dollars (\$1,000,000.00) (the “Purchase Price”). The Purchase Price shall be payable through escrow of the Purchase Price in immediately available funds, in cash, cashier’s check or through wire transfer of funds, prior to the conveyance of the Property to Buyer (the “Closing”).

Buyer is a sophisticated party and is familiar with real property transactions, including the acquisition and use of real property. Buyer or an affiliate thereof has occupied the Property for several years prior to the date this Agreement is entered into and is familiar with the Property. Prior to entering into this Agreement, Buyer has consulted with legal counsel of its choosing and has undertaken such investigation as to the Property, including without limitation as to surface and subsurface conditions and as to the suitability of the Property for such uses as may be undertaken by Buyer, and has determined that the Property is suitable and satisfactory for such purposes.

3. Conveyance of Title. Seller agrees to convey or cause to be conveyed by Grant Deed to Buyer marketable fee simple title to the Property, free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases, and taxes, except such matters which are reasonably acceptable to the Buyer, following Buyer’s review of the preliminary title report as provided in this Section 3. Within fifteen (15) days after the Date of Agreement or, if later, the date by which the California Department of Finance consents to the sale of the Property by Seller, Seller shall cause Ticor Title Company (Irvine office) or another title company mutually agreeable to both parties (the “Title Company”) to deliver to Buyer a standard CLTA preliminary title report (the “Report”) with respect to the title to the Property, together with legible copies of the exceptions (“Exceptions”) set forth in the Report. Seller shall be responsible for arranging for the conveyance by City to Buyer, or to Seller for conveyance to Buyer, any fee interest of City as to the Property. Buyer shall have ten (10) days from its receipt of the Report within which to give written notice to Seller of Buyer’s approval or disapproval of any of such Exceptions. No deeds of trust, mortgages or

other liens, except for the lien of property taxes and assessments not yet due, shall be approved Exceptions. If Buyer notifies Seller of its disapproval of any Exceptions in the Report, or is deemed to have disapproved the Report, Seller shall have the right, but not the obligation, to remove any disapproved Exceptions within ten (10) days after receiving written notice of Buyer's disapproval or provide assurances satisfactory to Buyer that such Exception(s) will be removed on or before the Closing. If Seller cannot or does not elect to remove any of the disapproved Exceptions within that period, Buyer shall have five (5) days after the expiration of such ten (10) day period to either give the Seller written notice that Buyer elects to proceed with the purchase of the Property subject to the disapproved Exceptions or to give the Seller written notice that the Buyer elects to terminate this Agreement. The Buyer shall have the right to approve or disapprove any Exceptions reported by the Title Company after Buyer has approved the condition of title for the Property. Seller shall not voluntarily create any new exceptions to title following the date of this Agreement.

4. Title Insurance Policy. Escrow Agent shall, following recording of the Grant Deed, provide Buyer with a CLTA owner's policy of title insurance in the amount of the Purchase Price, issued by the Title Company, together with any endorsements reasonably requested by the Buyer, showing fee simple title as to the Property vested in Buyer, subject only to the exceptions set forth in Section 3 and the printed exceptions and stipulations in the policy.

5. Escrow. Buyer and Seller have opened or shall open an escrow (the "Escrow") in accordance with this Agreement with Ticor Title Company or another escrow company mutually agreeable to both parties (the "Escrow Agent"). This Agreement, together with the escrow instructions prepared by Escrow Agent and executed by Buyer and Seller, constitutes the joint escrow instructions of Buyer and Seller, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this Escrow within forty-five (45) days from the date of this Agreement; provided that the parties acknowledge that various conditions to close may be outside the control of Seller. Seller shall bear the cost of a CLTA owner's title policy as the Property based upon the Purchase Price; the cost of any additional or other coverages shall be borne by Buyer. Any amounts payable by Seller shall be charged against the Purchase Price. Buyer and Seller shall evenly share escrow fees and charges, recording fees, recording fees and notary fees.

5.1 Grant Deed. Seller has executed and delivered a Grant Deed (the "Grant Deed") to Buyer concurrently with this Agreement, in the form of the Grant Deed which is attached hereto as Exhibit "B" and incorporated herein. Buyer agrees to deposit the Purchase Price upon demand of Escrow Agent. Buyer and Seller agree to deposit with Escrow Agent any additional instruments as may be necessary to complete this transaction.

5.2 Insurance. Insurance policies for fire or casualty are not to be transferred, and Seller will cancel its own policies after close of escrow.

5.3 Escrow Account. All funds received in the Escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other escrow trust account in any state or national bank doing business in the State of California. All disbursements shall be made by check from such account.

6. No Tax Adjustment Procedure. The Property is being sold where is, as is. Escrow is not to be concerned with proration of Seller's taxes for the current fiscal year. Seller's pro rata portion of taxes shall be paid by Seller, outside Escrow.

7. Escrow Agent Authorization. Escrow Agent is authorized to, and shall:

7.1 Seller. Pay and charge Seller for any amount necessary to place title in the condition necessary to satisfy Section 3 of this Agreement and for all those escrow fees, charges and costs payable by Seller under Section 5 of this Agreement.

7.2 Buyer. Pay and charge Buyer for all Escrow fees, charges, and costs payable by Buyer under Section 5 of this Agreement.

7.3 Disbursement. Disburse funds, record the Grant Deed and deliver the title policy and the Non-Foreign Transferor Declaration to Buyer, when conditions of the Escrow have been fulfilled by Buyer and Seller. At closing, Escrow Agent shall remit proceeds of sale (net of Seller's share of charges) by wire transfer to Bank of New York Mellon Trust N.A. for the 2006 A Taxable Tax Allocation Bond Issue for City of Montclair Redevelopment Project Area No. V and shall submit a copy of the remittance to Seller.

7.4 Close of Escrow. The term "close of Escrow" or "Closing", if and where written in these instructions, shall mean the date the Grant Deed and other necessary instruments of conveyance are recorded in the office of the San Bernardino County Recorder. Recordation of instruments delivered through this Escrow is authorized, if necessary or proper in the issuance of the policy of title insurance pursuant to Section 4 hereof.

7.5 Time Limits. All time limits within which any matter specified is to be performed may be extended by mutual agreement of the parties. Any amendment of, or supplement to, any instructions must be in writing.

7.6 Time of the Essence. TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS AND ESCROW IS TO CLOSE WITHIN NINETY (90) DAYS OF THE DATE OF AGREEMENT. If (except for deposit of money by Buyer, which shall be made by Buyer upon demand of Escrow Agent before close of Escrow) this Escrow is not in condition to close within ninety (90) days from the Date of Agreement, excepting to the extent such time has been extended by the parties, any party who then shall have fully complied with its instructions, may, in writing, demand the return of its money or property; but if neither party complied, no demand for return shall be recognized until five (5) days after Escrow Agent shall have mailed copies of demand to all other parties at the respective addresses shown in these Escrow instructions, and if any objections are raised within such five (5) day period, Escrow Agent is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or mutual instructions. If escrow has not closed within ninety (90) day from the Date of Agreement, unless such time has been extended by the parties, this Agreement shall be of no further force and effect.

7.7 Escrow Agent Responsibility. The responsibility of the Escrow Agent under this Agreement is expressly limited to Sections 1, 2, 3, 4, 5, 6, 7, 8, 11 and 12 of this Agreement and to its liability under any policy of title insurance issued in regard to this Escrow.

7.8 FIRPTA. Seller and Buyer agree to execute and deliver as directed by Escrow Agent any instrument, affidavit, and statement, including without limitation the Non-Foreign Transferor Declaration which is attached hereto as Exhibit "C," and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulation promulgated thereunder.

7.9 Tax Requirements. Escrow Agent shall prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

8. Conditions Precedent to Close of Escrow.

8.1. Buyer's Conditions Prior to Closing. The obligation of the Buyer to complete the purchase of the Property is subject to the satisfaction of the following conditions:

- a. Seller shall deliver through Escrow an executed and recordable Grant Deed sufficient to convey fee title to the Buyer as set forth in Section 5.1.
- b. Seller shall deliver through Escrow a Non-Foreign Transferor Declaration duly executed and in the form of Exhibit "C" attached hereto or such form as may be prepared by the Title Company.
- c. Seller shall deliver through Escrow such other funds and documents as are necessary to comply with Seller's obligations under this Agreement.
- d. Seller shall not be in default of any of its obligations under the terms of this Agreement, and all representations of Seller herein shall be true and correct.
- e. All public agency approvals necessary for the sale and purchase of the Property have been obtained.
- f. Buyer shall have approved the condition of title to the Property and Escrow Agent shall have committed to deliver to Buyer a title insurance policy as required by Section 4 hereof.
- g. The Buyer shall not have terminated this Agreement.
- h. The condition of the Property shall be reasonably satisfactory to the Buyer and in the condition required by this Agreement.

8.2. Seller's Conditions Precedent to Closing. The obligation of Seller to complete the sale of the Property is subject to the satisfaction of the following conditions (collectively, the "Seller Conditions"):

- a. The Buyer shall not be in default of any of its obligations under the terms of this Agreement, and all representations of Buyer herein shall be true and correct.
- b. The Buyer shall have deposited with the Escrow Agent immediately available funds in an amount equal to the Purchase Price and the Buyer's share of costs described herein.
- c. The Seller shall not have terminated this Agreement.
- d. The California Department of Finance shall have approved the sale of the Property.

e. The Title Company shall have committed to issue at closing its Title Policy conforming to Section 3 upon payment of the premium therefor.

f. Buyer shall have delivered or cause to be delivered to Seller or to Escrow Agent for delivery to Seller at closing the "Lease Cancellation Notice" substantially in the form of Exhibit "D" hereto.

9. Acknowledgment Regarding Rent. Seller hereby agrees and acknowledges that no amounts are outstanding as rent payable by Buyer (or Lessee) to Seller and it is not contemplated that any amounts will be payable by Buyer (or Lessee) at or prior to conveyance of the Property hereunder. Lessee shall remain responsible for such possessory interest tax, if any, as may be imposed by the County of San Bernardino in connection with the possession of Lessee under the Lease.

10. Permission to Enter on Premises. Seller hereby grants to Buyer, or its authorized agents, permission to enter upon the Property at all reasonable times prior to close of Escrow for the purpose of making necessary or appropriate inspections.

11. Counterparts. This Agreement may be executed in counterparts, each of which when executed shall, regardless of the date of its execution and delivery, be deemed an original, and all counterparts together shall constitute one and the same instrument.

12. Closing Statement. Seller instructs Escrow Agent to release a copy of Seller's closing statement to Buyer.

13. Loss or Damage to Personal Property. Buyer shall not be responsible for damage to personal property at the Property prior to the conveyance of the Property to Buyer. Buyer's obligation to purchase the Property shall survive without regard to whether damage occurs to personal property located at the Property.

14. Possession and Disposition of Personal Property. Seller shall, prior to the close of Escrow, remove or otherwise dispose of all personal property owned by the Seller which is located on the Property. All personal property owned by Seller remaining on the Property after the Closing shall become the property of Buyer and Buyer may dispose of same without liability as it alone sees fit, and Seller shall be liable for the costs of removal which are incurred by the Buyer. Buyer shall not be liable for any loss of or damage to the Seller's personal property remaining on the Property, regardless of when loss or damage occurs.

15. Warranties, Representations, and Covenants of Seller. Seller hereby warrants, represents, and/or covenants to Buyer that:

15.1 Pending Claims. To the best of Seller's knowledge, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.

15.2 Condition of Property. Until the close of Escrow, Seller shall maintain the Property in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the Property; provided that the foregoing portion of this Section 15.2 shall not affect the obligations of any lessee or other occupant

of the Property as to maintenance of the Property prior to the conveyance of the Property to Buyer.

15.3 Seller's Title. Until the close of Escrow, Seller shall not do anything which would impair Seller's title to the Property.

15.4 Utilities. All utilities, without limitation, including gas, electricity, water, sewage, and telephone, are available to the Property.

15.5 Conflict with Other Obligation. To the best of Seller's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions and restrictions, or other agreement or instrument to which Seller or the Property may be bound.

15.6 Change of Situation. Until the close of Escrow, Seller shall, upon learning of any fact or condition which would cause any of the warranties and representations in the section not to be true as of the close of Escrow, immediately give written notice of such fact or condition to Buyer.

15.7 No Liability of City. The Property is being sold by the Seller, which is the successor agency to the former City of Montclair Redevelopment Agency. The City, its officers, agents and employees, shall have no liabilities, obligations or duties hereunder.

16. Contingency. It is understood and agreed between the parties hereto that the completion of this transaction, and the Escrow created hereby, is contingent upon the specific acceptance and approval of the Board of the Seller. The execution of these documents and the delivery of same to Escrow Agent constitute said acceptance and approval.

17. No Broker's Commission. Each party represents to the other that it is not engaged a real estate broker, agent or finder in connection with the marketing, sale or purchase of the Property; there shall be no commissions payable in connection with the sale. Seller and Buyer agree to and do hereby indemnify and hold the other harmless from and against any and all costs, liabilities, losses, damages, claims, causes of action or proceedings which may result from any broker, agent or finder, licensed or otherwise, which it has employed in connection with the transaction covered by this Agreement.

18. Waiver, Consent and Remedies. Each provision of this Agreement to be performed by Buyer and Seller shall be deemed both a covenant and a condition and shall be a material consideration for Seller's and Buyer's performance hereunder, as appropriate, and any breach thereof by Buyer or Seller shall be deemed a material default hereunder. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived. The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement. All rights, remedies, undertakings, obligations, options, covenants, conditions and agreements contained in this Agreement shall be cumulative and no one of them shall be exclusive of any other.

Except as otherwise specified herein, either party hereto may pursue any one or more of its rights, options or remedies hereunder or may seek damages or specific performance in the event of the other party's breach hereunder, or may pursue any other remedy at law or equity, whether or not stated in this Agreement. This Agreement may be enforced by an action in specific performance.

19. Attorney's Fees. In the event any declaratory or other legal or equitable action is instituted between Seller, Buyer and/or Escrow Agent in connection with this Agreement then as between Buyer and Seller, the prevailing party shall be entitled to recover from the losing party all of its costs and expenses, including court costs and reasonable attorneys' fees, and all fees, costs and expenses incurred on any appeal or in collection of any judgment.

21. Notices. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, or deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid and addressed to the party for whom intended, as follows:

If to Buyer: Press On Properties, LLC
9440 Autoplex Drive
Montclair, CA 91763
Attention: David A. Marvin

If to Seller: Successor Agency to the City of Montclair Redevelopment
Agency
5111 Benito Street
Montclair, CA 91763
Attention: Executive Director

Any party may from time to time, by written notice to the other, designate a different address which shall be substituted for that specified above.

22. Default. Failure or delay by either party to perform any covenant, condition or provision of this Agreement within the time provided herein constitutes default under this Agreement. The injured party shall give written notice of default to the party in default, specifying the default complained of. The defaulting party shall immediately commence to cure such default and shall diligently complete such cure within thirty (30) days from the date of the notice or such longer period if the nature of the default is such that more than thirty (30) days is required to cure such default. The injured party shall have the right to terminate this Agreement by written notice to the other party in the event of a default which is not cured within the time set forth herein.

23. Gender and Number. In this Agreement (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

24. Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understanding of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

25. Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

26. Governing Law. This Agreement and the exhibits attached hereto have been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California.

27. Invalidity of Provision. If any provision of this Agreement as applied to any party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

28. Amendments. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing and agreed to by Buyer and Seller.

29. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

30. Time of Essence. Time is of the essence of each provision of this Agreement

31. Binding upon Successors. The terms and conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year set forth herein above.

(signatures on following page)

SELLER:

**SUCCESSOR AGENCY TO THE CITY OF
MONTCLAIR REDEVELOPMENT AGENCY**

By: _____
Executive Director

BUYER:

PRESS ON PROPERTIES, LLC, a California
limited liability company

By: _____
David A. Marvin
Its: Managing Member

EXHIBIT "A"

LEGAL DESCRIPTION

That real property located in the City of Montclair, County of San Bernardino, State of California,
and described as follows:

[to come]

APN: 1008 332 04

EXHIBIT "B"

GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

APN: 1008 332 04

DOCUMENTARY TRANSFER TAX

\$ _____

_____ computed on the consideration or value of
property conveyed; OR

_____ computed on the consideration or value less
liens or encumbrances remaining at time of sale.

Signature of Declarant or Agent determining tax -
Firm Name

GRANT DEED

FOR VALUE RECEIVED, the **SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY** hereby grants to **PRESS ON PROPERTIES, LLC**, a California limited liability company, all that certain real property located in the City of Montclair, County of San Bernardino, State of California, more particularly described in Attachment A attached hereto and incorporated herein.

IN WITNESS WHEREOF, grantor has executed this Grant Deed as of _____,
2015.

**SUCCESSOR AGENCY TO THE MONTCLAIR
REDEVELOPMENT AGENCY**

By: _____
Executive Director

ATTACHMENT A

PROPERTY DESCRIPTION

That real property located in the City of Montclair, County of San Bernardino, State of California, and described as follows:

[to come]

APN: 1008 332 04

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
 COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

 Title(s)

 Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

 Number Of Pages

Signer is representing:
 Name Of Person(s) Or Entity(ies)

 Date Of Documents

 Signer(s) Other Than Named Above

EXHIBIT "C"

NON-FOREIGN TRANSFEROR DECLARATION

Section 1445 of the Internal Revenue Code of 1954, as amended ("Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferees that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, the undersigned hereby certifies the following:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The Transferor's U.S. employer identification number or social security number is _____.
3. The Transferor's office address or mailing address is:

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury we declare that we have examined this Certification and to the best of our knowledge and belief it is true, correct, and complete, and further declare that we have authority to sign this document on behalf of the Transferor.

S.S. No. _____

S.S. No. _____

Date: _____

Date: _____

EXHIBIT “D”

LEASE CANCELLATION NOTICE

Ontario Nissan, Inc., dba Metro Nissan of Montclair (“Ontario”) and Metro Nissan of Montclair (“Nissan”, and together with Ontario, “Metro”) holds or has held a leasehold interest in that certain land at 4960 Palo Verde Street, Montclair, APN: 1008 332 04 (the “Property”). Metro is affiliated with or has common ownership with Press On Properties, LLC, a California limited liability company (“Buyer”). Buyer is purchasing the Property from the Successor Agency to the City of Montclair Redevelopment Agency (“Successor Agency”), which is currently the Lessor of the Property. The purchase by Buyer of the Property will benefit each of Metro and Buyer. By signing below, each of Ontario and Metro irrevocably relinquishes and cancels any leasehold interest or any other interest in the Property, effective as of the execution hereof. Each of Ontario and Metro, if requested to do so by the title insurer for the conveyance of the Property to Buyer, execute a quitclaim as to the Property in favor of Buyer.

ONTARIO NISSAN, INC., dba
METRO NISSAN OF MONTCLAIR

METRO NISSAN OF MONTCLAIR

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
APRIL 6, 2015, AT 8:45 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem Raft called the meeting to order at 8:45 p.m.

II. ROLL CALL

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

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of March 16, 2015.

Moved by City Manager Starr, seconded by Mayor Pro Tem Raft, and carried unanimously to approve the minutes of the Personnel Committee meeting of March 16, 2015.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

At 8:46 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 9:10 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Raft stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 9:10 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager