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

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

June 1, 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 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.

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

II. INVOCATION

In keeping with our long-standing tradition of opening our Council meetings with an invocation, this City Council Meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorse any particular religious belief or form of invocation.

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

A. Honoring Dr. Ronald Cunning, DDS, of Cunning Dental Group in Recognition of 50 Years as a Practicing Dentist

B. Congratulating the Montclair High School Lady Cavaliers Softball Team for Winning the 2015 Mt. Baldy League Championship

VI. PUBLIC COMMENT

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

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

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VII. PUBLIC HEARINGS

A. Second Reading – Consider Adoption of 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 Manufacturing Industrial Park Land Use District of the North Montclair Specific Plan [CC] 6

B. Consider Adoption of Resolution No. 15-3075 Adjusting Transportation Development Impact Fees [CC] 22

VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Minutes of the Regular Joint City Council/Successor Agency Board/MHC Board/MHA Commission Meeting of May 4, 2015 [CC/SA/MHC/MHA]

B. Administrative Reports

1. Consider Receiving and Filing of Treasurer's Report [CC] 28
2. Consider Approval of Warrant Register and Payroll Documentations [CC] 29
3. Consider Receiving and Filing of Treasurer's Report [SA] 30
4. Consider Approval of Warrant Register [SA] 31
5. Consider Receiving and Filing of Treasurer's Report [MHC] 32
6. Consider Approval of Warrant Register [MHC] 33
7. Consider Receiving and Filing of Treasurer's Report [MHA] 34
8. Consider Approval of Warrant Register [MHA] 35
9. Consider Setting a Public Hearing to Consider Ordinance No. 15-951 Replacing Chapter 4.56 and Amending Chapter 11.78 of the Montclair Municipal Code Related to Massage Establishments and Massage Technicians [CC] 36
10. Consider Setting a Public Hearing to Consider Ordinance No. 15-953 Amending Section 10.28.060 of the Montclair Municipal Code Regarding Fire Sprinkler Requirements [CC] 60
11. Consider Setting a Public Hearing to Consider Ordinance No. 15-954 Replacing Section 8.32.010 of the Montclair Municipal Code Pertaining to Maximum Speed Limits in the City [CC] 64

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12. Consider Approval of the Transfer of Youth Sponsorship Monies from the City of Montclair to the Montclair Community Foundation, Inc [CC] 69

13. Consider Authorization of a $14,270 Appropriation from the State Asset Forfeiture Fund to Complete the Installation of Mobile Data Computers in the Patrol Fleet [CC] 71

14. Consider Authorization for the Purchase of Educational and Promotional Materials for Distribution During Community Events [CC] 73

15. Consider Authorization of a $3,000 Appropriation from the Federal Asset Forfeiture Fund for Special Investigative Services Provided by Los Angeles County Sheriff's Department [CC] 75

C. Agreements

1. Consider Approval of Agreement No. 15-30, a Master Cooperative Agreement with the Metro Gold Line Foothill Extension Construction Authority [CC] 76

2. Consider Approval of Agreement No. 15-31 with HdL, Coren & Cone for Property Tax Consulting/Audit Services [CC] 78

3. Consider Approval of Agreement No. 15-32 with Twining, Inc., for $30,000 for On-Call Testing and Inspection Services for Miscellaneous City Projects [CC] 98

4. Consider Approval of Agreement No. 15-33 with Lexipol, LLC, for the Continued Management of the Police Department's Policy and Procedures Manual [CC] 115

5. Consider Approval of Agreement No. 15-34 with the County of San Bernardino Related to Distribution of the 2015 Justice Assistance Grant Award [CC]

Consider Authorizing the City Manager to Sign the Agreement [CC] 123

6. Consider Approval of Agreement No. 15-35 with Ontario-Montclair School District to Provide After-School Programs [CC] 143

7. Consider Approval of Agreement No. 15-36 with the San Bernardino County Department of Aging and Adult Services to Provide a Senior Citizen Nutrition Program [CC] 153

8. Consider Approval of Agreement No. 15-37 with West Coast Arborists for Tree Maintenance Services [CC] 181

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9. Consider Approval of Agreement No. 15-38 with Southern California Landscape, Inc., for Landscape Services at Paseos Park [CC] 193

10. Consider Approval of Agreement No. 15-39 with NCM Engineering Corporation for the Preparation of Design and Construction Drawings for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project [CC]

Consider Amending the Fiscal Year 2014-2018 Capital Improvement Program to Reflect Authorized Federal Funding 201

11. Consider Approval of Agreement No. 15-40 with Cihigoyenetche, Grossberg & Clouse to Provide Legal and Consulting Services Related to Litigation and Employee Relations Matters [CC] 205

12. Consider Approval of Agreement No. 15-41 with the San Bernardino County Department of Aging and Adult Services to Support the Senior Citizen Transportation Program [CC] 218

D. Resolutions

1. Consider Adoption of Resolution No. 15-3078 Authorizing the Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges [CC] 276

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE

XI. COMMUNICATIONS

A. City Attorney

Closed Session Pursuant to Government Code Section 54956.9(d)(1) Regarding Pending Litigation

Cholly v. Montclair

Closed Session Pursuant to Government Code Section 54956.9(d)(1) Regarding Pending Litigation

Camou v. Montclair

B. City Manager/Executive Director

C. Mayor/Chairman

D. Council/SA/MHC/MHA Board

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

1. Minutes of the Personnel Committee Meeting of May 4, 2015 283

XII. COUNCIL/MHC WORKSHOP

A. Fiscal Year 2015-16 Preliminary Budget Review

(Council/MHC Board of Directors may consider continuing this item to an adjourned meeting on Wednesday, June 10, 2015, at 6:00 p.m. in the City Council Chambers.)

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

(At this time, the City Council will meet in Closed Session regarding pending litigation.)

XIV. CLOSED SESSION ANNOUNCEMENTS

XV. ADJOURNMENT OF CITY COUNCIL

The next regularly scheduled meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, and Montclair Housing Authority Commission, will be held on Monday, June 15, 2015, at 7:00 p.m. in the Council Chambers.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the City Council, Successor Agency Board, Montclair Housing Corporation Board, and Montclair Housing Authority Commission after distribution of the Agenda packet are available for public inspection in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.

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

I, 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 May 28, 2015.

AGENDA REPORT

SUBJECT:	CONSIDER ADOPTION OF 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 MANUFACTURING INDUSTRIAL PARK LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN SECOND READING	**DATE:**	June 1, 2015
		SECTION:	PUBLIC HEARINGS
		ITEM NO.:	A
		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 Manufacturing Industrial Park (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.

Definition of a Microbrewery

A microbrewery is generally defined as a small facility that makes limited amounts of beers, ales, meads, hard ciders, and/or similar beer-based beverages. Microbreweries are typically independently owned, and most have modest-sized tasting rooms or areas where patrons can sample products produced on-site and/or purchase for off-site consumption.

The working end of a microbrewery consists of an area where various pieces of food grade equipment are arranged in an "assembly line" fashion to process the beer from raw materials to a drinkable beverage. At a minimum, the brew house portion of the use consists of a grain mill, a brew kettle, a heat source (such as a boiler), and fermenters. Other typical equipment includes such things as bright tanks for

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Proofed by:	Sana Embree	Reviewed and Approved By:	Steve Lustro

carbonating the beer, heat exchangers, a walk-in cooler, and racks for raw material storage, bottles, and kegs.

A "nano-brewery" is a new and increasingly popular type of craft brewing which is intentionally kept very small. This type of brewery usually brews no more than one batch at a time, and is not set up for the wide distribution of its product(s).

Existing City Regulations

Section 11.78.030.C of the Montclair Municipal Code identifies microbreweries as a land use that could be allowed with a Conditional Use Permit (CUP), but only within the C-2 (Limited Commercial) and C-3 (General Commercial) zoning districts of the City. The two types of microbreweries identified in the Ordinance are:

- Microbrewery with on-site tasting (C-3 zone); and
- Microbrewery in conjunction with a bona fide eating establishment (C-2 and C-3 zones)

The City of Montclair does not currently have a microbrewery use within the City limits.

Department of Alcoholic Beverage Control (ABC) Requirements

A microbrewery use is subject to the requirements of the 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. Only beverages produced at that location can be served within the tasting room.

ABC requires that a Determination of Public Convenience or Necessity (PCN) be made for businesses that sell alcohol for off-premises consumption when those uses are in areas that have a crime rate that is higher than the City average or where there is an overconcentration of off-sale licenses in the census tract where the business is proposed. The Planning Commission would be making the PCN determination as part the Conditional Use Permit review of a proposed microbrewery use and would be considered concurrently with the CUP at a public hearing.

ANALYSIS: During the last decade, the craft beer and microbrewery industry has seen increased growth nationwide. In recognition of the popularity of microbreweries, several cities, including many in the surrounding area, have modified their respective zoning ordinances or Specific Plans to accommodate them. The proposed amendment to allow microbreweries in the MIP (Manufacturing Industrial Park) land use district of the Specific Plan would be consistent with the trend described above.

Microbreweries are typically found in commercial and industrial districts, either as a permitted by-right use or by means of an approved Conditional Use Permit (CUP). While many of the microbreweries found in commercial districts are often associated with restaurants or bars, those found in industrial areas are primarily focused on the

manufacturing of beer products. Industrial areas are desirable locations for microbrewery uses because the availability of potential lease spaces at affordable rates is good and that industrial-type buildings are more suitable for the manufacturing activities associated with the operation of a microbrewery.

North Montclair Specific Plan

As previously noted, the North Montclair Specific Plan did not anticipate microbreweries as a use when it was adopted in 1998. This situation commonly occurs whenever new land use trends emerge after a zoning ordinance or Specific Plan is adopted.

The purpose/intent of the MIP land use district is to provide an appropriate physical environment for the establishment of light manufacturing and business services, including assembling, fabricating, processing and compounding; research and development; servicing of light vehicles; administrative offices; sale of materials/products wholly or partially manufactured on the site; and sale of goods and services required for the convenience of persons employed or living in the area. The MIP land use district also allows retail and wholesale uses if they do not occupy more than 50% of the building/property, and restaurants serving alcoholic beverages with a CUP. Given the general intent of the MIP land use district, staff recommends that microbreweries with on-site tasting, or a microbrewery operated in conjunction with a bona fide eating establishment be allowed as conditionally permitted uses (See Exhibits A and B). These types of businesses would be distinguished from a traditional liquor store business, which is not a permitted use in the MIP land use district of the Specific Plan.

In view of the above discussion, the proposed amendment would view a microbrewery as a hybrid use between two other allowable types of land uses within the MIP land use district of the Specific Plan. While some may view a microbrewery as being no different than a bar, they are differentiated from a typical bar operation in that the main use of the premises is for manufacturing beer with the tasting room serving as an ancillary use. In staff's opinion, a microbrewery in an industrial zone would be a logical connection between the two separate uses, as long as the manufacturing of beer remains the primary use of the site and the tasting room and sales area of the operation is clearly secondary in scope and physical arrangement. Moreover, the manufacturing process occurs entirely within the building, with little need for significant (if any) exterior modifications beyond that which is required for other manufacturing operations. Any modifications to the building would be subject to City review and approval by the Planning and Building Divisions.

Conditional Use Permit Review

Staff believes that the MIP land use district of the Specific Plan is an appropriate zone in which to allow a microbrewery use and that the CUP review process is the proper manner to analyze potential requests. The CUP review process allows the City to consider proposed applications on a case-by-case basis and determine if a proposed site is suitable for a microbrewery. As such, the approval of a CUP request is not guaranteed. If a CUP is approved, conditions of approval (general and specific) would apply to ensure that the new use would be operated in a manner that is compatible with surrounding uses. The CUP process would also give the City the ability to modify conditions or revoke a CUP approval if the applicant fails to dependably operate in

accordance with the approved conditions of approval. See Exhibit C for a draft partial list of conditions of approval that would likely be utilized for microbreweries.

In addition to reviewing the specific characteristics of a proposed microbrewery operation, other site conditions need to be factored into the decision to approve or deny a CUP request. One of the most important issues to address is parking. In industrial zones, parking requirements are often lower than what would be required for a commercial retail zone so the availability of on-site parking is a key consideration in making a final determination on a proposed microbrewery use. Parking for manufacturing uses in the City's MIP zones is one space for every 500 gross square feet (1:500), which would apply to the manufacturing portion of the microbrewery use and was likely accounted for when the site or industrial park was developed. However, tasting rooms would add to the overall parking requirement which could impact the availability of parking for other users. This is a reason why tasting rooms and areas (and outdoor patios) need to be maintained as an ancillary aspect of the microbrewery business.

Establishment of a microbrewery in conjunction with a bona fide restaurant in the MIP land use district of the Specific Plan would be allowed with the proposed amendments, but parking issues would similarly need to be adequately addressed or conditioned so that neighboring businesses within the same complex are not negatively impacted.

Thus, in order to approve a CUP, it would need to be demonstrated that ample parking is available to accommodate the microbrewery use, particularly in multi-tenant developments. As an alternative, the applicant may need to modify the scope of the business (e.g., hours of operation for the tasting room) so that ample parking is available to operate at the desired location. In some cases, tasting rooms or eating establishments could only be open during off-peak hours when other businesses in the industrial park are closed. If a more intense, commercially-oriented business is envisioned by the applicant then a new location would need to be identified.

Tasting Rooms

The defining feature of microbrewery use as envisioned by the proposed amendment is the tasting room. A tasting room consists of dedicated floor area where alcoholic beverages are consumed, including any bar and seating areas. According to ABC's Type 23 License, only the alcoholic beverages produced on-site are allowed to be served in the tasting room or sold from the premises. Further, ABC does not require food service, impose drink limits, or enforce age restrictions unless they are made mandatory by the City during the review of a proposal. Underage children are not prohibited from being at a microbrewery with a parent or legal guardian, although this is not encouraged.

In preparing this report, staff visited two facilities in the cities of Upland and Rancho Cucamonga to assess their respective operations. In both cases, staff found the microbreweries to be very clean and orderly with no visible problems. The tasting rooms for the facilities were informally arranged spaces consisting of a bar for dispensing and simple tables and chairs. Customer activity in the tasting rooms is highest on evenings and weekends.

From a Planning standpoint, the only concern related to the tasting room is its size. As part of any CUP application, the applicant would be required to submit a floor plan

depicting the layout of the business, including the size and layout of the tasting room. As long as the tasting room is clearly subordinate to the overall size of the lease space or building, it can likely be accommodated. As a general rule, tasting rooms larger than 750 square feet in area would be subject to additional building improvements as mandated by Fire and Building Code requirements. Since every lease space is different in size and shape, required improvements would be determined on a case-by-case basis. Outdoor patios could also be considered on a case-by-case basis, provided the space is immediately adjacent to the subject use, not within a parking area or required setback, and would be limited to no more than 400 square feet in area to minimize potential conflicts with adjoining land uses.

Food Vendors

In general, microbreweries within industrial settings do not include facilities to prepare food as part of their operation. Instead, they often arrange for food truck vendors to offer food to customers during evenings or weekend events. However, this situation raises a few issues of concern that need to be addressed in order to avert potential adverse impacts. The specific areas of concern are the frequency and length of time that food vendors could be present on the site. Staff recognizes that food vendors are popular at microbreweries, but if food vendors are allowed to be on-site on a continuous basis, then the nature of the microbrewery as primarily a manufacturing facility would be compromised.

The City's existing regulations on mobile vending are general in nature and address mobile vending operations in the City right-of-way, but do not contain specific location and operational requirements for mobile food vendors/trucks on private property (Section 8.36.070 of the Montclair Municipal Code). Food vendors are currently prohibited from standing or parking on City streets in excess of ten minutes.

One of the items on the Planning Division's work program is the development of a new mobile food vendor ordinance that would address the issue of food vendors on private property, including at approved microbrewery facilities. In the meantime, a microbrewery would be limited to four (4) special events per calendar year where food vendors could be allowed. Most special events are timed around seasonal holidays and last for an entire weekend (Friday - Sunday).

Maximum Number and Separation

Staff believes that in addition to the CUP requirement, a limit on the number of microbreweries per center is warranted to address the potential for overconcentration and secondary adverse impacts. While there is no specified separation requirement mandated by the State, staff believes that a good standard to utilize is a limit of one (1) per industrial park development. The limit helps to ensure that potential impacts are held to a minimum and that sufficient parking is maintained in each development. The type of industrial park development in the MIP land use district of the Specific Plan is fairly modest in nature and typically on parcels of land approximately two to five or more acres in size. There are 12 multi-tenant (2 or more lease spaces) industrial park developments in the MIP land use district of the Specific Plan.

Staff prefers limiting the number of microbreweries in an industrial park development rather than employing a simple separation requirement (e.g., 500 feet) between the proposed microbrewery and other uses, because the distance requirement may be too

restrictive both to the number of potential sites for microbreweries or make it more difficult to allow other appropriate uses in the same center without creating non-conforming situations. The only distance minimum that should be considered is the distance from adjacent residential development and/or uses. In this case, the distance minimum should be 100 feet from the nearest residential district boundary.

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: Implementation of Ordinance No. 15-949 will have no impact on the City's General Fund.

RECOMMENDATION: Staff recommends the City Council adopt 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.

Attachments - Exhibit "A" - Excerpt from North Montclair Specific Plan - Page III-8
Exhibit "B" - Excerpt from North Montclair Specific Plan - Page III-11
Exhibit "C" - Draft Partial Set of Conditions of Approval for an Approved Microbrewery Use

Exhibit "A"
Excerpt from North Montclair Specific Plan – Page III–8
Proposed Modification to Land Use Table

Land Use Development Criteria

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[1]**	
a) Delicatessen/Sandwich Shop							
b) Night Clubs/Bars/Lounges					**C**		
c) Restaurants – No Drive–Thrus				**P**	**P**	**P[1]**	
d) Restaurants – With Drive–Thrus					**C**	**C[1]**	
e) Restaurants – Serving Alcoholic Beverages							
f) Microbrewery with on–site tasting						**C[5]**	
g) Microbrewery in conjunction with a bona fide eating establishment						**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[1]**	
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[1]**	**P**
d) Outpatient– Treatment Programs					**C**		**P**
e) Residential Care Facilities (convalescent care)			**C**				**P**

Exhibit "B"
Excerpt from North Montclair Specific Plan – Page III–11
Proposed Modification to Footnote Section

Land Use Development Criteria

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.

Exhibit "C"
Draft Partial Set of Conditions of Approval for an Approved Microbrewery Use

As part of the review process for a Conditional Use Permit, approved uses are subject to conditions of approval that are specifically developed for each property to ensure compatibility with surrounding uses. Each CUP request is considered on a case by case basis with no guarantee of approval. If approved, each use would be subject to standard conditions of approval such as for hours of operation, required site improvements, etc. The following is a partial list of potential conditions of approval microbrewery uses:

1. The approved microbrewery operation shall be conducted entirely within the building per approved plans by the City of Montclair. No storage of any kind shall occur outside the building.

2. The alcoholic beverages served on, or sold from, the premises shall be limited to the products that are authorized to be manufactured and sold by the alcoholic beverage manufacturer under its license issued by the California Department of Alcoholic Beverage Control.

3. A tasting room is, and at all times shall remain, an ancillary use to the alcoholic beverage manufacturing use.

4. The sale and/or consumption of alcoholic beverages produced by the manufacturer shall be limited to the approved tasting room and/or outdoor patio area.

5. All persons serving alcohol shall be a minimum of 21 years of age and have completed LEADS alcohol safety training through the Department of Alcoholic Beverage Control (ABC).

6. No person under 21 years of age shall be served or allowed to consume alcoholic beverages of any kind on the subject premises governed by this approval or allowed to purchase any alcoholic beverages for off-site consumption.

7. No admission fee, cover charge, minimum purchase amounts, or drinking contests shall be allowed.

8. No video, electronic or other amusement devices or games shall be permitted.

9. There shall be no live entertainment, amplified music or dancing permitted on the premises at any time without issuance of proper permits as required by the City of Montclair.

10. Any food vendors shall comply with applicable city, state and federal regulations, and must obtain any necessary permits, including a business license, environmental health permits to ensure food safety and handling. In addition, the food vendor shall obtain a Seller's Permit from the California Board of Equalization.

11. A security plan shall require approval by the Montclair Police Department prior to operation. The security plan shall be formulated to deter unlawful conduct of employees and patrons, to promote the safe and orderly assembly and movement of persons and vehicles, and to prevent disturbances to surrounding uses and the neighborhood by excessive noise created by patrons entering or leaving the alcoholic beverage manufacturer's licensed premises.

12. The applicant shall take all reasonable and feasible measures to eliminate perceptible odor at the property line and/or reduce noise to within City's Noise Ordinance standards.

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 (e.g., 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; 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[1]**	
a) Delicatessen/Sandwich Shop							
b) Night Clubs/Bars/Lounges					**C**		
c) Restaurants – No Drive–Thrus				**P**	**P**	**P[1]**	
d) Restaurants – With Drive–Thrus					**C**	**C[1]**	
e) Restaurants – Serving Alcoholic Beverages							
f) Microbrewery with on–site tasting						**C[5]**	
g) Microbrewery in conjunction with a bona fide eating establishment						**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[1]**	
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[1]**	**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 ADOPTION OF RESOLUTION NO. 15-3075 ADJUSTING TRANSPORTATION DEVELOPMENT IMPACT FEES	**DATE:**	June 1, 2015
		SECTION:	PUBLIC HEARINGS
		ITEM NO.:	B
		FILE I.D.:	TRN520
		DEPT.:	PUBLIC WORKS

REASON FOR CONSIDERATION: Annual adjustments to the Transportation Development Impact Fees are required by San Bernardino Associated Governments (SANBAG). However, with the downturn in the economy beginning in 2007, no adjustments have been made to this fee since 2008. While construction costs dropped considerably between 2007 and 2010, they have been on the rise since then. Based on an analysis of construction prices since 2008, an adjustment to the fee is appropriate. Adjustments to the fee are subject to a public hearing and adopted by a resolution that requires City Council approval.

BACKGROUND: The reauthorization of Measure I approved by San Bernardino County voters in November 2004 included a requirement that each jurisdiction in the County adopt a Development Impact Mitigation Program to address transportation impacts caused by new development. The deadline for adoption was November 2006. The City Council of the City of Montclair held the second reading for adoption of Ordinance No. 06-887 on September 5, 2006, adding Chapter 3.18 to Title 3 of the Montclair Municipal Code, making the City compliant with Measure I requirements. In conjunction with the adoption of Ordinance No. 06-887, the City Council also adopted Resolution No. 06-2653, setting the development impact fees for various types of development.

Periodic adjustments to the Transportation Development Impact Fee (DIF) are required as construction prices increase. Up until 2008, the DIF adjustment was determined annually by SANBAG. No DIF increases have occurred since 2008 due to the state of the economy. However, SANBAG has determined that construction costs for Montclair projects are approximately 3.6 percent higher today than they were in 2008. Therefore, it is appropriate to increase the DIF by 3.6 percent.

Resolution No. 15-3075 shows projects of both regional and local significance. Several local projects have been completed as indicated in the resolution. One new project, the widening of Ramona Avenue north of Holt Boulevard, has also been added. The proposed widening will improve traffic conditions by changing the southbound lane designations from a combination through/left turn lane and a combination through/right turn lane to a dedicated left turn lane, a dedicated through lane, and a

Prepared by:		Fiscal Impact Finance Review:	
Proofed by:		Reviewed and Approved By:	

combination through/right turn lane. It should also improve traffic signal coordination along Holt Boulevard by eliminating the split phase signal operation for Ramona Avenue. The split phase operation takes away from time that could otherwise be used by Holt Boulevard traffic.

FISCAL IMPACT: The proposed fees and projects are shown below and also in the attached resolution. Adoption of the resolution would have an unknown positive fiscal impact. The revenue generated from these fees would be a function of the amount of development in the City. The fees are applied to single-family, multifamily, office, retail, and industrial development.

Failure to adjust the fees would result in an under-collection of fees and could result in the loss of certain Gas Tax subventions and pass through Measure I funds.

Land Use	*Regional Fee*		*Local Fee*		*Total*	
Single Family	$1,340	per unit	$ 596	per unit	$1,935	per unit
Multifamily	$ 938	per unit	$ 416	per unit	$1,354	per unit
Retail	$6,176	per ksf	$2,739	per ksf	$8,915	per ksf
Office	$1,533	per ksf	$ 684	per ksf	$2,217	per ksf
Industrial	$ 982	per ksf	$ 432	per ksf	$1,414	per ksf

(ksf=1,000 square feet of development)

RECOMMENDATION: Staff recommends that the City Council adopt Resolution No. 15-3075 adjusting Transportation Development Impact Fees.

RESOLUTION NO. 15-3075

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR EFFECTIVE JUNE 1, 2015, RESCINDING RESOLUTION NO. 08-2779 AND SETTING REVISED TRANSPORTATION DEVELOPMENT IMPACT FEES

WHEREAS, San Bernardino County voters approved Measure I, the one-half of 1 percent retail transactions and use tax for countywide transportation improvements, in November 2004; and

WHEREAS, the Measure I Ordinance requires each jurisdiction in the urbanized areas of San Bernardino County to adopt a Development Impact Mitigation Program to address regional transportation needs; and

WHEREAS, the Measure I Ordinance states that by November 2006, each jurisdiction in the San Bernardino Valley must adopt a mechanism that:

- Requires all future development to pay its fair share for transportation facilities that are needed as a result of the new development; and

- Complies with the Land Use/Transportation Analysis and Deficiency Plan provisions of the Congestion Management Program set by state law;

and

WHEREAS, the City Council of the City of Montclair has previously adopted Ordinance No. 06-887 adding Chapter 3.18 to the Montclair Municipal Code establishing the City's right to assess and collect transportation development impact fees; and

WHEREAS, Section 3.18.030 of the Montclair Municipal Code states the City Council shall, by Council Resolution:

- Set forth the specific amount of the fee;
- List the projects to be financed by the fee;
- Describe the estimated cost of the facilities; and
- Describe the reasonable relationship between the fee and the various types of new developments;

and

WHEREAS, the City Council adopted Resolution No. 08-2779 in compliance with Section 3.18.030 of the Municipal Code; and

WHEREAS, the Measure I Ordinance also states that the fee is to be reviewed and adjusted on an annual basis.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby:

1. Set transportation development impact fees as follows:

Land Use	*Regional Fee*		*Local Fee*		*Total*	
Single Family	$1,340	per unit	$ 596	per unit	$1,935	per unit
Multifamily	$ 938	per unit	$ 416	per unit	$1,354	per unit
Retail	$6,176	per ksf	$2,739	per ksf	$8,915	per ksf
Office	$1,533	per ksf	$ 684	per ksf	$2,217	per ksf
Industrial	$ 982	per ksf	$ 432	per ksf	$1,414	per ksf

(ksf=1,000 square feet of development)

2. Establish the following projects to be financed by the fee and the estimated project costs:

REGIONAL PROJECTS

Project	*Total Project Cost*	*Development Share*
State Route 60 at Ramona Avenue	$ 27,681,965	$ 672,276
State Route 60 at Central Avenue	27,681,965	93,152
I-10 at Monte Vista Avenue	26,363,776	4,666,388
Widen Monte Vista Avenue from San Bernardino Street to Arrow Highway from four lanes to six lanes	3,552,519	674,979
Widen San Bernardino Street from Los Angeles County Line to Benson Avenue from four lanes to six lanes	4,381,659	867,302
Monte Vista Avenue at UPRR Grade Separation	20,036,470	1,523,827
Widen Central Avenue at UPRR Grade Separation	4,086,385	348,002
Total Regional Projects	$ 113,784,738	$ 8,845,925

LOCAL PROJECTS

Project	*Total Project Cost*	*Development Share*
Widen Monte Vista Avenue from Mission Boulevard to Howard Street from 2 lanes to 4 lanes	**COMPLETED**	**COMPLETED**
Widen Monte Vista Avenue from Howard Street to Grand Avenue from 2 lanes to 4 lanes	791,000	791,000
Widen Monte Vista Avenue from Grand Avenue to Phillips Boulevard from 2 lanes to 4 lanes	330,000	330,000
Widen Ramona Avenue from Holt Boulevard to approximately 600 feet north including storm drain and signal modifications	250,000	250,000
Signal modification at Mission Boulevard and Pipeline Avenue	**COMPLETED**	**COMPLETED**
Traffic Signal Interconnect Palo Verde Street from Fremont to Central Avenue	92,300	92,300
Traffic Signal Interconnect San Bernardino Street from Fremont Avenue to Central Avenue	92,300	92,300
Traffic Signal Interconnect Holt Boulevard from Mills to Benson Avenue	**COMPLETED**	**COMPLETED**
Traffic Signal Interconnect Mission Boulevard from Roswell Avenue to Benson Avenue	712,000	712,000
Traffic Signal Interconnect Ramona Avenue from Mission Boulevard to Phillips Boulevard (not required until signal installed at Phillips Boulevard)	230,000	230,000
Traffic Signal Interconnect Monte Vista Avenue from Benito Street to Holt Boulevard	264,000	264,000
Traffic Signal Interconnect Monte Vista Avenue from Mission Boulevard to Phillips Boulevard (not required until signal installed at Phillips Boulevard)	230,000	230,000
Total Local Projects	$2,991,600	$2,991,600

3. Acknowledge that development does and continues to impact both local and regional transportation facilities, that existing transportation facilities have limited capacity, that increased development creates a need for additional capacity, that different types of development cause different impacts, that the ITE Trip Generation Manual (7th Edition) is a reasonable means by which to determine trip generation for different types of development, and that the ITE Trip Generation Manual (7th Edition) predicts the following number of trips per unit:

Development	*Trips*
Single Family	9.57 trips per unit
Multifamily	6.72 trips per unit
Retail	44.32 to 56.02 trips per 1,000 square feet
Office	11.01 to 11.57 trips per 1,000 square feet
Industrial	6.96 trips per 1,000 square feet

4. Further acknowledges that the additional capacity can be provided through the various projects listed above and that the fees assessed to developers and developments are reasonable for the impacts created.

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 Resolution No. 15-3075 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

AGENDA REPORT

SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT	**DATE:**	June 1, 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 April 30, 2015, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending April 30, 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 April 30, 2015.

Prepared by:	Janet Kulbeck	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATIONS	**DATE:**	June 1, 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 Documentations.

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated June 1, 2015, and the Payroll Documentations dated May 3, 2015, and May 17, 2015, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated June 1, 2015, totals $966,663.95. The Payroll Documentation dated May 3, 2015, totals $553,925.98 gross, with $388,000.14 net being the total cash disbursement. The Payroll Documentation dated May 17, 2015, totals $550,012.52 gross, with $381,323.43 net being the total cash disbursement.

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

Prepared by:	Michael Pistrowski	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M. Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT	**DATE:**	June 1, 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 April 30, 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 April 30, 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 April 30, 2015.

Prepared by:	Michael Pistrowski	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER	**DATE:**	June 1, 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 Succes-sor to the Redevelopment Agency Warrant Register for the month ending April 30, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Successor to the Redevelop-ment Agency Warrant Register dated 04.01.15–04.30.15 in the amounts of $10,948.64 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 Redevel-opment Agency Warrant Register for the period ending April 30, 2015.

Prepared by:	Michael Pistrowski	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT	**DATE:**	June 1, 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 April 30, 2015, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending April 30, 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 April 30, 2015.

Prepared by:	Michael Pistrowski	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER	**DATE:**	June 1, 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 April 30, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 04.01.15–04.30.15 in the amount of $106,167.57 for the Montclair Housing Corporation and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending April 30, 2015.

Prepared by:	Michael Pistrowski	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M. Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT	**DATE:**	June 1, 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 April 30, 2015, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending April 30, 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 April 30, 2015.

Prepared by:	Michael Pistrowski	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M. Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER	**DATE:**	June 1, 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 April 30, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 04.01.15–04.30.15 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 April 30, 2015.

Prepared by:	Michael Pistrowski	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M Phillips	Reviewed and Approved By:	Donald L. Parker

AGENDA REPORT

SUBJECT:	CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 15-951 REPLACING CHAPTER 4.56 AND AMENDING CHAPTER 11.78 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS	**DATE:**	June 1, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	9
		FILE I.D.:	LDU050
		DEPT.:	COMMUNITY DEV.

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

BACKGROUND: In September 2008, the Governor signed into law Senate Bill 731 (Oropeza), which added a new Chapter 10.5 to the California Business and Professions Code, providing for the formation of the nonprofit California Massage Therapy Council (CAMTC) to oversee a state-sanctioned program of voluntary certification for massage practitioners so that such persons could avoid being required to obtain local massage permits. The legislation also instituted relaxed requirements for the establishment and operation of massage businesses and removed what little land use authority local jurisdictions were previously able to exercise over the establishment of such businesses. In Montclair's case, the requirement for massage businesses to obtain approval of a Conditional Use Permit was eliminated. Put simply, SB 731 required cities to treat massage businesses no different than other businesses providing "personal services," such as barber shops, beauty salons or nail salons, all of which are allowed by-right in the City's Commercial zoning districts.

Assembly Bill 1147 (Bonilla), signed into law in September 2014, seeks to restore a significant amount of oversight to local jurisdictions with respect to the establishment and operation of massage businesses. The City Attorney has crafted a draft Ordinance, which would replace Chapter 4.56 and amend Chapter 11.78 of the Montclair Municipal Code, to be consistent with the provisions of AB 1147. The Ordinance would restore the requirement for a Conditional Use Permit and proposes to set forth numerous detailed operational standards for massage establishments.

FISCAL IMPACT: The cost to publish a Notice of Public Hearing in the *Inland Valley Daily Bulletin* related to Ordinance No. 15-951 should not exceed $500.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, June 15, 2015, at 7:00 p.m. in the Council Chambers to consider Ordinance No. 15-951 replacing Chapter 4.56 and amending Chapter 11.78 of the Montclair Municipal Code related to massage establishments and massage technicians.

Prepared by:	Steve Rustro	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Dana Embree	Reviewed and Approved By:	Steve Rustro

ORDINANCE NO. 15-951

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR REPEALING AND REPLACING CHAPTER 4.56 AND AMENDING CHAPTER 11.78 OF THE MONTCLAIR MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

WHEREAS, there is substantial research that indicates that the skillful practice of massage can provide many health benefits including relief of pain from disease, injury and other sources, and that massage can be a valuable component of a wellness program; and

WHEREAS, in 2008, the California Legislature passed SB 731, which added a new Chapter 10.5 to the California Business and Professions Code, which provided for the formation of the nonprofit California Massage Therapy Council (CAMTC) to oversee a state-sanctioned program of voluntary certification for massage practitioners so that such persons could avoid being required to obtain local massage permits; and

WHEREAS, SB 731 had a sunset date of January 2, 2015; and

WHEREAS, in September 2014, the Legislature adopted AB 1147, amending the laws enacted by SB 731 and the various amendments thereto; and

WHEREAS, the purpose of AB 1147 was to restore much of the local control and land use authority to local governments which had been usurped by SB 731 and the various amendments thereto; and

WHEREAS, the City has experienced a number of problems with illicit activities at massage establishments since the passage of SB 731; and

WHEREAS, the City Council desires to repeal and replace in its entirety Chapter 4.56 of the Montclair Municipal Code in order to make changes in its regulation of existing and new massage establishment businesses and the practice of massage in order to protect the public; and

WHEREAS, the City Council further desires to amend Chapter 11.78 of the Montclair Municipal Code, requiring that operators of all new massage establishments be required to obtain approval of a Conditional Use Permit by the Planning Commission and designating the zoning and land use districts where massage establishments would be conditionally permitted.

NOW, THEREFORE, the City Council of the City of Montclair does hereby resolve as follows:

SECTION I. Chapter 4.56 of the Montclair Municipal Code is hereby repealed and readopted in its entirety to read as follows:

Chapter 4.56

MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

Sections:

4.56.010 Findings and purpose.
4.56.020 Definitions.
4.56.030 Exceptions.
4.56.040 Business license and other permits required.
4.56.050 Floor plans required.
4.56.060 CAMTC certificate required.
4.56.070 Certificate and permit requirement.
4.56.080 Operator permit.
4.56.090 Certificate of operation.
4.56.100 Suspension and revocation of permits and certificates.
4.56.110 Appeals to City Manager.
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4.56.130 Operational requirements.
4.56.140 Building and facility requirements.
4.56.150 Inspections.
4.56.160 Penalty.

4.56.010 Findings and purpose.

The City Council finds and declares as follows:

A. The permit requirements and restrictions imposed by this Chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City, while recognizing massage as a legitimate business interest that provides benefits to its patrons in a therapeutic setting.

B. This Chapter is enacted pursuant to the provisions of the State Constitution, California Government Code §§37100 and 51030 *et seq.*; California Business & Professions Code §§460, 4600 through 4620 and §16000; §13 of the Chiropractic Act (initiative measure approved by the electors November 7, 1922, as amended); and AB 1147 (2014).

C. There is a significant risk of injury to massage clients by persons improperly trained and/or educated in providing massage services, and this Chapter provides reasonable safeguards against injury and economic loss.

D. There is opportunity for acts of prostitution, lewdness, and other unlawful sexual activity to occur in massage establishments, as well as problems relating to human trafficking in massage establishments. Courts have long recognized massage as a pervasively regulated activity and that massage establishments are often brothels in disguise. The establishment of reasonable standards for issuance of permits and restrictions on operations would serve to reduce the risk of illegal activity and would thereby benefit the public health.

E. The provisions of this Chapter are intended to enhance the efficient processing of permits for massage establishments, owners and managers and the ongoing regulation of those permittees and certificate holders by the City of Montclair. The provisions of this Chapter in no way limit the authority of the City to inspect

massage establishments or conduct investigations to ensure permittees are complying with applicable rules and regulations.

F. The restrictions and requirements contained in this Chapter are intended to stop the practice of businesses quickly changing ownership in name upon the discovery of criminal activity by the City.

G. The restrictions and requirements contained in this Chapter are intended to be in addition to the requirement of a valid business license issued pursuant to Chapter 4.04 of the Montclair Municipal Code.

H. The regulations and restrictions contained in this Chapter are intended to discourage massage establishments from degenerating into houses of prostitution, and the means utilized in this Chapter bear a reasonable and rational relationship to the goals sought to be achieved within the confines allowed by state law.

I. The provisions of this Chapter are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal service businesses.

J. The California Massage Therapy Council ("CAMTC") can better, and more efficiently, regulate massage technicians in order to best protect the public and it is in the public interest to require that all persons providing massage in the City have a certificate from the CAMTC.

K. The operational regulations and restrictions contained in this Chapter are intended to apply to both new and existing massage establishments and practitioners in the City, provided, however, that the conditional use permit requirement and other zoning and land use district restrictions shall be applicable to existing massage establishments on the second anniversary of the effective date of this Chapter pursuant to Section 11.10.020 of this Code regarding existing uses. The Council finds that said two-year period constitutes a reasonable amortization period for existing legal nonconforming massage uses.

4.56.020 Definitions.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

California Massage Therapy Council or CAMTC means the nonprofit organization created to regulate and issue massage practitioner and therapist certificates pursuant to California Business & Professions Code §4600 *et seq*.

CAMTC Certificate means a massage practitioner or massage therapist certificate issued by the CAMTC.

Certificate of Operation means the certificate issued by the Finance Director entitling a business to be operated as a massage establishment.

Chief of Police means the Chief of Police of the City of Montclair, or his or her designee.

City means the City of Montclair.

City Manager means the City Manager of the City of Montclair, or his or her designee.

Compensation means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

Conviction or Convicted means a conviction following a guilty plea, nolo contendere plea, or judgment or verdict where the time for appeal has elapsed or conviction has been affirmed on appeal, irrespective of an order granting probation

following that conviction, suspending the imposition of sentence, or of a subsequent order under California Penal Code §1203.4 allowing the applicant to withdraw his or her plea of guilty or nolo contendere and to enter a plea of not guilty, or dismissing the accusation or information.

Employee means any person, other than a massage practitioner, massage therapist, or operator, who renders any service, with or without compensation, to the operator or agent of an operator of a massage establishment relating to the day-to-day operation of the massage establishment whether as an employee or independent contractor.

Finance Director means the Finance Director of the City of Montclair, or his or her designee.

Main entry door means a door from the outside of the establishment leading into the reception area.

Manager means the person(s) designated by the Owner of the massage establishment to act as the representative and agent of the Owner in managing day-to-day operations with corresponding responsibilities. Evidence of management includes, but is not limited to, the ability of the individual to direct or hire and dismiss employees, control hours of operation, create policy or rules or purchase supplies, and ensure that the massage establishment complies with the requirements of this Code and of other laws. A Manager may also be an Owner as defined herein. A Manager must have a valid operator permit.

Massage means any method of treating the external parts of the body for remedial, health, hygienic, or relaxation purpose. Massage includes, but is not limited to, treatment by means of manual pressure, acupressure, friction, stroking, kneading, rubbing, tapping, pounding, vibrating, with or without the aid of or by means of any mechanical, electronic, or electrical apparatus or appliance, and with or without rubbing alcohol, liniments, aromatics, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations. Massage specifically includes the application of any of these methods to the scalp, neck, or feet of any individual. (Some persons practicing massage may be exempt from all or parts of the permit requirements pursuant to Section 4.56.030 herein).

Massage establishment means any enterprise or establishment having a fixed place of business where any person engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on, any of the activities set forth in the definition of Massage in this Section.

Massage practitioner means a person who is certified as such by the CAMTC in accordance with the Massage Therapy Act.

Massage technician means a massage practitioner or massage therapist certified by CAMTC.

Massage therapist means a person who is certified as such by the CAMTC in accordance with the Massage Therapy Act.

Massage Therapy Act refers to Chapter 406 of the 2013-2014 Legislative Session, as the same may be amended from time to time.

Operator means all persons who own or manage a massage establishment.

Operator Permit means the permit issued by Chief of Police allowing a person to own or manage a massage establishment.

Out-call massage means any business or enterprise that engages in or performs massage for any form of consideration or in exchange for anything of value whatsoever at a location other than a massage establishment.

Owner means all of the following:

1. The sole proprietor of a massage establishment, i.e., where the Owner is the only person performing massage at that establishment;

2. In the case of a general business, each Owner of the business;

3. In the case of a corporation, each stockholder holding more than 10% of the corporation and each officer and director of the corporation;

4. In the case of a partnership, each partner, excluding limited partners owning less than 10% of the partnership, and where a partner is a corporation, the provisions pertaining to a corporate applicant in subsection (3) above apply.

Patron means an individual on the premises of a massage establishment for the purpose of receiving a massage.

Permit means an Operator Permit or Certificate of Operation, unless the context indicates otherwise.

Permittee means any person who has obtained a Certificate of Operation or Operator Permit from the City.

Person who has engaged in disqualifying conduct means a person who:

1. Within ten years preceding the date of filing of the application in question or, in the case of revocation proceedings, within ten years preceding the date of the revocation notice, has been convicted in a court of competent jurisdiction of any of the following:

a. A violation of any provision of law pursuant to which a person is required to register under the provisions of California Penal Code §290;

b. Conduct in violation of California Penal Code §§266h, 266i, 314, 315, 316, 318, 653.22, 653.23, or §647(a), (b) or (d);

c. An attempt to commit or conspiracy to commit any of the above mentioned offenses;

d. When the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of California Penal Code §§415, 602 or any lesser included or related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes;

e. Any crime committed while engaged in the management or ownership of a massage establishment or the practice of massage;

f. A violation of California Health & Safety Code §11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in California Health & Safety Code §§11054, 11055, 11056, 11057 or 11058; or

g. Any offense under a statute of any state or ordinance of any City or county, which is the equivalent of any of the aforementioned offenses, including California Business & Professions Code §4609(a).

2. Within ten years preceding the date of the filing of the application in question or, in the case of revocation proceedings, within ten years preceding the date of the revocation notice, has had any massage establishment, operator, technician, practitioner, therapist or trainee certificate, license or permit issued by any state, local agency or other licensing authority, including the CAMTC: denied, revoked or suspended for any reason other than lack of sufficient education; or has had to surrender such a certificate, license or permit as a result of pending criminal charges or administrative proceedings for suspension or revocation of any such certificate, license or permit.

3. Within five years preceding the date of filing of the application in question or, in the case of revocation proceedings, within five years preceding the date

of the revocation notice, has been convicted in a court of competent jurisdiction of any of the following:

a. Any crime, other than an infraction or those listed above, involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

b. Any crime, other than an infraction or crimes relating to those offenses listed above, where the crime or act is substantially related to the management or ownership of a massage establishment or the practice of massage, including a violation of the Massage Therapy Act.

4. Has been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to California Penal Code §§11225 through 11235 as the same may be amended from time to time, or any similar provisions of law in a jurisdiction outside the State of California.

5. Has been found to be maintaining a nuisance in connection with the same or similar type of business.

6. Within five years preceding the date of filing of the application in question or, in the case of revocation proceedings, within five years preceding the date of the revocation notice:

a. Has engaged in the exposing of specified anatomical areas of oneself or of another person to view, or in touching the specified anatomical areas of oneself or of another person, while providing massage services or while within view of a customer or patron of the massage establishment; or

b. Has been the Owner, Manager, or other similar position, in an establishment where the conduct described in subsection 6.a above has occurred.

7. Disqualifying conduct does not include the failure to obtain a Certificate of Operation or Operator Permit without any prior oral or written notification by the City that such was required, provided that the business and/or person cease operations immediately upon notification.

Proof of bona fide employment means proof of an employer-employee relationship between the operator of the massage establishment and any person working at the massage establishment. Satisfactory proof of bona fide employment must be shown by written payroll documentation evidencing the employer's compliance with California Employment Development Department (EDD) requirements for the withholding of California income tax, unemployment insurance contributions and disability contributions from the employee and written payroll documentation of the employer's compliance with Internal Revenue Service (IRS) requirements for the withholding of federal income taxes, Social Security (FICA) and Medicare contributions from the employee. Such written documentation can include, but is not limited to, W-2 wage and tax statements.

Reception area means an area immediately inside the main entry door of the massage establishment dedicated to the reception and waiting of patrons and visitors of the massage establishment and which is not a massage room or otherwise used for the provision of massage services.

Residence address means the actual physical home address and shall not include a P.O. box, mailbox service, or other similar location.

Sole provider means a massage business where the Owner owns 100 percent of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active CAMTC Certificate, and has no other employees or independent contractors.

Spa means facilities such as mineral baths, salt rooms, mineral rooms, saunas, steam rooms, whirlpools and other therapeutic baths.

Specified anatomical areas means any of the following human anatomical areas: genitals, pubic area, buttocks, anus, or female breasts below a point immediately above the top of the areolae, without a health care referral and written consent of the patron.

Visitor means a nonemployee who has entered the massage establishment for purposes other than receiving services.

4.56.030 Exceptions.

A. Complete exception. The requirements of this Chapter shall have no application and no effect upon and shall not be construed as applying to:

1. Any physician, surgeon, chiropractor, acupuncturist, osteopath, or physical therapist licensed to practice such profession in the State of California, within the scope of their license;

2. Any registered nurse or licensed vocational nurse, licensed to practice under the laws of the State of California, who is an employee of and working under the on-site direction of a physician, surgeon, chiropractor, osteopath, or physical therapist, duly licensed to practice their respective professions in this State.

3. Any other person providing massage services who is employed by a physician, surgeon, chiropractor, osteopath, or physical therapist, shall be required to have a valid CAMTC Certificate, as well as work under the adequate supervision of such physician, surgeon, chiropractor, osteopath, or physical therapist as required by State law or regulation. If no specific law or regulation applies, adequate supervision shall have the same meaning as set forth in 16 California Code of Regulations Section 312.

4. If a duly licensed acupuncturist wishes to provide massage therapy services to his or her clients by an individual(s) other than his- or her-self, said individual(s) must have a valid CAMTC Certificate and the office of the acupuncturist shall be subject to all the provisions of this Chapter, as well as any other applicable provisions of the Montclair Municipal Code.

5. Any person licensed to practice any healing art under the provisions of California Business & Professions Code, Division 2 (commencing with §500) when engaging in such practice within the scope of such license.

6. State-licensed hospitals, nursing homes, sanatoriums, or other health care facilities duly licensed by the State of California, and the employees of such facilities while working on the premises of such state-licensed facilities.

7. Accredited high schools, junior/community colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.

8. Barbers, beauticians, or manicurists who are duly licensed by the State of California pursuant to the Barbering and Cosmetology Act set forth in California Business & Professions Code §§7300 *et seq.*, as the same may be amended from time to time, while engaging in practices within the scope of such license, except that this exemption applies solely for the massaging of the neck, face, and/or scalp of the customer or client of said barber or beautician or, in the case of a licensed manicurist, the massaging of the forearms, hands, calves, and/or feet at a State licensed facility. However, if a state licensed establishment also has a Certificate of Operation from the City to operate as a massage establishment, the business must also comply with all provisions of this Chapter.

9. Schools of cosmetology or barbering that comply with the requirements of California Business & Professions Code §§7362 *et seq.* when instructors are acting within the scope of their employment or when students are working as unpaid externs pursuant to the requirements of California Business & Professions Code §7395.1.

10. Any other business or professions exempt by state law.

B. Partial exception.

1. Businesses offering massage services that are ancillary to the primary business shall only be required to comply with the provisions set forth in subsection (B)(2) of this Section. For purposes of this subsection, ancillary massage services shall be those services where less than 15% of the gross floor area of the business is devoted to massage.

2. Massage services provided under subsection (B)(1) of this Section shall be required to comply with the following:

a. Massage services must be performed by the holder of a valid CAMTC Certificate.

b. The business shall comply with the following provisions of this Chapter:

(1) Section 4.56.130.A.1 relating to hours;

(2) Section 4.56.130.C relating to instruments, equipment and personnel;

(3) Sections 4.56.130.D.1 through 4.56.130.D.3 relating to personnel lists;

(4) Section 4.56.130.E relating to prohibited conduct;

(5) Sections 4.56.140.A through 4.56.140.F relating to building and facility requirements;

(6) Section 4.56.150 relating to inspections.

C. Any person claiming exception under this Section shall furnish satisfactory evidence upon request that he or she is entitled to such exception, including, proof of bona fide employment, or if applicable, a citation to the particular provision of state law upon which that person relies.

4.56.040 Business license and other permits required.

A. Nothing herein relieves an individual or business from obtaining a City business license, conditional use permit in accordance with Chapter 11.78 of this Code, or other permit if otherwise required by law.

B. Any individual applying for a business license as a massage practitioner or a massage therapist shall provide proof of a current CAMTC Certificate before being issued a business license.

4.56.050 Floor plans required.

A. All massage establishments shall be required to submit a scaled floor plan as part of their application for a Certificate of Operation.

B. All businesses that claim a partial exemption from this Chapter pursuant to Section 4.56.030.B shall be required to submit scaled floor plans in order to verify the applicability of the exemption.

C. No changes may be made to the approved floor plan without written approval from the Community Development Department, which may require modification of the conditional use permit.

4.56.060 CAMTC Certificate required.

A. No person shall provide massage services, including out-call massage services, from any location in the City without having been issued a CAMTC Certificate,

regardless of whether such person has an operator permit or the business has a Certificate of Operation.

B. Any person certified by the state who desires to operate a massage establishment must obtain an Operator Permit in accordance with Sections 4.56.070 through 4.56.120 herein.

C. No Operator of a massage establishment shall hire as an employee or utilize as an independent contractor any person to perform massage unless such person has been issued a massage certificate.

4.56.070 Certificate and permit required.

A. No person shall own or manage any massage establishment in any location within the City without first having obtained an Operator Permit.

B. No massage establishment shall be allowed to operate within the City unless the business first obtains a Certificate of Operation. No Certificate of Operation shall be approved until each Operator identified in the application has obtained an Operator Permit.

C. Any person desiring to obtain a Certificate of Operation and/or an Operator Permit shall make application in accordance with the provisions of this subchapter, which application shall be accompanied by a nonrefundable fee in an amount established by resolution of the City Council.

D. All applications shall be dated and shall contain the following statements:

1. A certification under penalty of perjury that the information contained in the application is true and correct; and

2. An authorization for the City, its officers, agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and to ensure continual compliance with all applicable provisions of law.

E. The provisions of Sections 4.56.050, 4.56.130, 4.56.140, 4.56.150 and 4.56.160 herein shall apply to any business that operates as a massage establishment, even if such business fails to obtain an Operator Permit or Certificate of Operation. The City may immediately order a business that fails to have a Certificate of Operation or an Operator Permit to cease operation.

F. Within 45 calendar days following receipt of a completed application, the Finance Director shall either issue the Certificate of Operation and the Chief of Police shall issue an Operator Permit or mail a written statement of the reasons for denial thereof. Notwithstanding the above, failure of the City to act upon a completed application within the time frame set forth above shall not be deemed approval of the application pursuant to this Chapter. Any Certificate of Operation or Operator Permit issued pursuant to this subsection shall be deemed conditional pending the City's receipt of the California Department of Justice report on the applicant's fingerprints. If the fingerprint report demonstrates that the applicant has made any false, misleading or fraudulent statement of material fact in the permit application or in any report or record required to be filed therewith, or discloses any disqualifying conduct, the permit(s) shall be subject to denial or revocation pursuant to this Chapter.

4.56.080 Operator Permit.

A. Application contents. Applicants for Operator Permits shall submit the following information to the Montclair Police Department on a form supplied by the Department:

1. The full true name of the applicant;

2. A complete statement listing and explaining any and all aliases and fictitious names used by the applicant within the ten years immediately preceding the application;

3. The current residence address and business address and current residence and business telephone number of the applicant;

4. A list of all previous residential and business addresses for a minimum of eight years immediately preceding the present address of the applicant and the dates of residence for each address;

5. The applicant's place of birth, and original documentation to verify both the applicant's identity and employment authorization (if applicable), as listed under 8 U.S.C. 1324a(b)(1) and 8 C.F.R. 274a.2(b)(1). Documentation to satisfy this requirement may include, but is not limited to, a California driver's license, California identification card, Social Security card, resident alien ("green") card, United States passport (unexpired or expired), unexpired foreign passport that contains a temporary I-551 stamp, or an unexpired employment authorization document issued by the United States Government in compliance with 8 C.F.R. 274a.2(b)(1)(v)(A);

6. The history of the applicant as to any similar business or occupation within ten years immediately preceding the filing of the application. Such information shall include, but not be limited to, the names and addresses of any other massage establishments or similar businesses the applicant has owned, managed, provided massage services at, or worked at, whether the applicant has had a permit or license to operate, manage, provide massage services at, or work at a massage establishment denied, revoked or suspended in any jurisdiction; the reasons for any such denial, revocation or suspension; and the business, activity or occupation the applicant engaged in subsequent to such denial, revocation or suspension;

7. All criminal convictions within the last ten years, excluding minor traffic violations, and the date and place of each such conviction and reason therefor;

8. Such other reasonable identification and information as the Chief of Police may require in order to discover the truth of the matter specified as required to be set forth in the application;

9. The applicant shall be photographed by the Montclair Police Department or otherwise supply a photograph as directed by the Department; and

10. An acknowledgement that by applying for an Operator Permit, the applicant understands that they are responsible for all violations of employees or independent contractors that may take place in the massage establishment that they own or manage and that such violations are grounds for revocation of the Operator Permit.

B. Once the information required by subsection (A) of this Section is submitted, the applicant shall have his or her fingerprints taken for a criminal history background (Livescan) check in the manner directed by the Montclair Police Department.

C. The Chief of Police shall issue the Operator Permit, unless after investigation he or she makes any of the following findings:

1. The applicant has failed to provide information, documentation and assurances required by this Chapter or by the Chief of Police; has failed to reveal any fact material to qualification; or has supplied information that is untrue or misleading as to a material fact pertaining to the qualification criteria; or

2. The applicant is a person who has engaged in disqualifying conduct; or

3. There is substantial evidence that the applicant has engaged in disqualifying conduct, even if there is no conviction for such conduct; or

4. The applicant has violated any provision of this Chapter, or any similar ordinance, law, rule, or regulation of any other public agency that regulates the operation of massage establishments; or

5. The applicant is not at least 18 years of age; or

6. The applicant is delinquent in paying City fees or penalties owed in relation to any permit issued pursuant to this Chapter.

D. Permits issued pursuant to this Section shall remain in effect, unless revoked, for a period of three years. Applications for the renewal of a permit shall be filed with the Montclair Police Department on a form supplied by the Police Department. Temporary permits shall not be issued and expired permits are not valid unless the permittee has a written receipt showing that the renewal application was filed at least thirty (30) days prior to expiration, without action having been taken by the Chief of Police. Renewal applications shall be signed under penalty of perjury and shall be accompanied by a nonrefundable filing fee established by resolution of the City Council. A permittee shall be required to update the information contained in his/her original permit application and provide any new and/or additional information as may be reasonably required by the Chief of Police in order to determine whether the permit should be renewed, including all information required by subsections (A) and (B) of this Section. Failure to provide this documentation shall be grounds for nonrenewal of the permit.

E. If the criminal history background check report demonstrates that the applicant has made any false, misleading or fraudulent statement of material fact in the permit application or in any report or record required to be filed therewith, or discloses any disqualifying conduct, the permit shall be subject to denial.

F. Automatic issuance and renewal for CAMTC Certificate holders.

1. Any person who holds a valid CAMTC Certificate shall only be required to provide the following information on a form that includes the statements set forth in Section 4.56.070.D herein:

a. The full true name of the applicant;

b. The current residence and business address and current residence and business telephone number of the applicant; and

c. The name and address of the massage establishment for which the Operator Permit is sought.

2. A copy of the applicant's CAMTC Certificate and identification shall be provided with the application, along with a fee in an amount set by resolution of the City Council.

3. The applicant shall be required to have his/her photograph taken as specified above.

4. The Operator Permit shall automatically be issued upon completion of the form and verification of the validity of the CAMTC Certificate by the Police Department. No background check shall be required.

5. Renewals shall be required in accordance with subsection (D) of this Section, but such renewals shall be automatic as long as the permittee maintains and provides a copy of his/her valid CAMTC Certificate.

G. Every person to whom a permit has been granted pursuant to this Chapter shall be issued an identification badge by the Montclair Police Department which shall contain the person's name, photograph, expiration date and any other information deemed necessary by the Chief of Police. The badge shall be worn so as to be readily visible at all times while on the premises of the massage establishment. The

identification badge shall be surrendered to the Chief of Police or his/her designee upon request, upon any suspension or revocation pursuant to Section 4.56.100 herein.

H. Permits issued pursuant to this Chapter may not be assigned or transferred.

I. It is the duty of each Operator to notify the Finance Department whenever there is a change in information that was required to be submitted in the initial application for the Operator Permit. Such notification shall be in writing and made within ten business days of the change on a form provided by the City.

J. Each Operator of a massage establishment shall be responsible for the conduct of all employees and independent contractors working on the premises of the business. Failure of the employees or independent contractors to comply with this Chapter may result in the revocation of the Operator Permit.

K. The Operator of the massage establishment is responsible for verifying that all persons hold the appropriate CAMTC Certificate as required by this Chapter.

L. Any requirement of this Chapter applying to an Operator shall apply to each and every Operator of a massage establishment.

4.56.090 Certificate of Operation.

A. Applications for a Certificate of Operation shall be filed with the Finance Department and shall include the information set forth below:

1. The full name of the applicant;

2. The name under which the business is to be conducted, which name must match the name of the business under which the corresponding business license is issued under Chapter 4.04 of this Code. No massage establishment business shall operate under any business name or conduct business under any designation not specified in the Certificate of Operation. If the applicant is a corporation, the name shall be exactly as shown on the articles of incorporation or on a valid DBA ("doing business as");

3. The address of the proposed massage establishment;

4. A detailed description of the operation and type of services to be provided by the massage establishment, including other therapies to be provided, and other businesses to be operated on the same premises;

5. The full name of each Operator of the massage establishment;

6. A legal size copy of the floor plan approved as part of the conditional use permit, drawn to scale showing the following: entrances; exits; windows; interior doors; restrooms; all other separately enclosed rooms with dimensions, including, but not limited to, closets, storerooms, break rooms, and changing rooms; and location of massage tables and chairs;

7. The full name, address, and phone number of the legal owner of the property, if other than the applicant, on which the massage establishment is to be located, along with a copy of the signed lease and a notarized acknowledgement from the owner of the property that a massage establishment will be located on his or her property; and

8. The hours and days of operation.

B. The Finance Director shall issue a Certificate of Operation upon verification of the following:

1. The massage establishment will comply with all applicable laws, including, but not limited to, building, fire, zoning, health and safety regulations, as well as any conditions that have been imposed to comply with such laws; and

2. Each person identified as an Operator has obtained an Operator Permit.

C. Every massage establishment for which a Certificate of Operation has been granted pursuant to this Chapter shall display the Certificate in a conspicuous place so it may be readily seen by persons entering the premises.

D. A Certificate of Operation is not transferable to a separate location of the same business, to a different business at the same location, or to the same business under different ownership at the same location, or the same business under a different name.

E. It is the duty of each Operator to notify the Finance Department whenever there is a change in information that was required to be submitted in the initial application for the Certificate of Operation. Any sale or transfer of any reportable interest of an owner in a massage establishment, which interest would be required to be reported under subsection (A) of this Section in the first instance, shall render the Certificate of Operation temporarily suspended and subject to revocation in accordance with the provisions of this Chapter unless prior to the effective date of such sale or transfer, the new owner applies for and obtains an Operator Permit.

F. Notwithstanding any other provision of this Code to the contrary, where a Notice of Intent to suspend or revoke, or a notice of suspension or revocation has been issued regarding a massage establishment, or the business has otherwise been required to close because of suspension or revocation proceedings against the Operator, the Finance Department shall not process or issue a new application for a Certificate of Operation for said location unless or until the revocation or suspension proceedings are dismissed or a final determination is made that the current Certificate of Operation should not be suspended or revoked, or a two-year period has passed since the occurrence of the activity which gave rise to the suspension or revocation proceedings or other criminal actions.

G. Notwithstanding any other provision of this Code to the contrary, when a massage establishment has been closed due to criminal activity and such decision is final, no new massage establishment may open in such location and no Certificate of Operation shall be issued for such location for a period of two years from the date of such final determination. For purposes of this Section, closure due to criminal activity includes voluntary closure of the business after there have been arrests at the location or other notices relating to criminal activity or notices relating to suspension or revocation proceedings. This provision is not meant to prohibit the issuance of a Certificate of Operation to a business which initially failed to obtain a Certificate of Operation without any prior oral or written notification by the City that such was required.

H. Where the applicant for the Certificate of Operation is not the record owner as shown on the latest county assessment roll, then upon issuance of the Certificate, the City shall send written notice to the property owner advising of the issuance of the Certificate and the regulations applicable to the massage establishment and the property pursuant to this Chapter; this may be accomplished by including a copy of this Chapter with the notice.

4.56.100 Suspension and revocation of permits and certificates.

A. Subject to the procedures set forth in this Section, the Chief of Police may suspend or revoke an Operator Permit issued pursuant to this Chapter whenever the Chief of Police determines that any of the following has occurred:

1. The permittee, or an employee or independent contractor working on the premises, is conducting operations in a manner contrary to the provisions of this Code;

2. The permittee, or an employee or independent contractor working on the premises, is conducting operations in a manner which constitutes a public nuisance;

3. The permittee, or an employee or independent contractor working on the premises, is conducting operations in a manner which is detrimental to the health, safety or welfare of the City or its inhabitants;

4. There is substantial evidence of prostitution or other unlawful activity;

5. The permittee, or any employee or independent contractor working on the premises, has engaged in disqualifying conduct; or

6. The Chief of Police makes any of the findings that would have justified denying the application in the first instance.

B. If, in the discretion of the Chief of Police, an alleged violation is minor and capable of correction, then prior to suspension or revocation, a written notice shall be given to the Permittee of the alleged violation(s) involved to allow a period of time to correct the alleged violation(s), which period shall not exceed five (5) business days, at the end of which period, an inspection shall be conducted to determine whether the alleged violation(s) has been corrected. For purposes of this Section, written notice shall include either a Notice of Violation or an administrative citation.

C. If the Chief of Police determines that an alleged violation is not minor or capable of correction, that an alleged violation(s) continues without correction, or that there have been previous violations of this Chapter, even if for different reasons, then the Chief of Police may issue a Notice of Intent to suspend or revoke, along with an administrative or criminal citation. Examples of a violation that will be determined by the Chief of Police to be not capable of correction include, but are not limited to, substantial evidence of prostitution activity on the massage establishment premises or an immediate threat to public health, safety or welfare.

D. Notice of Intent to Suspend or Revoke. A Notice of Intent to Suspend or Revoke shall contain a statement of an alleged violation(s) that constitutes the basis for the suspension or revocation, notice of the right of the Permittee to respond to the charges in writing to the Chief of Police for a pre-appeal determination, notice of the right to appeal to the City Manager, and notice that a failure to respond in the time specified shall constitute a waiver of the right to respond, but not the right to appeal. If an alleged violation is capable of correction, the notice shall also advise the Permittee to correct the alleged violation(s) within the time to respond.

E. Response to Notice of Intent/Pre-appeal Determination.

1. The time to respond and request a pre-appeal determination shall be five (5) business days from the date of service of the notice, regardless of whether the materials upon which the Notice of Intent is based are provided to the Permittee at that time.

2. If there is no response, the Operator Permit shall be considered suspended or revoked upon the expiration of time in which to respond and request a pre-appeal hearing.

3. If there is a response, the Operator Permit shall remain in effect until a determination is made by the Chief of Police. In no event shall a hearing be conducted until at least five (5) business days have passed from the time the City provides the materials upon which the Notice of Intent is issued to the Permittee.

F. Suspension or Revocation.

1. If, after consideration of the Permittee's response, the Chief of Police determines that the Notice of Intent to Suspend or Revoke should be upheld, then the Chief of Police shall issue a Notice of Suspension or Revocation and serve it upon the Permittee as well as any other interested person requesting a copy of the same. Where

all massage activity is required to cease, notice shall also be served on the owner of the property if different from the Operator or Certificate holder. The notice shall include information about the right to appeal.

2. Upon issuance of a Notice of Suspension or Revocation of a Certificate of Operation, all massage activity at the massage establishment shall cease and no activity for which the Certificate of Operation is required shall be conducted while any appeal may be pending.

3. Upon issuance of a Notice of Suspension or Revocation of an Operator Permit, the Operator must cease all work at the massage establishment. If there is no other person who has an Operator Permit who is not the subject of a suspension or revocation proceeding, then all massage activity at the massage establishment shall also cease and no massage activity shall be conducted while any appeal may be pending.

G. Surrender of Certificate of Operation and Permits. Any Permittee shall immediately surrender his or her Operator Permit or Certificate of Operation to the Chief of Police upon its suspension or revocation. The Operator shall immediately surrender the Certificate of Operation upon revocation of an Operator Permit if there is no other permitted Operator.

4.56.110 Appeals to City Manager.

A. Appeals.

1. Appeals shall be in writing and filed with the City Clerk within the following time frames:

a. Appeals from any decision of the Chief of Police or Finance Director to deny a permit shall be in writing, shall clearly state the applicable basis for the appeal, and shall be filed not later than ten (10) calendar days following the giving of the Notice of Denial.

b. Appeals from a Notice of Intent to Suspend or Revoke a Permit where no response is filed in accordance with Section 4.56.100.E above shall be filed not later than ten (10) calendar days following the expiration of the response period.

c. Appeals from a Notice of Suspension or Revocation issued after a response is filed in accordance with Section 4.56.100.E above shall be filed not later than ten (10) calendar days following the giving of the Notice of Suspension or Revocation.

2. The City Clerk shall not accept an appeal from a decision of the Chief of Police, and no hearing shall be conducted, unless the appellant has paid a filing fee in an amount set by resolution of the City Council, to defray the cost of such appeal. Any appeal without the timely payment of fees shall be considered to be untimely.

3. The scope of the appeal hearing pursuant to this Section shall be limited to those issues raised by the appellant in the written appeal, as submitted pursuant to subsection (A)(1) of this Section.

B. City Manager Action.

1. Upon receipt of a timely filed appeal, the City Clerk shall set the matter for hearing before the City Manager. The hearing shall be held not fewer than ten (10) calendar days nor more than thirty (30) calendar days from the date of the appeal request. The hearing may be continued from time to time upon the mutual consent of the parties. For the purposes of this Section, "City Manager" may include a hearing officer appointed by the City Manager, who shall then act in the City Manager's place.

2. The appellant shall be provided with notice of the time and place of the appeal hearing, as well as a copy of all relevant materials at least seven (7) calendar days prior to the hearing.

3. At the time of such hearing, the City Manager shall review the records and files relating to the decision.

a. The City Manager shall permit any interested person to present any relevant evidence bearing on the issues involved in the matter.

b. In conducting the hearing, technical rules relating to evidence and witnesses shall not apply. Any relevant evidence may be admitted if it is material and if it is evidence customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory rule that might make admission of such evidence improper over objection in civil actions. Hearsay evidence may be admissible if it is the sort upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The rules of privilege shall be applicable to the extent they are now, or are hereafter permitted in civil actions. Irrelevant, collateral, and repetitious testimony shall be excluded.

c. In determining whether a person should be disqualified for meeting the definition of a person who has engaged in disqualifying conduct as set forth in Section 4.56.020 herein, the City Manager may consider: the nature and severity of the act(s) or crime(s); whether there were any additional subsequent act(s) or crime(s); the number of act(s) or crime(s); and how recent the act(s) or crime(s) occurred.

4. The appellant shall have the burden of proving that he or she meets the requirements for issuing the Permit or Certificate in the first instance; the City shall have the burden of proving that grounds exist for revoking or failing to renew a permit.

5. Based upon the evidence presented at the hearing, the City Manager shall determine whether the decision should be affirmed, modified or reversed.

6. The City Manager's decision shall be communicated in writing to the appellant within ten (10) working days after the close of the hearing and submission of the matter to the City Manager for decision. The City Manager's decision shall state whether the decision is affirmed, modified or reversed and shall state the reasons therefor.

7. The decision of the City Manager shall include notice that the decision is final and conclusive, that judicial review may be sought therefrom pursuant to California Code of Civil Procedure §1094.5, and that any action filed in the Superior Court shall be filed within 90 days following the City Manager's notice pursuant to California Code of Civil Procedure §1094.6.

4.56.120 Notices.

A. All notices required to be given pursuant to this Chapter shall be served on the responsible party (i.e., permittee, applicant, appellant, or a representative thereof) either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such responsible party as the name and address appear in the most recent application on file with the City. Service by mail shall be deemed to have been completed on the date deposited in the mail. Notices shall include information regarding appeal rights and a statement that the failure to file an appeal shall constitute a failure to exhaust administrative remedies.

B. In all cases where the Certificate holder is not the property owner, notices shall also be sent to the property owner of record where the notice relates to possible closure of the business due to suspension or revocation.

4.56.130 Operational requirements.

A. Hours and conditions of operation.

1. No massage establishment shall operate nor shall any massage be administered in any massage establishment between the hours of 10:00 p.m. and 8:00 a.m. A massage begun any time before 10:00 p.m. must nevertheless terminate at 10:00 p.m. The hours of operation shall be displayed in a conspicuous public place in the lobby within the massage establishment and in any front window clearly visible from outside of the massage establishment. These hours of operation may be modified pursuant to a conditional use permit.

2. During hours of operation, no person other than a valid permit holder under this Chapter, a massage practitioner, a massage therapist, or a patron shall be allowed beyond the reception area of the massage establishment.

3. Patrons and visitors shall only be permitted in the massage establishment during the hours of operation as follows:

a. Visitors shall only be permitted in the reception area of the massage establishment.

b. Patrons shall only be permitted in massage treatment areas if at least one massage technician is on the premises.

4. The massage establishment shall be supervised during all hours of operation by a Manager who is one of the Operators specified in the permit application. The name and photograph (minimum size of four inches by six inches) of the on-duty Manager shall be posted in a conspicuous public place in the lobby of the massage establishment at all times that the business in open. This provision shall not apply to Sole Providers.

5. No massage establishment shall be used for residential purposes. There shall be no massage tables, cots, or beds in the establishment other than as shown on the approved floor plan. Locker facilities shall be provided for all employees and independent contractors and all personal items of the employees and independent contractors shall be kept in the lockers while at the massage establishment.

B. Posting requirements. In addition to any other requirements for posting set forth in this Chapter, the following shall also apply:

1. A recognizable and legible sign complying with the requirements of this Code shall be posted at the main entrance identifying the establishment as a massage establishment.

2. Each service offered, the price thereof, and the minimum length of time such service shall be performed shall be posted in English and such other languages as may be convenient to communicate such service, in a conspicuous public location in each massage establishment. No services shall be performed and no sums shall be charged for such services other than those posted. Nothing herein prohibits a voluntary tip from being paid by the patron.

3. Any posted signs that are in a language other than English shall also be posted in English.

C. Instruments, equipment, and personnel.

1. Disinfecting agents and sterilizing equipment shall be provided for any instruments used in performing acts of massage and said instruments shall be disinfected and sterilized after each use.

2. Unless otherwise approved by a conditional use permit, massages shall be administered only on standard or portable massage tables or chairs that are covered with a durable, washable plastic or other acceptable waterproof material. Beds, mattresses, water beds, futons, sofa beds, any type of portable or convertible

beds, and foam pads more than four inches thick or with a width of more than four feet shall not be permitted in the establishment.

3. No massage technician shall massage the genitals or anal area of any patron nor shall any Operator of a massage establishment allow or permit such a massage to the above-specified areas.

4. No massage technician shall massage the breasts of a female patron without the written consent of the person receiving the massage and a referral from a licensed California health care provider, nor shall any operator of a massage establishment allow or permit such a massage to the above-specified area.

5. A massage shall not be given and no patron shall be in the presence of any massage establishment staff unless the patron's genitalia and, if a female patron, the female patron's breasts, are fully covered by a fully opaque, nontransparent covering.

6. Persons providing services in the massage establishment shall not be dressed in attire that is: transparent, see-through, substantially exposes the massage technician's undergarments, or exposes the massage technician's breasts, buttocks, or genitals in a manner which has been deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the profession in California; or in swim attire unless such person is providing a water-based massage modality which has been approved by CAMTC.

7. All massage establishments shall be so equipped, maintained and operated as to effectively control the entrance, harborage, and breeding of vermin, including flies. When flies or other vermin are present effective control measures shall be instituted for their control or elimination.

8. Clean and sanitary towels, sheets and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted. Heavy white paper may be substituted for sheets; provided, that such paper is used once for each person and then discarded into a sanitary receptacle.

9. All massage tables shall be at least two (2) feet away from all walls at all times.

D. Personnel lists.

1. Within seven (7) calendar days of receiving a Certificate of Operation, the Operator shall provide the Police Department with a complete list of all massage technicians who are working or will work, be employed, or provide massage services in the massage establishment along with a copy of their CAMTC certificate and identification card, as well as with the name and residence address of the Manager principally in charge of the operation of the massage establishment and of any other Manager.

2. The Operator shall have a continuing obligation to notify the Chief of Police in writing of any changes in massage technicians and managers within seven (7) calendar days of such change.

3. The Operator shall maintain copies of each massage technician's CAMTC Certificate and identification card on file on the premises of the massage establishment, which shall be available to any individual upon request, including, but not limited to, employees of the City. Additionally, the Operator shall be required to file copies of each CAMTC Certificate and identification card with the Police Department within seven (7) days of a massage technician commencing work at the massage establishment. Information required by this Section shall be maintained at the massage establishment for a minimum of two years following the date that the person ceases providing services/employment at the massage establishment.

4. The Operator shall maintain on the premises of the massage establishment a register of all non-state certified persons employed, working or providing other services at the massage establishment. The register shall be maintained for a minimum of two years following the time that the person ceases providing services/employment at the massage establishment. The Operator shall make the register immediately available for inspection upon demand of a representative of the Police Department, any health officer, or any other official charged with enforcement of this Chapter. The register shall include, but is not limited to, the following information:

a. Name, nicknames and/or aliases;

b. Home address and relevant phone number, including, but not limited to, home, cellular and pager numbers;

c. Age, date of birth, gender, height, weight, color of hair and eyes;

d. The date of employment, and termination, if any;

e. The duties of each person; and

f. In a separate portion of the register, Social Security numbers, which shall only be available for review by the Montclair Police Department or other law enforcement personnel, but not health officers or other officials charged with the enforcement of this Chapter.

E. Prohibited conduct.

1. No alcoholic beverages shall be sold, served, or furnished on the premises of any massage establishment without a valid alcoholic beverage license from the California Department of Alcoholic Beverage Control (ABC) and a conditional use permit from the City.

2. No storage or sale of condoms or spermicides shall be permitted within the massage establishment.

3. No Operator shall hire, employ or allow a person to perform massage services unless such person possesses a valid CAMTC Certificate. Each Operator of a massage establishment shall verify that all persons hold the appropriate CAMTC Certificate required by this Chapter. Nothing herein prevents an Operator from hiring, employing, or allowing a person to perform services allowed by such person's cosmetology or barber license, if the business has a state establishment license in addition to a Certificate of Operation.

4. No person shall use or possess, nor shall there be any storage of, any sexually-oriented implements or paraphernalia that are designed or marketed primarily for the stimulation of human genital organs or sadomasochistic activity.

5. No electrical, mechanical or artificial device shall be used by any massage establishment staff for audio and/or video recording or for monitoring the performance of a massage, of the conversation or other sounds in the massage rooms, without the knowledge and written consent of the patron.

6. No Operator of a massage establishment shall place, publish or distribute or allow or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons or clients that any service is available other than those services described in this Chapter and posted on the premises as required in this Chapter, nor shall any massage establishment employ language in the text of any advertising that would reasonably suggest to a prospective patron that any service is available other than those services described in this Chapter and posted on the premises as required by this Chapter.

4.56.140 Building and facility requirements.

A. The building, or unit within the building where the massage establishment is located, shall comply with all applicable building code requirements.

B. All massage rooms and dressing rooms shall be screened off by hinged doors that can open inward. Swinging doors that can open inward, draw drapes, curtain enclosures, or accordion-pleated closures in lieu of doors are acceptable on all inner dressing rooms and massage therapy rooms or cubicles. Except for bathroom doors, interior doors may not have locks on them.

C. All rooms in which massages are being provided shall be lit with a minimum of one light fixture emitting at least 210 lumens for every 150 square feet of space during the administration of such services, with the light fixtures being spread throughout the space. No dimmer switches, strobe lights, flashing lights, colored light, or any coverings or other apparatus, other than a lampshade, which changes or darkens the color of the primary light source, shall be used in any room in which massage services are being provided.

D. Any locker facilities provided for the use of patrons shall be fully secured for the protection of the patron's valuables and the patron shall be given control of the key or other means of access.

E. The walls in all rooms where water or steam baths are given shall have a washable, mold-resistant surface.

F. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the establishment shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs shall be thoroughly cleaned and disinfected after each use.

G. One main entry that enters into the reception area shall be provided for patron use. All patrons, and any persons other than those providing services at the massage establishment, shall be required to enter and exit through the front door of the establishment.

H. All exterior doors (except rear exterior doors used only for employee entrance to and exit from the massage establishment) shall remain unlocked during business hours, and the establishment shall comply with the provisions of the Montclair Municipal Code pertaining to the posting of signs stating that doors shall remain unlocked during business hours. Exits for fire safety purposes may be allowed where deemed necessary by the appropriate public safety agency. Notwithstanding the above, the front door may be locked if there is no staff available to assure security for the clients and massage staff who are behind closed doors, provided that the massage establishment is owned by one individual with one or no employees or independent contractors.

I. There shall be no buzzer, alarm, or intercom system.

J. No massage business located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, painted signs, decals, graphics, or any other material that obstructs or darkens the view into the premises or by signs that cover more than 25% of any window pane. The interior of the business shall be plainly visible from the exterior of the business by passing vehicles and pedestrians.

4.56.150 Inspections.

A. Representatives of the City's Police Department, Fire Department, Community Development Department, and Finance Department, and agents for the City from the County Health Department and representatives of any state or local agencies with regulatory authority over massage establishments, shall have the right to enter massage establishments from time to time, during regular business hours or at any time that the massage establishment is occupied or open for business, to verify the massage establishment is in compliance with all applicable laws without the need for an inspection or abatement warrant.

B. The operator shall cause to be conspicuously posted so that the same may be readily visible to persons in the reception area of the massage establishment, in letters that are a minimum of one inch in height, a notice in English that provides substantially as follows:

> **THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY CITY AND HEALTH OFFICIALS WITHOUT PRIOR NOTICE**

In addition, Operators are encouraged to post this notice in language(s) that are best understood by the customers of the massage establishment.

C. No person shall refuse to permit, cause delay of, or interfere with, a lawful inspection or compliance check of the premises by the officials listed in subsection (A) of this Section at any time.

4.56.160 Penalty.

A. It is unlawful for any person to engage in conduct that violates any provision of this Chapter, to engage in conduct which fails to meet the standards set forth in this Chapter, or to own, manage, or operate a massage establishment that is not fully in compliance with the operational standards set forth in this Chapter.

B. Any violation of this Chapter shall be a misdemeanor unless, in the sole discretion of the City Prosecutor, it is charged as, or reduced to, an infraction. Citations and warning notices may be utilized as determined appropriate to the circumstances by the enforcing personnel.

C. In addition to the above, any massage establishment operated, conducted or maintained contrary to the provisions of this Chapter shall be and is declared to be unlawful and a public nuisance and the City may, in addition to or in lieu of prosecuting a criminal action under this Chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinment thereof, in the manner provided by law, including any code enforcement procedures established pursuant to the laws of the State of California or the City of Montclair; and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishments and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this Chapter. If an injunction is sought, attorney's fees and costs will be assessed at the discretion of the court against the party subject to said injunction.

D. Any violation of the provisions of this Chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

SECTION II. Section 11.78.030.H of the Montclair Municipal Code is hereby amended to read as follows:

7. Massage establishments (C-3, MIP; C within HBSP; C-3 and 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 section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION IV. Environmental Review.

This Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) under the general rule that CEQA does not apply to activities which can be seen with certainty to have no effect on the environment. Changing the regulations relating to massage establishments will not create any environmental impacts.

SECTION V. Effective Date.

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

SECTION VI. 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. 15-951 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 SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 15-953 AMENDING SECTION 10.28.060 OF THE MONTCLAIR MUNICIPAL CODE REGARDING FIRE SPRINKLER REQUIREMENTS	**DATE:**	June 1, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	10
		FILE I.D.:	UTL060
		DEPT.:	PUBLIC WORKS

REASON FOR CONSIDERATION: The Montclair Municipal Code requires structures in excess of 200 square feet be constructed with automatic fire sprinklers. Structures subject to this requirement include canopies and carports. As such, the ordinance applies to structures installed to provide bases for solar panels used to generate electricity. The California Building Code allows an exemption from the fire sprinkler requirement for such structures. Ordinance No. 15-953 will provide a similar exemption. Ordinances require public hearings and adoption by the City Council.

BACKGROUND: On March 2, 2015, the City Council heard a presentation from Psomas FMG regarding the possible construction of solar panels around the Civic Center and Police Department facility to generate electricity for City needs. The proposal was well received but there were some reservations as to the placement of some structures, both at the Civic Center and at the Police Department facility. Psomas FMG is currently working to address those concerns.

Since the workshop, another concern has arisen concerning the Municipal Code requirement that structures in excess of 200 square feet be equipped with automatic fire sprinklers. There are currently no exceptions to the Municipal Code regulation and no way to exempt either City projects or any private projects from the sprinkler requirement. The cost to add fire sprinklers to the proposed canopies would make the project infeasible.

The California Building Code does allow exemptions for solar photovoltaic panels supported by structures over parking stalls where the panels themselves constitute the roof. Given that this exemption is allowed under both the California Building Code and the California Fire Code, the proposed modification to the Municipal Code would allow both the City and private interests the ability to pursue the construction of solar panels on freestanding structures without automatic fire sprinklers.

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

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, June 15, 2015, at 7:00 p.m. to consider Ordinance No. 15-953 amending Section 10.28.060 of the Montclair Municipal Code related to fire sprinklers.

Prepared by:		Fiscal Impact Finance Review:	
Proofed by:		Reviewed and Approved By:	

ORDINANCE NO. 15-953

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTION 10.28.060 OF THE MONTCLAIR MUNICIPAL CODE REGARDING FIRE SPRINKLER REQUIREMENTS

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

Section I. Amendment to Code. Section 10.28.060 Paragraph J. of Title 10 of the Montclair Municipal Code is hereby amended as follows:

J. Subsection 903.2 of the California Fire Code is replaced to read as follows:

903.2 Where required. Approved automatic fire sprinkler systems in buildings and structures shall be required in the locations described in Sections 903.2.1 through 903.2.12 and as follows:

(1) Every structure hereafter constructed, erected, or moved onto a property, regardless of separation walls as outlined in the California Building Code, shall have an approved automatic fire sprinkler system installed throughout therein.

(2) Every structure, except Group R, Division 3, and Group R, Division 4 occupancies, hereafter remodeled, rebuilt, or renovated where such costs exceed fifty (50) percent of the assessed valuation as determined by the San Bernardino County Tax Assessor shall have an approved automatic fire sprinkler system installed throughout therein.

(3) Group R, Division 3, and Group R, Division 4 occupancies, including attached Group U occupancies, where fifty (50) percent or more of the existing floor area is hereafter added to, remodeled, rebuilt, or renovated shall have an approved automatic fire sprinkler system installed throughout therein.

Exceptions:

(1) Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries, and standby engines, provided those spaces or areas are equipped throughout with an automatic fire alarm system and are separated from the remainder of the building by fire barriers consisting of not less than one-hour fire-resistance-rated walls and two-hour fire-resistance-rated floor/ceiling assemblies.

(2) Automatic fire sprinkler protection for fixed guideway transit systems shall be as per Section 903.2.17.

(3) Outdoor, detached storage facilities of 200 square feet or less.

(4) Any work for which a building permit is not required.

(5) Block walls.

(6) Swimming pools and spas.

(7) Lattice patio covers.

(8) Reroofing.

(9) Decks.

(i) Except a covered deck constructed as part of a new building or structure.

(10) Gazebos.

(11) Solar photovoltaic panels supported by a structure over parking stalls where the panels constitute the roof.

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. 15-953 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 SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 15-954 REPLACING SECTION 8.32.010 OF THE MONTCLAIR MUNICIPAL CODE PERTAINING TO MAXIMUM SPEED LIMITS IN THE CITY	**DATE:**	June 1, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	11
		FILE I.D.:	TRC625
		DEPT.:	PUBLIC WORKS

REASON FOR CONSIDERATION: The California Motor Vehicle Code allows cities to set speed limits on city streets, subject to the process set forth in that Code. Speed limits must be determined by traffic engineering speed surveys and must be redone periodically. Once a speed survey has been completed, the City may set the speed limits by adopting an ordinance. Ordinances require public hearings and adoption by the City Council.

BACKGROUND: The City last performed a citywide speed survey in 2011. The speeds adopted by Ordinance No. 11-925 based on that speed survey should be good for another three years. However, it was discovered last year that Howard Street was not included in the list of streets surveyed at that time. Therefore, a special survey was conducted in order to provide proper speed enforcement on Howard Street through Montclair.

Under California law, the maximum speed limit in urban areas is 55 MPH on 2-lane undivided roads and 65 MPH on divided or multi-lane roads. All other speed limits are prima facie limits, which are considered by law to be safe and prudent under normal conditions. Certain prima facie limits are established by state law, including the 25 mile per hour speed limit in business and residential districts; the 25 mile per hour speed limit in school zones when children are present; and the 15 mile per hour speed limit in alleys and at uncontrolled intersections and railroad crossings where visibility is very limited. These speed limits do not need to be posted to be enforced.

All other speed limits between 25 and 65 MPH are established on the basis of traffic engineering surveys and adopted by ordinance by the City Council. These surveys include an analysis of roadway conditions, accident records, and a sampling of the prevailing speed of traffic. Speed limits are generally considered safe and reasonable when they are set equal to or slightly below the speed at which 85 percent of the drivers drive. Traffic flowing at uniform speeds results in increased safety and fewer accidents. Drivers are less impatient, pass less often, and tailgate less, which reduces both head-on and rear-end collisions.

Prepared by:		Fiscal Impact Finance Review:	
Proofed by:		Reviewed and Approved By:	

Most drivers can be relied upon to behave in a reasonable manner as they go about their daily driving routines. Many existing laws reflect observation of the way reasonable people behave under most circumstances. Traffic regulations are also based upon observations of the behavior of groups of motorists under various conditions. Generally speaking, traffic laws that reflect the behavior of the majority of motorists are found to be successful. Laws that arbitrarily restrict the majority of drivers tend to encourage disrespect, lack of public support, and other wholesale violations of the law.

This is especially true when establishing speed limits. The posting of the appropriate speed limit also simplifies the job of traffic enforcement officers. Most traffic is voluntarily moving at or near the posted speed. Blatant speeders are easily spotted, safe drivers are not penalized, and patrol officers are not asked to enforce and defend unrealistic and arbitrary speed limits.

In accordance with the Motor Vehicle Code, the speed survey for Howard Street was conducted between October 2014 and April 2015. Radar speed checks were performed by Montclair Police Department personnel as time permitted. The results of the speed surveys were tabulated and analyzed by Engineering Division staff in May 2015. Based on the traffic engineering speed survey and analysis, it is appropriate to set a speed limit of 35 miles per hour for Howard Street between Pipeline Avenue and Central Avenue.

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

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, June 15, 2015, at 7:00 p.m. to consider Ordinance No. 15-954 replacing Section 8.32.010 of the Montclair Municipal Code pertaining to maximum speed limits in the City.

ORDINANCE NO. 15-954

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR REPLACING SECTION 8.32.010 OF TITLE 8 OF THE MONTCLAIR MUNICIPAL CODE RELATING TO MAXIMUM SPEED LIMITS

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

Section 1: Amendment to Code. Section 8.32.010 of Title 8 of the Montclair Municipal Code is hereby replaced with the following:

8.32.010 Prima facie speed limits on certain streets

The City Council of the City of Montclair determines and declares, upon the basis of engineering and traffic surveys made on or after September 28, 2010, which surveys are public records on file in the offices of the Engineering Division of the Public Works Department of the City, that the prima facie speed limits specified in those sections are reasonable, safe, and most appropriate to facilitate the orderly movement of traffic upon the streets and portions of streets specified in those sections, which streets and portions of streets would otherwise be subject to the prima facie speed limits established in the California Vehicle Code.

These prima facie speed limits shall be effective when appropriate signs giving notice thereof are erected upon the streets and portions of streets to which they pertain.

The provisions of this article shall not apply to any twenty-five (25) mile per hour prima facie speed limit which is applicable when passing a school or the grounds thereof.

Name of Street or Portion of Street Affected	Declared Prima Facie Speed Limit (miles per hour)
1. Arrow Highway, from the west City Limits to Benson Avenue	45 miles per hour
2. Benito Street, from Mills Avenue to Benson Avenue	35 miles per hour
3. Benson Avenue, from north City Limits to Moreno Street	40 miles per hour
4. Benson Avenue, from Moreno Street to UPRR tracks	35 miles per hour
5. Brooks Street, from Silicon Avenue to Benson Avenue	40 miles per hour
6. Central Avenue, from the north City Limits to Mission Boulevard	40 miles per hour
7. Central Avenue, from Mission Boulevard to the Phillips Boulevard	45 miles per hour

Name of Street or Portion of Street Affected	Declared Prima Facie Speed Limit (miles per hour)
8. Fremont Avenue, from Arrow Highway to Moreno Street	40 miles per hour
9. Fremont Avenue, from State Street to Mission Boulevard	35 miles per hour
10. Fremont Avenue, from Mission Boulevard to Phillips Boulevard	30 miles per hour
11. Holt Boulevard, from Mills Avenue to Benson Avenue	45 miles per hour
12. Howard Street, from Pipeline Avenue to Central Avenue	35 miles per hour
13. Kingsley Street, from Mills Avenue to Benson Avenue	35 miles per hour
14. Mills Avenue, from Moreno Street to the San José Street	40 miles per hour
15. Mills Avenue, from San José Street to the UPRR tracks	45 miles per hour
16. Mission Boulevard, from the west City Limits to Central Avenue	45 miles per hour
17. Monte Vista Avenue, from north City Limits to Arrow Highway	45 miles per hour
18. Monte Vista Avenue, from Arrow Highway to San Bernardino Street	40 miles per hour
19. Monte Vista Avenue, from San Bernardino Street to Holt Boulevard	35 miles per hour
20. Monte Vista Avenue, from Holt Boulevard to Phillips Boulevard	40 miles per hour
21. Moreno Street, from Mills Avenue to Monte Vista Avenue	35 miles per hour
22. Moreno Street, from Monte Vista Avenue to Benson Avenue	40 miles per hour
23. Orchard Street, from Mills Avenue to Benson Avenue	40 miles per hour
24. Palo Verde Street, from Mills Avenue to Helena Avenue	40 miles per hour
25. Palo Verde Street, from Monte Vista Avenue to Central Avenue	40 miles per hour
26. Palo Verde Street, from Central Avenue to Benson Avenue	35 miles per hour
27. Ramona Avenue, from Palo Verde Street to Holt Boulevard	35 miles per hour
28. Ramona Avenue, from Holt Boulevard to Phillips Boulevard	40 miles per hour
29. Richton Street, from Monte Vista Avenue to Central Avenue	40 miles per hour
30. San Bernardino Street, from Mills Avenue to Benson Avenue	40 miles per hour

Name of Street or Portion of Street Affected	Declared Prima Facie Speed Limit (miles per hour)
31. San José Street, from Mills Avenue to Monte Vista Avenue	35 miles per hour
32. San José Street, from Central Avenue to Benson Avenue	35 miles per hour
33. State Street, from the west City Limits to Benson Avenue	45 miles per hour

Section 2: Validity. 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 3: Publication. 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. 15-954 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 APPROVAL OF THE TRANSFER OF YOUTH SPONSORSHIP MONIES FROM THE CITY OF MONTCLAIR TO THE MONTCLAIR COMMUNITY FOUNDATION, INC	**DATE:**	JUNE 1, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	12
		FILE I.D.:	MCF100
		DEPT.:	ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to approve the transfer of Youth Sponsorship Fund monies from the City of Montclair to the Montclair Community Foundation, Inc.

BACKGROUND: The City of Montclair has utilized California Community Foundation (CCF) to administer and hold contributions made by the City and the community for the benefit of its youth and to accomplish community benefit programs. CCF has administered these monies reporting the donation, receipts and disbursement from the City and the community and those transactions have been reflected in the financial records of the City. Contributions received by CCF have represented those made to directly benefit youth and community benefit programs applicable to the City of Montclair's residents.

In order to expand programs benefiting to the community and allow for expanded fund raising opportunities to accomplish those programs, in 2008 the Montclair Community Foundation, Inc. (Community Foundation) was formed. The purpose of the Community Foundation is as follows:

> To facilitate, coordinate, and provide services to the children and adults of Montclair to ensure their health, vitality, and quality of life by accomplishing a wide variety of activities, services, and programs benefiting City residents. It was intended to work in collaboration with and to support several City of Montclair Human Services Division programs such as the Online to College program; recreational programs for residents of all ages; professional medical services, health education; early childhood education; after-school programs; a variety of senior citizen programs including daily meal service; and various community groups, such as social service agencies, mental health clinics, medical liaisons, and law enforcement groups.

Unfortunately, due to delays in accomplishing and implementing the original formation documents, income tax reporting was not accomplished and the Community Foundation was not allowed to proceed to complete its formation and gain status as a nonprofit qualifying 501(c)(3) corporation. Thus, it could not receive tax exempt contributions so it had no financial transactions.

Prepared by:	Donald L. Parker	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M. Phillips	Reviewed and Approved By:	M. Richter

After substantial staff efforts, the Internal Revenue Service and Franchise Tax Board now have recognized the Community Foundation as a qualifying tax exempt 501(c)(3) corporation and it can receive tax deductible donations and contributions for use in accomplishing its charitable purposes.

Since the Community Foundation is now active and approved by the taxing entities, there is no longer a need for CCF to hold and administer charitable monies for these programs. Therefore, staff requested the return of monies held by CCF so that they could be transferred to the Community Foundation and provide resources for its future operations. Those monies were received in the amount of $101,636.83.

FISCAL IMPACT: There is no operational impact on the City of Montclair relating to the transfer of these monies to the Community Foundation since those monies were previously reflected as monies held for charitable purposes and those functions will continue under the Montclair Community Foundation.

RECOMMENDATION: Staff recommends that the City Council approve the transfer of monies held by the California Community Foundation for the benefit of the City of Montclair to the Montclair Community Foundation, Inc., for use in accomplishing its charitable purpose.

AGENDA REPORT

SUBJECT:	CONSIDER AUTHORIZATION OF A $14,270 APPROPRIATION FROM THE STATE ASSET FORFEITURE FUND TO COMPLETE THE INSTALLATION OF MOBILE DATA COMPUTERS IN THE PATROL FLEET	**DATE:**	June 1, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	13
		FILE I.D.:	EQS225
		DEPT.:	POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the use of State Asset Forfeiture funds to cover the cost of equipment and labor needed to complete the installation of mobile data computers (MDCs) in the Police Department Patrol fleet.

BACKGROUND: In its Fiscal Year 2014-15 Budget, the Information Technology Division allocated funds to purchase 20 MDCs to replace the existing units in the Patrol fleet. The MDCs have exceeded their normal life expectancy and utilize the Windows XP operating system, which Microsoft no longer supports. This lack of Microsoft support creates a vulnerability to attacks from outside sources that could impact system operability and lead to weaknesses in the City's data security systems. These weaknesses may also impact the City's ability to meet DOJ regulatory obligations related to records security and access to nationwide criminal database systems. In addition, MDC replacement parts are difficult to locate, and the units routinely suffer from hardware malfunctions.

Staff has learned that wireless keyboards, screen protectors, power adapters, and mounts are not provided with the MDC purchase; however, these components are required in order to complete the MDC installations. Staff did not anticipate this added expense; however, the need arose when Getac Inc., a vendor other than that originally selected, was chosen for the MDC purchase. Staff proposes to use State Asset Forfeiture funds to cover the cost of parts and labor.

Bid quotations for MDC mounts and installation were received from the following vendors:

Vendor	*Bid Amount*
Black & White Emergency Vehicles	$9,700
10-8 Retrofit Inc.	$11,184
West Coast Lights & Sirens, Inc.	$11,765

Black & White Emergency Vehicles provided the lowest bid and is the recommended vendor for this purchase.

Prepared by:	Trudy Bin	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	M. deMoet	Reviewed and Approved By:	M. deMoet

Bid quotations for the power supply devices were received from the following vendors:

Vendor	*Bid Amount*
Neobits, Inc.	$2,536
CompSource	$2,646
CDW-G	$2,962

Neobits, Inc. provided the lowest bid and is the recommended vendor for this purchase.

Bid quotations for the screen protectors were received from the following vendors:

Vendor	*Bid Amount*
Group Mobile	$1,238
CDW-G	$1,361
Amazon.com	$1,398

Group Mobile provided the lowest bid and is the recommended vendor for this purchase.

Staff will also purchase 20 wireless touch keyboards. The cost of the keyboards is $796. Due to pricing, bid quotations were not sought for the keyboards.

FISCAL IMPACT: If approved by the City Council, funding to complete the MDC installation would result in an expenditure of $14,720 from the State Asset Forfeiture fund.

RECOMMENDATION: Staff recommends the City Council consider authorizing the appropriation of $14,270 from the State Asset Forfeiture fund to complete the installation of mobile data computers in the Patrol fleet.

AGENDA REPORT

SUBJECT:	CONSIDER AUTHORIZATION FOR THE PURCHASE OF EDUCATIONAL AND PROMOTIONAL MATERIALS FOR DISTRIBUTION DURING COMMUNITY EVENTS	**DATE:**	June 1, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	14
		FILE I.D.:	PDT200
		DEPT.:	POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the purchase of educational and promotional items for dissemination by Department personnel during presentations and school and community events.

BACKGROUND: The Police Department and its Community Relations Division are dedicated to ensuring the safety of our residents and community. To that end, the Department is committed to providing educational and promotional materials that help guide, support, motivate, and encourage Montclair residents to take an active role in securing a safer community.

Outreach materials are important public safety resources that feature vital safety messages and information ranging from bicycle safety and drugs to implementing and maintaining effective neighborhood watch programs. These materials help children and adults make informed choices about their personal safety; spark conversation about what citizens can do individually and collectively to promote ongoing involvement in their own community; and empower them to unite against bullying, gangs, drugs, and overall crime in the community.

The Department's Community Relations Division ensures personnel are available to attend school and community events and speaking engagements to encourage dialogue about law enforcement-related responsibilities and concerns, as well as crime prevention measures. Safety and crime prevention and awareness materials are disseminated during such events.

California Penal Code Section (PC) 1202.5 authorizes the Superior Court of California, San Bernardino County, to collect restitution from defendants convicted of particular crimes. The funds are then transferred to the local law enforcement agency where the crimes occurred to implement, support, and continue local crime-prevention programs.

FISCAL IMPACT: Funds received pursuant to PC 1202.5 are held in the Crime Prevention Fund (1151). If authorized by the City Council, funding for the purchase of educational and promotional materials would result in an expenditure of $2,500 from said fund.

Prepared by:	Trudy Bjorn	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Sharon P. Agajanian	Reviewed and Approved By:	M. DeMoet

RECOMMENDATION: Staff recommends the City Council authorize the purchase of educational and promotional materials for distribution during community events.

AGENDA REPORT

SUBJECT:	CONSIDER AUTHORIZATION OF A $3,000 APPROPRIATION FROM THE FEDERAL ASSET FORFEITURE FUND FOR SPECIAL INVESTIGATIVE SERVICES PROVIDED BY LOS ANGELES COUNTY SHERIFF'S DEPARTMENT	**DATE:**	June 1, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	15
		FILE I.D.:	PDT405
		DEPT.:	POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the use of Federal Asset Forfeiture funds to cover the cost of investigative services provided by the Los Angeles County Sheriff's Department.

BACKGROUND: The Los Angeles County Sheriff's Department (LASD) provided special investigative services to the Montclair Police Department in relation to an ongoing criminal investigation. Pursuant to California Government Code Section 6254(f), details regarding the services provided are not subject to public release. The services provided by LASD were invaluable in furthering the investigation.

The *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, a manual provided by the U.S. Department of Justice governing use of federal forfeiture proceeds, states that use of asset forfeiture funds in the furtherance of law enforcement investigations is permissible.

FISCAL IMPACT: Should the City Council authorize this item, funding for said investigative services would result in an expenditure of $3,000 from the Federal Asset Forfeiture Fund (1144).

RECOMMENDATION: Staff recommends the City Council authorize the appropriation of $3,000 from the Federal Asset Forfeiture fund for special investigative services provided by Los Angeles County Sheriff's Department.

Prepared by:	Trudy Bon	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Sharon P. Agajanian	Reviewed and Approved By:	M. de Moet

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-30, A MASTER COOPERATIVE AGREEMENT WITH THE METRO GOLD LINE FOOTHILL EXTENSION CONSTRUCTION AUTHORITY	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	1
		FILE I.D.:	TRN257
		DEPT.:	PUBLIC WORKS

REASON FOR CONSIDERATION: The Metro Gold Line Foothill Extension Construction Authority (Construction Authority) has developed a Master Cooperative Agreement (MCA) addressing numerous issues that are expected to arise with the design and construction of the Gold Line Extension to the City of Montclair. Agreements with the City require City Council approval.

Copies of proposed Agreement No. 15-30 are included in Council Members' agenda packets for City Council review and consideration. Copies are also available to the public upon request from the City Clerk's Office.

BACKGROUND: The Gold Line is a 19.7-mile light rail line running from East Los Angeles through Downtown Los Angeles to Pasadena, serving several attractions including Little Tokyo, Union Station, the Southwest Museum, and Chinatown. The line entered service in 2003 and is operated by the Los Angeles County Metropolitan Transportation Authority (Metro). The Gold Line currently serves 21 stations.

Construction is nearing completion on the 11-mile extension of the Gold Line from Pasadena to Azusa, known as Phase 2A. It will soon be turned over to Metro for safety testing with revenue service expected to start in spring 2016. Phase 2A includes station stops in Arcadia, Monrovia, Duarte/City of Hope, Irwindale, Azusa Downtown, and Azusa Pacific University (APU)/Citrus College.

Phase 2B is currently in the advanced conceptual design phase. The 12-mile extension will run from the APU/Citrus College station stop in Azusa to Montclair, with station stops in Glendora, San Dimas, La Verne, Pomona, Claremont, and Montclair. The Construction Authority has developed an MCA with each city along the Phase 2B route. Each city has the authority to be involved with activities that affect or impact a public right-of-way, private property, the general public, land use/planning, other property the city may have legal interests in, and businesses within the city. The Construction Authority, in designing and constructing the project, has adopted the design-build method of project delivery, similar to Phase 1 and Phase 2A.

The purpose of the MCA is to spell out the terms under which the Construction Authority and the City desire to cooperate to ensure the project design and construction activities are undertaken and completed in ways that meet the objectives

Prepared by:		Fiscal Impact Finance Review:	
Proofed by:		Reviewed and Approved By:	

and goals of both parties.

FISCAL IMPACT: The MCA requires City staff participation in the development of the advanced conceptual design and the design-build construction contract. The amount of time involved is unknown at this time, but personnel would likely include the City Manager, Deputy City Manager, Community Development Director, City Planner, Public Works Director, and Public Works Inspector. It is also possible that the City might want to undertake some of the required work or be requested by the Construction Authority to perform some of the work. The MCA provides terms under which the City would be reimbursed by the Construction Authority for the incurred costs.

The City has entered into a separate agreement with the Construction Authority for the advanced conceptual design. Under this agreement, the City will pay the Construction Authority up to $2.16 million. The City will seek reimbursement from San Bernardino Associated Governments (SANBAG) under a separate agreement currently being negotiated with that agency.

The development of the Gold Line Extension to Montclair is dependent upon funding availability in both Los Angeles County and San Bernardino County. It is expected that a tax measure would be on the ballot for Los Angeles County in 2016. Assuming the measure passes or some other form of funding is found, it will then be necessary to fund the portion in Montclair. That cost is currently estimated to be between $55 million and $72 million. Both the City and SANBAG are currently working on the San Bernardino County portion of the cost.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-30, a Master Cooperative Agreement with the Metro Gold Line Foothill Extension Construction Authority.

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-31 WITH HDL, COREN & CONE FOR PROPERTY TAX CONSULTING/AUDIT SERVICES	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	2
		FILE I.D.:	TAX425
		DEPT.:	CITY MGR.

REASON FOR CONSIDERATION: HdL, Coren & Cone has submitted a proposed contract to the City Council for consideration. The former City of Montclair Redevelopment Agency and City have used the property tax consulting and audit services provided by HdL, Coren & Cone since 1991.

A copy of proposed Agreement No. 15-31 with HdL, Coren & Cone is attached for the City Council's review and consideration.

BACKGROUND: As indicated above, the former City of Montclair Redevelopment Agency and City have used the property tax consulting and audit services performed by HdL, Coren & Cone for the last 24 years. The property tax services provided by HdL, Coren & Cone assist City staff in tracking property tax gains and losses from new and existing development in the City. The property tax services also provide staff with a estimation of the amount of property tax loss that may be anticipated from property tax appeals. This information is valuable for projecting tax revenue for budget purposes and in discussion with developers.

The most salient terms of Agreement No. 15-31 include the following provisions:

- HdL, Coren & Cone would annually provide the City with a listing of the major property owners in the City with values; a listing of the major property tax payers with values, a listing of the property tax transfers that occurred since the lien date; a listing by parcel of new construction activity between tax years for use in preparation of Gann State Appropriation Limit calculations; a calculation of the estimated property tax revenue anticipated to be received for the fiscal year; a forecast of estimated general fund property tax revenue for future fiscal years and would develop historical trending reports involving taxable assessed values for the City.

- HdL, Coren & Cone would annually provide the Successor Agency with tax increment projections; cash flow for the Successor Agency; any requested assistance with the Recognized Payment Obligation Schedule; estimates of property tax revenues received by the taxing agencies; monitoring County

Prepared by:	Marilyn Staats	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M Phillips	Reviewed and Approved By:	

distribution of tax-sharing revenues to the tax agencies and would coordinate with the Auditor-Controller regarding issues involving debt service, tax-sharing and other obligations of the former Redevelopment Agency.

- HdL, Coren & Cone would quarterly provide the City with a listing of property tax appeals filed in the City; a listing of property transfers that have occurred since the last report and monthly updates of the HdL web-based software program to include parcel transfer data and appeal updates.

- In the first year of the proposed Agreement, and thereafter, but not less than once every five years, HdL, Coren & Cone would conduct an analysis to identify and verify parcels in the City of Montclair on the secured Property Tax Roll are correctly attributed to the City and contain the correct Tax Rate Area designation.

- HdL, Coren & Cone would annually reconcile the Auditor-Controller assessed valuation report to the Assessor's lien list date rolls and identify discrepancies; review parcels on the unsecured Property Tax Roll to identify inconsistencies and errors and may audit general fund or tax increment property tax revenue or other revenue attributable to the Successor Agency and City.

- At the request of the City, HdL, Coren & Cone could generate data-based reports or develop special geo-based designations from City maps or geographic areas requiring additional programming.

- Additional services could be performed outside the Scope of Services with a written authorization from the City.

- The Agreement proposes a five year term beginning on July 1, 2015.

- With the exception of the audit services related to verification of the property tax rolls and correct Tax Rate Areas and optional or additional services, there is a fixed fee for services identified in the Agreement. The fixed fee would be $13,500 annually for the first three years of the Agreement. In years four and five of the proposed Agreement, the fee would increase by the California Consumer Price Index. The fee for the property tax audit services would consist of 25 percent of the revenue recovered or reallocated. Fees for additional or optional services would be billed on a time and materials basis.

- The proposed Agreement contains the appropriate indemnity and insurance requirements.

HdL, Coren & Cone would be prevented from assignment of the Agreement or contacting out any of the services to be provided.

FISCAL IMPACT: The base fee for proposed Agreement No. 15-31 would be $13,500 annually for the first three years and years four and five would be increased by the California Consumer Price Index. The proposed Agreement represents an increase of seven percent over the current annual fee of $12,600. The fees for services have not increase in approximately 5 years.

The proposed property tax consulting services, including the proposed fee increase, have been included in the Fiscal Year 2015-16 Budget in the City Manager section of the document.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-31 with HdL, Coren & Cone for Consulting/Audit Services.

AGREEMENT NO. 15-31

CITY OF MONTCLAIR

AGREEMENT FOR PROPERTY TAX CONSULTING/AUDIT SERVICES

This AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 2015 by and between the CITY OF MONTCLAIR, a municipal corporation hereinafter called CITY, and HdL Coren & Cone, a California Corporation hereinafter called CONTRACTOR.

RECITALS

WHEREAS, property tax revenues can be verified and potentially increased through a system of continuous monitoring, identification and reconciliation to county records; and

WHEREAS, an effective program of property tax management will assist the CITY in fiscal, economic and community development planning; and

WHEREAS, CITY desires the property tax data based reports and data analysis required to effectively manage the CITY property tax base and identify and recover revenues misallocated within the CITY, or to other jurisdictions; and

WHEREAS, CONTRACTOR is a state-wide expert in such data analysis with over 190 public agency clients for whom such services are performed and has the programs, equipment, data and personnel required to deliver the property tax services referenced herein;

WHEREAS, CITY prefers to pay for certain of such services through a contingency arrangement where payment is made from monies recovered and CONTRACTOR is willing to base its compensation on such a risk-based formula.

NOW, THEREFORE, CITY and CONTRACTOR, for the consideration hereinafter described, mutually agree as follows:

1.0 DEFINITIONS

For purposes of this Agreement, the following terms shall have the meaning stated below:

Audit Review: "Audit" or "Audit Review" shall mean the comparison of databases to ensure that parcels are correctly coded with the appropriate tax rate area to return revenue to the client city or redevelopment agency. Audits include the secured and unsecured tax rolls and where secured records are corrected; the corresponding unsecured records related to those properties are also corrected. A review of the calculation methodologies developed by auditor/controller offices in the administration of property tax revenues or tax increment revenues is made to ensure compliance. New annexations and newly created redevelopment project areas are audited the 1st or 2nd year after the area's

adoption due to the timing of LAFCO and the State Board of Equalization in assigning new tax rate areas and county processing of those changes.

County: "County" shall mean the County in which the CITY is located.

Database: "Database" shall mean a computerized listing of property tax parcels and information compiled for CITY from information provided by the County.

Days: "Days" shall mean calendar days.

Project Area: "Project Area(s)" shall mean the project areas of former redevelopment agency

Property Tax Roll: "Property Tax Roll" shall mean the assessed values of parcels on the secured and unsecured lien date rolls as reported by the County.

Proprietary Information: "Proprietary Information" shall be the reports, technical information, compilations of data, methodologies, formula, software, programs, technologies and other processes previously designed and developed by CONTRACTOR and used in the performance of the services hereunder.

Successor Agency: "Successor Agency" means the City's administration pursuant to Section 34176 of the Health and Safety Code of the former community redevelopment agency of CITY).

Recovered/Reallocated Revenue: "Recovered or Reallocated Revenue" shall mean additional revenue received as a result of an audit or review of properties submitted for correction or for corrections due erroneous calculations or incorrect methods of distributing revenue discovered by the CONTRACTOR and then made by county agencies which result in a return of additional revenue to the city/agency. Reviews of city administered pass throughs are performed to ensure the correctness of distributions being made to participating agencies.

Scope of Services: "Scope of Services" shall mean all of the Base Services specified in Section 2.0, the Optional Services in Section 3.0, the Additional Services in Section 4.0, or any other services rendered hereunder.

TRA: "Tax Rate Area" shall mean the area subject to the tax rate.

2.0 BASE SERVICES

The CONTRACTOR shall perform all of the following duties as part of the Base Services provided hereunder, unless otherwise specified in writing by the Contract Officer:

2.1 Analysis And Identification Of Misallocation Errors (Contingent Fee)

(a) In the first year of this Agreement, and as necessary thereafter but not less than once every five (5) years, CONTRACTOR shall conduct an analysis to identify and verify in the CITY parcels on the secured Property Tax Roll which are not properly attributed to a CITY, and will provide the correct TRA designation to the proper County agency. Typical errors include parcels assigned to incorrect TRAs within the CITY or an adjacent city, and TRAs allocated to wrong taxing agencies.

(b) CONTRACTOR shall annually reconcile the annual auditor-controller assessed valuations report to the assessor's lien date rolls and identify discrepancies.

(c) CONTRACTOR shall annually review parcels on the unsecured Property Tax Roll to identify inconsistencies such as value variations, values being reported to a mailing address rather than the situs address, and errors involving TRAs (to the extent records are available).

(d) CONTRACTOR may audit general fund or tax increment property tax revenue or other revenues attributable to the SUCCESSOR AGENCY and CITY, districts, (including but not limited base year value audits; administration of tax sharing agreements; tax increment allocation reviews; county allocation and payments reviews).

2.2 <u>Annual Services (Fixed Fee)</u>

Annually, after the Property Tax Roll is available:

(a) CONTRACTOR shall establish a Database for CITY for available through CONTRACTOR's online property tax application.

(b) Utilizing the Database, CONTRACTOR will provide:

(1) A listing of the major property owners in the CITY, including the assessed value of their property.

(2) A listing of the major property tax payers, including an estimate of the property taxes.

(3) A listing of property tax transfers which occurred since the prior lien date.

(4) A comparison of property within the CITY by county-use code designation.

(5) A listing by parcel of new construction activity between tax years to provide reports for use in the CITY's preparation of Gann (Propositions 4 and 111) State Appropriation Limit calculations.

(6) Calculate an estimate of property tax revenue anticipated to be received for the fiscal year by the CITY. This estimate is based upon the

initial information provided by the County and is subject to modification. This estimate shall not be used to secure the indebtedness of the CITY.

(7) Development of forecast of estimated general fund property tax revenue for future fiscal years.

(8) Development of historical trending reports involving taxable assessed values for the CITY, median and average sales prices, foreclosure activity and related economics trends.

(9) Upon written request, analyses based on geographic areas designated by the CITY to include assessed valuations and square footage computations for use in community development planning.

2.3 <u>Successor Agency Services</u>

Successor Agency Services including but not limited to:

(a) Tax increment projections
(b) Cash flows for the Successor Agency by Project Area
(c) Assistance with Redevelopment Obligation Payment Schedules
(d) Assistance in providing property tax information for the taxing agencies receiving property tax revenues from former Project Areas
(e) Estimates of property tax revenues to be received by the taxing entities from former Project Areas
(f) Provide property tax information to the Oversight Board at the direction of the Successor Agency
(g) Provide access to the Oversight Board to City and former redevelopment agency documents at the direction of the Successor Agency
(h) Monitor the County distribution of tax-sharing revenues to the taxing entities of the former redevelopment agency
(i) Coordinate with the Auditor-Controller the relationship between the tax-sharing, debt service and other obligations of former redevelopment agency
(j) Prepare as needed an assessment resources available to the Successor Agency to meet the long term obligations of the former redevelopment agency

2.4 <u>Quarterly Services/Monthly Services (Fixed Fee)</u>

The CONTRACTOR shall perform the following services quarterly:

(a) A listing of property tax appeals filed on properties in the CITY (selected counties).

(b) A listing of property transfers that have occurred since the last report.

(c) Monthly update of CONTRACTOR'S web-based software program to include parcel transfer data and, in select counties, appeal updates.

2.5 On-Going Consultation (Fixed Fee)

During the term of this Agreement, CONTRACTOR will serve as the CITY's resource staff on questions relating to property tax and assist in estimating current year property tax revenues. On-going consultation would include, but not be limited to, inquiries resolved through use of the CITY's database.

3.0 OPTIONAL SERVICES

The following services are available on a time and materials basis:

3.1 Specified Data

Generation of specialized data-based reports or the development of special geo-based designations from CITY maps or geographic areas which would require additional programming, the purchase of additional data, costs for county staff research, additional historical parcel tracking by CONTRACTOR or similar matters not necessary to carry out services outlined in Section 2.0.

3.2 County Research

Any research with County agencies for which CONTRACTOR does not have a current database.

3.3 Specialized Services

Other services for which the CONTRACTOR has expertise as requested by the CITY.

3.3 Additional Meetings Requested

Meetings in excess of the annual meeting to review the analysis of property tax data, trending information, and other findings with CITY shall be considered an Optional Service.

4.0 ADDITIONAL SERVICES

CITY shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any material adjustment in the contract and/or the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any

increase in compensation of up to $25,000, or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein.

5.0 OBLIGATIONS OF THE PARTIES WITH RESPECT TO SERVICES

5.1 City Materials and Support

CITY agrees to provide the following information:

1. Current CITY maps;
2. A copy of reports received by the CITY annually from the Auditor-Controller's office detailing assessed values (secured, unsecured and utilities), as well as unitary values for reconciliation analysis;
3. Parcel listing and maps of CITY parcel annexations since the lien date roll;
4. A listing of the CITY levies assessment districts and direct assessments.
5. SUCCESSOR AGENCY formation documents, debt service schedules, plan caps, DDA/OPA agreements.
6. Remittance Advices

5.2 Compliance with Law

All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the CITY and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered.

5.3 License, Permits, Fees and Assessments

CONTRACTOR shall obtain such licenses, permits and approvals (collectively the "Permits") as may be required by law for the performance of the services required by this Agreement. CITY shall assist CONTRACTOR in obtaining such Permits, and CITY shall absorb all fees, assessments and taxes which are necessary for any Permits required to be issued by CITY.

5.4 Further Responsibilities of Parties

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry

out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

6.0 CONSIDERATION

6.1 Base Fixed Fee Services

CONTRACTOR shall provide the Base Services described in Section 2.0 above, for a fixed annual fee of $13,500.00 (invoiced quarterly).

The fee for the first 3 years of this Contract shall be the annual fixed fee as noted. In the fourth (4th) year of the contract the Base Fixed Services Fee shall be adjusted by the California Consumer Price Index (CCPI) for all urban consumers as determined by the California Department of Industrial Relations as measured February of the first year to February of third year of this Contract. The revised Base Fixed Services Fee including the CCPI adjustment shall apply to the 4th and 5th years of the Contract. If this Contract is extended month to month as provided for in Section 7.4, the Base Fixed Fee shall be adjusted annually by the California Consumer Price Index (CCPI) for all items as determined by the California Department of Industrial Relations as measured February to February by the California All Urban Consumers index.

Base Contingent Fee Services

For Base Services pursuant to Section 2.1 which are payable on a contingent basis, CONTRACTOR shall receive 25 percent of general fund or tax increment property tax revenue or other revenues attributable to SUCCESSOR AGENCY, CITY, districts, or funds recovered or reallocated which are directly or indirectly the result of an audit, analysis or consultation performed by CONTRACTOR (including but not limited to base year value audits; administration of tax sharing agreements; tax increment allocation reviews; county allocation reviews). CONTRACTOR shall separate and support said reallocation and provide CITY with an itemized invoice showing all amounts due as a result of revenue recovery or reallocation. CITY shall pay audit fees after Contractor's submittal of evidence that corrections have been made by the appropriate agency. Payment to CONTRACTOR shall be made within thirty (30) days after CITY receives its first remittance advice during the fiscal year for which the correction applies.

6.2 Optional Services

Fees for Optional Services as outlined in Services in Section 3.0 above (except Section 3.4) shall be billed at the following hourly rates:

Partner	$225 per hour
Principal	$195 per hour
Programmer	$150 per hour
Associate	$150 per hour
Senior Analyst	$100 per hour
Analyst	$ 65 per hour
Administrative	$ 45 per hour

Hourly rates are exclusive of expenses and are subject to adjustment by CONTRACTOR annually. On July 1st of each year CONTRACTOR shall provide CITY with an updated schedule of hourly rates. The rates will not be increased by more than five percent (5%) per year. In addition, expenses for Optional Services shall be billed at 1.15 times actual incurred costs.

6.3 Indirect Expenses

Except as specified above, no other charges shall be made for direct or indirect expenses incurred by CONTRACTOR in performing the services in the Scope of Services including for administrative overhead, salaries of CONTRACTOR'S employees, travel expenses or similar matters.

6.4 Due Date

All fees are due 30 days immediately following billing. All amounts that are not paid when due shall accrue interest from the due date at the rate of one percent per month (12% per annum).

7.0 TERM PERFORMANCE SCHEDULE

7.1 Time of Essence

Time is of the essence in the performance of this Agreement.

7.2 Schedule of Performance

CONTRACTOR shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "A", and incorporated herein by this reference. When requested by the CONTRACTOR, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

7.3 Force Majeure

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the CITY, if the CONTRACTOR shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified.

7.4 Term

Unless earlier terminated in accordance with Section 9.11 of this Agreement, this Agreement shall continue in full force and effect for five (5) years, and, unless a notice of termination is given on the fourth anniversary date, shall be automatically extended from year to year until and such notice shall be given.

8.0 COORDINATION OF WORK

8.1 Representative of Contractor

The following principals of CONTRACTOR are hereby designated as being the principals and representatives of CONTRACTOR authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Paula Cone
HdL COREN & CONE
1340 Valley Vista Drive, Suite 200
Diamond Bar, CA 91765

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for CITY to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of CONTRACTOR and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principals may not be replaced nor may their responsibilities be substantially reduced by CONTRACTOR without the express written approval of CITY.

8.2 Contract Officer

The Contract Officer shall be such person as may be designated by the City Manager of CITY. It shall be the CONTRACTOR'S responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the CONTRACTOR shall refer any decisions which must be made by CITY to the Contract Officer. Unless otherwise specified herein, any approval of CITY required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the CITY required hereunder to carry out the terms of this Agreement.

8.3 Prohibition Against Subcontracting or Assignment

The experience, knowledge, capability and reputation of CONTRACTOR, its principals and employees were a substantial inducement for the CITY to enter into this Agreement. Therefore, CONTRACTOR shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the CITY. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of CITY. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more

than fifty percent (50%) of the present ownership and/or control of CONTRACTOR, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the CONTRACTOR or any surety of CONTRACTOR of any liability hereunder without the express consent of CITY.

8.4 Independent Contractor

Neither the CITY nor any of its employees shall have any control over the manner, mode or means by which CONTRACTOR, its agents or employees, perform the services required herein, except as otherwise set forth herein. CITY shall have no voice in the selection, discharge, supervision or control of CONTRACTOR'S employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. CONTRACTOR shall perform all services required herein as an independent CONTRACTOR of CITY and shall remain at all times as to CITY a wholly independent CONTRACTOR with only such obligations as are consistent with that role. CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of CITY. CITY shall not in any way or for any purpose become or be deemed to be a partner of CONTRACTOR in its business or otherwise or a joint venturer or a member of any joint enterprise with CONTRACTOR.

INSURANCE AND INDEMNIFICATION

8.5 Insurance

The CONTRACTOR shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to CITY, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Comprehensive General Liability Insurance. The policy of insurance shall be in an amount not less than either (i) a combined single limit of $1,000,000 for bodily injury, death and property damage or (ii) bodily injury limits of $500,000 per person, $1,000,000 per occurrence and $1,000,000 products and completed operations and property damage limits of $500,000 per occurrence and $500,000 in the aggregate.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the CONTRACTOR and the CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the CONTRACTOR in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (i) bodily injury liability limits of $250,000 per person and $500,000 per occurrence and property damage liability limits of $100,000 per occurrence and $250,000 in the aggregate or (ii) combined single limit liability of $500,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Errors and Omissions (Professional Liability). A policy of professional liability issuance written on a claims made basis in an amount not less than One Million Dollars ($1,000,000).

8.6 General Requirements. All of the above policies of insurance shall be primary insurance and shall name the CITY, its officers, employees and agents as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against the CITY, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days prior written notice by registered mail to the CITY. In the event any of said policies of insurance are cancelled, the CONTRACTOR shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 9.0 to the Contract Officer. No work or services under this Agreement shall commence until the CONTRACTOR has provided the CITY with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the CITY.

8.7 Indemnification

CONTRACTOR agrees to indemnify the CITY, its officers, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities of CONTRACTOR, its agents, employees, subcontractors, or invitees, provided for herein, or arising from the negligent acts or omissions of CONTRACTOR hereunder, or arising from CONTRACTOR'S negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, whether or not there is concurrent passive or active negligence on the part of the CITY, its officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the CITY, its officers, agents or employees, who are directly responsible to the CITY.

8.8 Sufficiency of Insurer or Surety

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the CITY due to unique circumstances. In the event the Risk Manager of CITY ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the CITY, the CONTRACTOR agrees that the minimum limits of the insurance policies and the performance bond required by this Section 9.0 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the CONTRACTOR shall have the right to appeal a determination of increased coverage by the Risk Manager to the CITY Council of CITY within 10 days of receipt of notice from the Risk Manager.

9.0 RECORDS AND REPORTS

9.1 Reports

CONTRACTOR shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require.

9.2 Records

CONTRACTOR shall keep, and require subcontractors to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of CITY, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the CITY shall have access to such records in the event any audit is required.

9.3 Non-Disclosure of Proprietary Information

In performing its duties under this Agreement, CONTRACTOR will produce reports, technical information and other compilations of data to CITY. These reports, technical information and compilations of data are derived by CONTRACTOR using methodologies, formulae, programs, techniques and other processes designed and developed by CONTRACTOR at a substantial expense. CONTRACTOR'S reports, technical information, compilations of data, methodologies, formulae, software, programs, techniques and other processes designed and developed by CONTRACTOR shall be referred to as Proprietary Information. CONTRACTOR'S Proprietary Information is not generally known by the entities with which CONTRACTOR competes.

CONTRACTOR desires to protect its Proprietary Information. Accordingly, CITY agrees that neither it nor any of its employees, agents, independent contractors or other persons or organizations over which it has control, will at any time during or after the term of this Agreement, directly or indirectly use any of CONTRACTOR'S Proprietary Information for any purpose not associated with CONTRACTOR'S activities. Further, CITY agrees that it nor any of its employees, agents, independent contractors or other persons or organizations over which it has control, will disseminate or disclose any of CONTRACTOR'S Proprietary Information to any person or organization not connected with CONTRACTOR, without the express written consent of CONTRACTOR. The CITY also agrees that consistent with its obligations under the California Public Records Act and related disclosure laws, it will undertake all necessary and appropriate steps to maintain the proprietary nature of CONTRACTOR'S Proprietary Information.

Any use of the Proprietary Information or any other reports, records, documents or other materials prepared by CONTRACTOR hereunder for other projects and/or use of uncompleted documents without specific written authorization by the CONTRACTOR will be at the CITY's

sole risk and without liability to CONTRACTOR, and the CITY shall indemnify the CONTRACTOR for all damages resulting therefrom.

9.4 Release of Documents Pursuant to Public Records Act

Notwithstanding any other provision in this Agreement, all obligations relating to disclosure of Proprietary Information remain subject to the Freedom of Information Act or California Public Records Act, Cal. Gov't Code §§ 6250 et seq. (collectively, the "PRA"). The Parties intend that if CITY is served with a request for disclosure under the PRA, or any similar statute, the CITY in good faith will make the determination as to whether the material is discloseable or exempt under the statute, and shall resist the disclosure of Proprietary Information which is exempt from disclosure to the extent allowable under the law. CITY shall advise CONTRACTOR in writing five (5) days prior to the intended disclosure of any decision to disclose Proprietary Information, and the reasons therefore, and if CONTRACTOR then timely advises CITY in writing that it objects to the disclosure, CITY shall not disclose the information. In such case, CONTRACTOR shall then be solely liable for defending the non-disclosure and shall indemnify and hold CITY harmless for such nondisclosure.

ENFORCEMENT OF AGREEMENT

9.5 California Law

This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and CONTRACTOR covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

9.6 Disputes

In the event of any dispute arising under this Agreement, the injured party shall notify the injuring party in writing of its contentions by submitting a claim therefor. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within forty-five (45) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit CITY's or the CONTRACTOR'S right to terminate this Agreement without cause pursuant to Section 11.6.

9.7 Waiver

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be

deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

9.8 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

9.9 Legal Action

9.10 In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

9.11 Termination Prior to Expiration of Term

This Section shall govern any termination of this Agreement. The Parties reserve the right to terminate this Agreement at any time, with or without cause, upon forty-five (45) days' written notice to the non-terminating party, except that where termination is for cause, the Parties will comply with the dispute resolution process in Section 11.2. Upon issuance of any notice of termination, CONTRACTOR shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. The CONTRACTOR shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 11.2.

9.12 Attorneys' Fees

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

10.0 CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

10.1 Non-liability of CITY Officers and Employees

No officer or employee of the CITY shall be personally liable to the CONTRACTOR, or any successor in interest, in the event of any default or breach by the CITY or for any amount which may become due to the CONTRACTOR or to its successor, or for breach of any obligation of the terms of this Agreement.

10.2 Conflict of Interest

No officer or employee of the CITY shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The CONTRACTOR warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

10.3 Covenant Against Discrimination

CONTRACTOR covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. CONTRACTOR shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

11.0 MISCELLANEOUS PROVISIONS

11.1 Notice

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail addressed as follows:

CITY	CITY OF MONTCLAIR 5111 Benito Street Montclair, CA 91763
CONTRACTOR:	HdL COREN & CONE 1340 Valley Vista Drive, Suite 200 Diamond Bar, California 91765

Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

11.2 Interpretation

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

11.3 Integration; Amendment

It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

11.4 Severability

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

11.5 Corporate Authority

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

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

CONTRACTOR:	CITY OF MONTCLAIR:
_____	_____
HdL COREN & CONE A California Corporation	Paul M. Eaton Mayor – City of Montclair
APPROVED AS TO FORM:	ATTEST:
_____	_____
Diane E. Robbins City Attorney – City of Montclair	Andrea M. Phillips Deputy City Clerk – City of Montclair

EXHIBIT "A"

SCHEDULE OF PERFORMANCE

TIMELINE FOR DELIVERABLES

July/August	Data available for purchase from counties
September 30	Dataset and software available for installation on city computers
September-October	Unsecured audits performed and forwarded to county assessor
October-February	Delivery of preliminary property tax reports
December-June	Monthly data updates – Database/software Appeals quarterly updates emailed in counties where the data is available
March	Appeals quarterly updates emailed in counties where the data is available
March/April	General Fund Budget Projections
April/May	Final Books – Addendums emailed to clients
June	Appeals quarterly updates emailed in counties where the data is available
Ongoing	Secured Audits – City Revenue audits of City, and District receipts for correctness Property sales reports City and Successor Agency mid-year budget reviews and budget projections Analytical work at the request of clients

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-32 WITH TWINING, INC., FOR $30,000 FOR ON-CALL TESTING AND INSPECTION SERVICES FOR MISCELLANEOUS CITY PROJECTS	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	3
		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. 15-32 with Twining, Inc., to provide testing and inspection services on an "on-call" basis. Awards of contracts and agreements with the City require City Council approval.

A copy of proposed Agreement No. 15-32 is attached for City Council review and consideration.

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 two other on-call service contracts with geotechnical testing and inspection firms. However, construction schedules often demand last minute inspections and having multiple on-call service contracts increases our ability to retain inspections services as needed.

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. 15-32 with Twining, Inc., for on-call testing and inspection services for miscellaneous City projects.

Prepared by:		Fiscal Impact Finance Review:	
Proofed by:		Reviewed and Approved By:	

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

ON CALL GEOTECHNICAL, TESTING, AND INSPECTION SERVICES

THIS AGREEMENT is made and effective as of July 1, 2015, between the City of Montclair, a municipal corporation ("City") and Twining, 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 July 1, 2015, and shall remain and continue in effect for a period of 24 months until tasks described herein are completed, but in no event later than June 30, 2017, 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 6 hereof.

5. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit 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 6(c).

7. DEFAULT OF CONSULTANT

(a) The Consultant’s failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

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

all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

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

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

10. INSURANCE

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

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

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

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

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

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

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

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

16. NOTICES

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

To City:	Michael C. Hudson City Engineer City of Montclair 5111 Benito Montclair, CA 91763
To Consultant:	Rob Ryan Twining, Inc. 732 East Carnegie Drive, Suite 100 San Bernardino, CA 92408

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.

CITY OF MONTCLAIR

By:_____
Paul M. Eaton, Mayor

Attest:

By:_____
Andrea M. Phillips, Dep. City Clerk

CONSULTANT
Twining, Inc.
732 East Carnegie Drive, Suite 100
San Bernardino, Ca. 92408

By:_____
(Title)

By:_____
(Title)

EXHIBIT A

TWINING

Schedule of Fees 2014 - 2015

NOTE: Rates will be adjusted annually each July 1st to reflect increased costs.

Personnel Rates: Per Hour Unless Otherwise Noted

Task Code	Engineering and Consulting Personnel	Rate
10026	Senior Principal Advisor/Consultant	$ 245.00
10001	Principal Engineer/Geologist	$ 165.00
10017	Metallurgical Engineer	$ 160.00
70000	Registered Geotechnical Engineer	$ 155.00
10011	Technical Advisor	$ 175.00
10011	Material Scientist, Welding/NDT Consultant	$ 175.00
70003	Registered Geologist/Certified Engineering Geologist	$ 145.00
10003	Senior Engineer/Geologist	$ 145.00
10009	Registered Civil Engineer	$ 140.00
60003	Roofing/Waterproofing Consultant	$ 180.00
10013	Project Engineer/Manager	$ 130.00
30000	Quality Control Manager	$ 115.00
10005	Senior Staff Engineer/Geologist	$ 110.00
10007	Staff Engineer/Geologist	$ 105.00
10015	Quality Control Administrator	$ 95.00
10019	Metallurgical Technician	$ 85.00
90001	CADD Operator/Draftsperson	$ 75.00
70107	Field Supervisor/Safety Manager	$ 110.00
20000	Laboratory Manager	$ 100.00
98000	Laboratory Technician	$ 75.00
90005	Expert Witness Testimony	$ 390.00
91010	Qualified SWPPP Developer	$ 125.00
91000	Qualified SWPPP Practitioner	$ 115.00

Task Code	Field Inspection Personnel	Rate
10101	Concrete/Reinforced Steel Inspector	$ 82.00
10103	Prestressed/Post Tensioned Inspector	$ 82.00
10105	Concrete ICC Inspector	$ 82.00
10109	Drilled-In-Anchor Inspector	$ 82.00
10111	Gunite/Shotcrete Inspector	$ 82.00
10113	Masonry Inspector	$ 82.00
10201	Structural Steel/Welding Inspector	$ 82.00
10203	AWS Certified Welding Inspector	$ 86.00
10207	Fireproofing Inspector	$ 82.00
10501	Lead Inspector	$ 82.00
70109	L.A. Deputy Grading Inspector	$ 95.00
75001	Asphalt Field and Plant Inspector/Technician	$ 82.00
70103	Pile Driving Inspector	$ 82.00
70101	Soils Technician	$ 82.00
10107	Concrete Quality Control (ACI/Caltrans Technician)	$ 82.00
60001	Roofing/Waterproofing Inspector	$ 107.00
10515	Mechanical Inspector	$ 122.00
10519	Electrical Inspector	$ 122.00
10521	Plumbing Inspector	$ 122.00
10523	Building Inspector	$ 122.00
50003	Field Engineering Technician	$ 100.00

Task Code	Shop Inspection Personnel	Rate
10301	Structural Steel Fabrication Inspector	$ 82.00
10309	Batch Plant Quality Control Technician/Inspector	$ 82.00
10325	Glue-Laminated Fabrication Inspector	Quotation
10328	Pre-cast concrete/Pipe Fabrication Inspector	$ 82.00

Task Code	Non-Destructive Testing Personnel	Rate
10401	NDE Ultrasonic Testing Technician	$ 86.00
10403	NDE Magnetic Particle Testing Technician	$ 86.00
10405	NDE Dye Penetrant Testing Technician	$ 86.00
10305	Combination NDE Technician/Welding Inspector	$ 86.00
10409	Radiographic Testing (crew of 2)	$ 275.00

Task Code	Equipment Usage (Daily Unless Otherwise Noted)	Rate
95318	Skidmore	$ 40.00
95309	Torque Wrench, Small	$ 15.00
95312	Torque Wrench, Large	$ 25.00
95315	Torque Multiplier	$ 40.00
95321	Air Meter	$ 20.00
95324	Brass Mold	$ 20.00
95343	Nuclear Gauge (Per Hour)	WAIVED
95333	Pull Test Equipment	$ 60.00
95348	Concrete/Asphalt Coring Equipment (Per hour)	$ 120.00
95327	Pachometer	$ 55.00
95338	Floor Flatness (Dipstick)	$ 45.00
95330	Schmidt Hammer	$ 20.00
95341	Vapor Emission Test Kits	$ 30.00
95342	Relative Humidity Probe	$ 45.00
95339	V-Meter	$ 100.00
95351	Fireproofing Adhesion/Cohesion (Per Test)	$ 20.00
95300	A Scan Ultrasonic Equipment and Consumables	$ 85.00
95303	Magnetic Particle Equipment and Consumables	$ 30.00
95306	Liquid Penetrant Consumables	$ 25.00
95307	Phased Array Ultrasonic Equipment (Per Hour)	$ 50.00
95347	Ground Penetrating Radar (Per Hour)	$ 50.00
95345	Impact Echo	$ 280.00
95359	California Pavement Profilograph (Per Hour)	$ 115.00
95349	Inertial Profiler (Per Hour)	$ 250.00
95357	Project Dedicated Vehicle	$ 75.00

Task Code	Specimen Pick-Up	Rate
20102	Standard Sample: Concrete Cylinders	$ 45.00
20101	Standard Sample: Mortar/Grout Cubes and Cores, Fireproofing, Rebar, and Epoxy Prisms (Each)	$ 45.00
20103/ 20104	Oversize Sample: Masonry Prisms, Shotcrete Panels, Flexural Beams	$ 45.00
20107	Technician for Specimen Pick-Up Not Listed Above (Per Hour, 2-Hour Minimum)	$ 45.00
20109	Technician for Specimen Pick-Up Before 5:00 a.m. or After 5:00 p.m. Monday thru Friday, or All Day Saturday (Per Hour, 2-Hour Minimum Plus Mileage)	$ 87.00

Task Code	Jobsite Trailer, Mobile or On-site Laboratory	Rate
95360	Mobile laboratory for rapid set concrete (per shift not exceeding 12 hours) All others by quotation	$ 375.00

TWINING

Task Code	Concrete Tests (Field Made Specimens)	Rate
20201	6" x 12" or 4" x 8" Cylinder: Compression Strength (ASTM C39)	$ 25.00
20203	Density of Structural Lightweight Concrete Equilibrium or Oven Dry Method (ASTM C567)	$ 75.00
20205	Core Compression including Trimming (ASTM C42)	$ 55.00
20207	6" x 6" x 18" Flexural Beams Not Exceeding Referenced Size (ASTM C78, C293 or CTM 523)	$ 70.00
20208	6" x 6" x 30" Flexural Beams (CTM 523)	$ 85.00
20209	Cylinders: Splitting Tensile Strength (ASTM C496)	$ 85.00
20211	Modulus of Elasticity Test (ASTM C469)	$ 140.00
80003	Rapid Chloride Permeability Test: Cylinders or Cores (ASTM C1202)	$ 450.00
80006	Density, Absorption, and Voids in Hardened Concrete (ASTM C642)	$ 350.00
40005	Flexural Toughness (ASTM C1609, Formerly ASTM C1018)	$ 700.00
40009	Coefficient of Thermal Expansion of Concrete (CRD 39, AASHTO T336)	$ 500.00

Task Code	Concrete Specimen Preparation	Rate
20151	Sawing of Specimens (Each)	$ 25.00
20157	Coring of Specimens in Lab (Each)	$ 25.00

Task Code	Laboratory Trial Batch Concrete, Cement and Mortar	Rate
30217	Compression Test Cylinders Made and Tested in Laboratory (ASTM C192, C39)	$ 45.00
30219	6" x 6" x 18" Flexural Beams Made and Tested in Laboratory (ASTM C192, C78)	$ 85.00
30221	6" x 6" x 30" Flexural Beams Made and Tested in Laboratory (ASTM C192, C293)	$ 95.00
30223	Splitting Tensile Strength Cylinders Made and Tested in Laboratory (ASTM C192, C496)	$ 100.00
30225	Modulus of Elasticity Test Cylinders Made and Tested in Laboratory (ASTM C192, C469)	$ 156.00
30227	Density of Structural Lightweight Concrete Made in the Laboratory, Equilibrium or Oven Dry Method (ASTM C567)	$ 88.00
30201	Laboratory Trial Batch (ASTM C192)	$ 400.00
30203	Laboratory Trial Batch: Packaged Dry Concrete Including Verification of Slump, Air Content, Plastic Unit Weight, Six Cylinders for Compressive Strength (ASTM C387 and C192)	$ 800.00
30205	Drying Shrinkage Up to 28 Days: Three 3" x 3" or 4" x 4" Bars, Five Readings up to 28 Dry Days (ASTM C157)	$ 400.00
30230	Additional Reading, Per Set of Three Bars	$ 45.00
30231	Storage over Ninety (90) Days, Per Set of Three Bars, Per Month	$ 30.00
30207	Setting Time Up to 7 Hours (ASTM C403)	$ 125.00
30208	Bleeding (ASTM C232)	$ 125.00
30229	Concrete Restrained Expansion (ASTM C878)	$ 450.00
30211	Mix, Make and Test Mortar or Grout Specimens for Compressive Strength: Set of 6 (ASTM C109, C942)	$ 400.00
20263	Non-Shrink Grout: Height Change after Final Set (ASTM C1090)	$ 400.00
20265	Non-Shrink Grout: Height Change at Early Age (ASTM C827)	$ 950.00
30232	Cracking Resistance, Set of Three Rings, Laboratory Trial Batching, Test Until Cracking or up to 28 Days (ASTM 1581)	$ 4,000.00
30233	Evaluation of Pre-Packaged Masonry Mortars (ASTM C270)	$ 1,100.00

Task Code	Chemical Analysis and Petrographic Examination of Concrete	Rate
80120	Chemical Analysis for Water Soluble Sulfates (ASTM C114) (includes sample prep)	$ 160.00

Task Code	Chemical Analysis and Petrographic Examination of Concrete, continued	Rate
80126	Chemical Analysis for Water Soluble Chlorides (ASTM C1218) (includes sample prep)	$ 150.00
80123	Chemical Analysis for Acid Soluble Chlorides (ASTM C1152) (includes sample prep)	$ 220.00
80193	Chloride Diffusion Coefficient of Cementitious Mixtures by Bulk Diffusion (ASTM C1556)	$ 2,000.00
80129	Petrographic Examination of Hardened Concrete (ASTM 856)	Quotation

Task Code	Physical and Chemical Analysis of Cement	Rate
80195	Physical Testing and Chemical Analysis of Portland Cement per Standard Requirements (ASTM C150)	$ 1,000.00
80100	Chemical Analysis of Portland Cement per Standard Requirements (ASTM C150)	$ 550.00
80103	Physical Testing of Portland Cement per Standard Requirements (ASTM C150)	$ 550.00
80194	Physical Testing of Type K Cement, Mortar Expansion (ASTM C806)	$ 500.00
80106	Partial Analysis or Specific Physical Tests	Quotation
80110	Sulfates Resistance of Hydraulic Cement (ASTM C1012)	Quotation

Task Code	Physical and Chemical Analysis of Fly Ash	Rate
80140	Chemical Analysis of Fly Ash per Standard Requirements (ASTM C618)	$ 550.00
80143	Physical Testing of Fly Ash per Standard Requirements (ASTM C618)	$ 530.00
80146	Partial Analysis or Specific Physical Tests	Quotation
80147	Chemical Analysis and Physical Testing of Fly Ash per Standard Requirements (ASTM C1618)	$ 1,000.00

Task Code	Physical Testing of Chemical Admixtures for Concrete	Rate
80196	Qualification of Admixture per ASTM C494	Quotation

Task Code	Soils and Aggregate Tests	Rate
30503	Abrasion: LA Rattler (ASTM C131)	$ 185.00
30506	Abrasion: LA Rattler (ASTM C535)	$ 195.00
70301	Atterberg Limits/Plasticity Index (ASTM D4318, CTM204)	$ 150.00
70303	California Bearing Ratio Excluding Maximum Density (ASTM D1883): Soil	$ 550.00
70304	California Bearing Ratio Excluding Maximum Density (ASTM D1883): Cement-Treated Soil	$ 650.00
70305	Chloride and Sulfate Content (CTM 417, CTM 422)	$ 130.00
30403	Clay Lumps and Friable Particles (ASTM C142)	$ 175.00
30321	Cleanness Value: 1" x #4 (CTM 227)	$ 175.00
30322	Cleanness Value: 1.5" x .75" (CTM 227)	$ 275.00
70393	Collapse Potential/Index (ASTM D5333)	$ 175.00
70396	Compressive Strength of Molded Soil-Cement Cylinders (ASTM D1633)	$ 105.00
70309	Consolidation Test: Full Cycle (ASTM 2435, CTM 219)	$ 195.00
70311	Consolidation Test: Time Rate per Load Increment (ASTM D2435, CTM 219)	$ 45.00
70313	Corrosivity Series: Sulfate, Cl, pH, Resistivity (CTM 643, 417, and 422)	$ 245.00
70315	Crushed/Fractured Particles (ASTM D5821, CTM 205)	$ 175.00
70317	Direct Shear Test: Remolded and/or Residual (ASTM D3080)	$ 245.00
70319	Direct Shear Test: Undisturbed - Slow [CD] (ASTM D3080)	$ 225.00

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Task Code	Soils and Aggregate Tests, continued	Rate
70321	Direct Shear Test: Undisturbed - Fast [CU] (ASTM D3080)	$ 195.00
70378	Durability Index: Per Method - A,B,C, or D (CTM 229, ASTM D3744)	$ 210.00
70325	Expansion Index (ASTM D4829, UBC 18-2)	$ 160.00
75004	Fine Aggregate Angularity (AASHTO T304, ASTM C1252, CTM 234)	$ 185.00
30507	Flat and Elongated Particle (ASTM D4791)	$ 225.00
30508	Flat or Elongated Particle (ASTM D4791)	$ 195.00
70331	Maximum Density: Methods A/B/C (ASTM D1557, D698, CTM216)	$ 180.00
70333	Maximum Density: Check Point (ASTM D1557, D698)	$ 65.00
70335	Maximum Density: AASHTO C (Modified) (AASHTO T-180)	$ 195.00
70337	Moisture Content (ASTM D2216,CTM 226)	$ 25.00
70339	Moisture and Density: Ring Sample (ASTM D2937)	$ 30.00
70341	Moisture and Density: Shelby Tube Sample (ASTM D2937)	$ 40.00
70340	Moisture-Density Relations of Soil-Cement Mixtures Premixed in the Field (ASTM D558)	$ 225.00
70342	Moisture-Density Relations of Soil-Cement Mixtures Mixed in the Lab (ASTM D558)	$ 295.00
30401	Organic Impurities (ASTM C40, CTM 213)	$ 90.00
70343	Permeability (ASTM D5084)	$ 250.00
80001	Potential Reactivity: Chemical Method (ASTM C289)	$ 475.00
70394	Potential Reactivity: Mortar Bar Expansion Method, 14-Day Exposure (ASTM C1260)	$ 700.00
70398	Potential Reactivity: Concrete Bar Expansion, Method (ASTM C1293), 12 month	$ 2,400.00
70399	Potential Reactivity: Concrete Bar Expansion, Method (ASTM C1293), 24 month	$ 2,600.00
70397	Potential Reactivity of Aggregate Combination 14-Day Exposure, Mortar (ASTM C1567)	$ 900.00
70345	R-Value: Soil (ASTM 2844 CTM 301)	$ 325.00
70347	R-Value: Aggregate Base (ASTM D2844, CTM 301)	$ 355.00
70349	Sand Equivalent (ASTM D2419, CTM 217)	$ 125.00
70351	Sieve #200 Wash Only (ASTM D1140, CTM 202)	$ 90.00
70353	Sieve with Hydrometer: 3/4" Gravel to Clay (ASTM D422, CTM 203)	$ 225.00
70355	Sieve with Hydrometer: Sand to Clay (ASTM D422, CTM 203)	$ 215.00
70357	Sieve Analysis Including Wash (ASTM C136, CTM 202)	$ 140.00
70359	Sieve Analysis Without Wash (ASTM C136, CTM 202)	$ 105.00
70360	Sieve Analysis: Split Sieve (ASTM C136, CTM 202)	$ 215.00
70361	Sieve Analysis Without Wash: With Cobbles (ASTM C136, CTM 202)	$ 210.00
70363	Soundness: Sodium or Magnesium Sulfate, 5 Cycles (ASTM C88)	$ 450.00
70365	Specific Gravity and Absorption: Coarse (ASTM C127, CTM 206)	$ 100.00
70367	Specific Gravity and Absorption: Fine (ASTM C128, CTM 207)	$ 165.00
70369	Swell/Settlement Potential: One Dimensional (ASTM D4546)	$ 105.00
70371	Triaxial	Quotation
70373	Unconfined Compression (ASTM D2166, CTM 221)	$ 135.00
30317	Unit Weight Per Cubic Foot (ASTM C29, CTM 212)	$ 80.00
30319	Voids in Aggregate with Known Specific Gravity (ASTM C29, CTM 212)	$ 80.00

Task Code	Asphalt Concrete Tests	Rate
75033	Bulk Specific Gravity of Compacted Sample or Core: SSD (CTM 308C and ASTM D2726)	$ 45.00
75036	Bulk Specific Gravity of Compacted Sample or Core: Paraffin Coated (CTM 308A and ASTM D1188)	$ 70.00
75040	Emulsion Residue, Evaporation (ASTM D244)	$ 150.00
75024	Extraction: % Bitumen (CTM 382, ASTM D6307)	$ 155.00
75027	Extraction: % Bitumen and Gradation (CTM 382, CTM 202, ASTM D6307, ASTM D5444)	$ 200.00
75028	Extraction: % Bitumen, Correction Factor (CTM 382, ASTM D6307)	$ 325.00
75030	Chemical Extraction % Bitumen and Sieve Analysis (ASTM D2172 Method A or B, ASTM D5444)	$ 245.00
75042	Lab Tested Maximum Density: Hveem, 3 briquettes (CTM 304, CTM 308, ASTM D1561, AASHTO D1188)	$ 200.00
75054	Hveem Stabilometer Test with Mixing, 3 briquettes (CTM 304, CTM 366, ASTM D1560, AASHTO D1561)	$ 325.00
75057	Hveem Stabilometer Test, Premixed, 3 briquettes (CTM 304, CTM 366, ASTM D1560, AASHTO D1561)	$ 200.00
75048	Lab Tested Maximum Density: Marshall, 3 briquettes (ASTM D6926,ASTM D2726)	$ 200.00
75049	Lab Tested Maximum Density: Marshall 6" Specimen, 3 briquettes (ASTM D6581, ASTM D2726)	$ 215.00
75050	Lab Tested Maximum Density: Superpave Gyratory Compacted Briquette, SSD, 1 briquette (ASTM D6925, ASTM D2726)	$ 75.00
75052	Lab Tested Maximum Density: Superpave Gyratory Compacted Briquette, Paraffin, 1 briquette (ASTM D6925, ASTM D1188)	$ 85.00
75051	Maximum Theoretical Specific Gravity (RICE) (CTM 309, ASTM D2041)	$ 150.00
75066	Marshall Stability and Flow, Cored Sample, each (ASTM D6927)	$ 75.00
75069	Marshall Stability and Flow, Premixed, 3 briquettes (ASTM D6926, ASTM D6927)	$ 200.00
75072	Marshall Stability and Flow, with Mixing, 3 briquettes (ASTM D6926, ASTM D6927)	$ 325.00
75106	Marshall Stability and Flow, Gyratory Compacted Specimen Pre-Mixed, 3 briquettes (ASTM D6925, ASTM D6581)	$ 225.00
75107	Marshall Stability and Flow 6" Specimen, Premixed, 3 briquettes (ASTM D6581)	$ 215.00
75063	Moisture Content (CTM 370)	$ 85.00
75005	Wet Track Abrasion Test (ASTM D3910)	$ 150.00
75093	Hveem Mix Design (Excluding Aggregate Quality Tests)	$ 3,000.00
75096	Hveem Mix Design, with RAP (Excluding Aggregate Quality Tests, RAP Qualification)	$ 3,300.00
75099	Hveem Mix Design, with Lime (Excluding Aggregate Quality Tests)	$ 3,550.00
75094	Hveem Mix Design Caltrans Untreated Mix (Including Aggregate Quality Tests)	$ 4,200.00
75095	Hveem Mix Design Caltrans Lime Treated Mix (Including Aggregate Quality Tests)	$ 4,300.00
75084	Marshall Mix Design (Excluding Aggregate Quality Tests)	$ 3,000.00
75087	Marshall Mix Design with RAP (Excluding Aggregate Quality Tests)	$ 3,300.00
75090	Marshall Mix Design with Lime (Excluding Aggregate Quality Tests)	$ 3,550.00
75083	Open Grade Asphalt Concrete Mix Design (CTM 368, ASTM D7064)	$ 1,350.00
75109	Superpave Mix Design (Excluding Aggregate Quality Tests)	$ 4,770.00
75113	Superpave Mix Design, with RAP (Excluding Aggregate Quality Tests)	$ 6,090.00
75114	Superpave Mix Design, with Rubber (Excluding Aggregate Quality Tests)	$ 6,200.00
75115	Superpave Mix Design, with Additives (Excluding Aggregate Quality Tests)	$ 5,590.00
75075	Effect of Moisture on Asphalt Paving Mixtures, Pre-Mixed (AASHTO T283, ASTM D4867)	$ 875.00
75078	Effect of Moisture on Asphalt Paving Mixtures, Pre-Mixed, 24-Hour Immersion Pre-Mixed (AASHTO T283, ASTM D4867)	$ 1,150.00
75064	Effect of Moisture on Asphalt Paving Mixtures (AASHTO T283, ASTM D4867)	$ 1,500.00
75065	Effect of Moisture on Asphalt Paving Mixtures, One Freeze Thaw Cycle (AASHTO T283, ASTM D4867)	$ 1,700.00

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Task Code	Asphalt Concrete Tests, continued	Rate
75102	Resistance of Compacted Bituminous Mixtures to Moisture Induced Damage (TSR), Untreated (CTM 371)	$ 1,650.00
75105	Resistance of Compacted Bituminous Mixtures to Moisture Induced Damage (TSR), Lime Treated (CTM 371)	$ 1,800.00
75104	Resistance of Compacted Bituminous Mixtures to Moisture Induced Damage (TSR), Pre-Mixed (CTM 371)	$ 900.00
75111	Hamburg Wheel Track Test, 20,000 passes, 4 briquettes (AASHTO T324)	$ 1,000.00
75116	Hamburg Wheel Track Test, 25,000 passes, 4 briquettes (AASHTO T324)	$ 1,200.00
75039	Raveling Test of Cold Mixed Emulsified Asphalt (ASTM D7196)	$ 200.00
75067	Marshall Stability, wet set, 3 replicates (AASHTO T 245)	$ 325.00
75068	Marshall Stability, dry set, 3 replicates (AASHTO T 245)	$ 275.00

Task Code	Brick Masonry Tests, ASTM C67	Rate
20301	Modulus of Rupture: Flexural (5 Required Per ASTM)	$ 45.00
20303	Compression Strength (3 Required Per ASTM)	$ 45.00
20305	Absorption: 5 Hour or 24 Hour (5 Required)	$ 50.00
20307	Absorption (Boil): 1, 2 or 5 Hours (5 Required)	$ 60.00
20309	Initial Rate of Absorption (5 Required)	$ 40.00
20311	Efflorescence (5 Required)	$ 60.00
20313	Cores: Compression	$ 55.00
20315	Shear Test on Brick Cores: 2 Faces	$ 80.00

Task Code	Concrete Block, ASTM C140	Rate
20321	Compression (3 Required Per ASTM)	$ 50.00
20323	Absorption/Moisture Content/Oven Dry Density (3 Required Per ASTM)	$ 80.00
20327	Linear Shrinkage (ASTM C426)	$ 200.00
20335	Web and Face Shell Measurements	$ 40.00
20329	Tension Test	$ 150.00
20331	Core Compression	$ 55.00
20333	Shear Test of Masonry Cores: 2 Faces	$ 75.00
20339	Efflorescence Tests (3 Required)	$ 40.00

Task Code	Masonry Prisms, ASTM C1314	Rate
20341	Compression Test: Composite Masonry Prisms-Up To 8" x 16"	$ 185.00
20343	Compression Test: Composite Masonry Prisms-Larger Than 8" x 16"	$ 245.00
20346	Prism Cord Modulus of Elasticity	$ 505.00
20347	Prism Cord Modulus of Elasticity with Transvese Strain (for double-wythe specimen)	$ 630.00

Task Code	Mortar and Grout	Rate
20351	Compression: 2" x 4" Mortar Cylinders (ASTM C780)	$ 30.00
20353	Compression: 3" x 3" x 6" Grout Prisms, Includes Trimming (ASTM C119)	$ 52.00
20355	Compression: 2" Cubes (ASTM C109)	$ 30.00
20357	Compression: Cores (ASTM C42)	$ 55.00

Task Code	Masonry Specimen Preparation	Rate
20155	Cutting of Cubes or Prisms	$ 45.00

Task Code	Fireproofing Tests	Rate
20401	Oven Dry Density (Per Sample) (ASTM E605)	$ 60.00

Task Code	Gunite and Shotcrete Tests	Rate
20361	Core Compression Including Trimming (ASTM C42)	$ 55.00
20363	Compression: 6" x 12" Cylinders	$ 25.00
20365	Compression: Cubes (Includes Saw Cutting)	$ 74.00

Task Code	Concrete Roof Fill: Gypsum, Vermiculite, Perlite, Lightweight Insulating Concrete, Etc.	Rate
20371	Compression Test (ASTM C495 and C472)	$ 39.00
20373	Air Dry Density (ASTM C472)	$ 30.00
20379	Oven Dry Density (ASTM C495)	$ 55.00

Task Code	Reinforcing Steel, ASTM A615, A706	Rate
20501	Tensile Test: # 11 or Smaller	$ 42.00
20503	Bend Test: # 11 or Smaller	$ 36.00
20504	Bend Test #14 or #18	$ 300.00
20505	Tensile Test: # 14	$ 200.00
20507	Tensile Test: # 18	$ 300.00

Task Code	Reinforcing Steel - Welded or Coupled Specimens	Rate
20521	Tensile Test: Welded/Coupled #11 and Smaller	$ 62.00
20523	Tensile Test: Welded/Coupled #14	$ 220.00
20525	Tensile Test: Welded/Coupled #18	$ 320.00
20529	Weld: Macroetch	$ 65.00
20531	Slippage Test - Calibrans (CTM 670)	$ 175.00

Task Code	Metal and Steel Testing	Rate
20601	Tensile Strength: Up to 100K Pounds (Each)	$ 50.00
20603	Tensile Strength: Up to 200K Pounds (Each)	$ 55.00
20605	Tensile Strength: Up to 300K Pounds (Each)	$ 65.00
20607	Tensile Strength: Up to 400K Pounds (Each)	$ 110.00
20609	Tensile Strength: 400K to 600K Pounds (Each)	$ 300.00
20611	Tensile Strength: Stress-Strain Percent Offset	$ 150.00
20545	Weld: Macroetch	$ 65.00
20547	Weld: Fracture	$ 30.00
20615	Bend Test	$ 46.00
20617	Flattening Test	$ 55.00
20619	Brinnel and Rockwel Hardness Test (ASTM E18) (Per Test)	$ 72.00
20630	Bolt: Axial Tensile Test (Up to 7/8" diameter)	$ 40.00
20631	Bolt: Wedge Tensile Test (Up to 7/8" diameter)	$ 55.00
20632	Bolt: Axial Tensile Test (Greater than 7/8" up to 1" diameter)	$ 60.00
20633	Bolt: Wedge Tensile Test (Greater than 7/8" up to 1" diameter)	$ 75.00
20634	Bolt: Axial Tensile Test (Greater than 1" diameter)	Quotation
20635	Bolt: Wedge Tensile Test (Greater than 1" diameter)	Quotation
20636	Bolt: Proof Load Test (Up to 7/8")	$ 65.00
20637	Bolt: Proof Load Test (Greater than 7/8" up to 1" diameter)	$ 85.00
20638	Bolt: Proof Load Test (Greater than 1")	Quotation
20639	Nut: Proof Load Test (Up to 7/8")	$ 45.00
20640	Nut: Proof Load Test (Greater than 7/8" up to 1" diameter)	$ 65.00
20641	Nut: Proof Load Test (Greater than 1")	Quotation

Task Code	Chemical Testing of Metal and Steel	Rate
80170	Steel Chemical Analysis	$ 125.00
80173	Weight of Galvanized Coating (ASTM A90)	$ 75.00

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Task Code	Machining and Preparation of Tensile and Bend Sample: Carbon Steel	Rate
20751	Machinist: Initial Preparation from Mock-up, Etc. (Per Hour)	$ 80.00
20753	Sawcut to Overall Width (Per 0.5" Thickness or Fraction Thereof)	$ 40.00
20755	Machine to Test Configuration: Milled Specimens (Per 0.5" Thickness or Fraction Thereof)	$ 55.00
20757	Machine to Test Configuration: Turned Specimens (Per 0.5" Thickness or Fraction Thereof)	$ 110.00
20759	Prepare Subsize Specimens (Per 0.5" Thickness or Fraction Thereof)	$ 72.00

Task Code	Charpy Impact	Rate
20621	Charpy Impact Ambient Temperature, per sample (Average of 3 Samples Typically Required)	$ 70.00
20623	Charpy Impact Reduced Temperature, per sample (Average of 3 Samples Typically Required)	$ 90.00

Task Code	Machining of Charpy Samples: Carbon Steel	Rate
20780	Cutting and Milling (Per 0.5" or Fraction Thereafter) (Average of 3 Samples Typically Required)	72
20783	Final Machining to Sample Configuration (Average of 3 Samples Typically Required)	82

Task Code	Prestressing Wires and Tendons, ASTM A416	Rate
20701	Stress-Strain Analysis: Wire or Strands (Including Chart and Percent Offset)	$ 115.00
20703	Tensile Test Only	$ 95.00
20705	Tendons	Quotation

Task Code	Polymer Matrix Composite Materials (Fiberwrap)	Rate
20706	Tensile Strength – Set of 5 Specimens/batch/direction (ASTM D3039)	$ 1,100.00
20707	Tensile Strength – Additional Specimens (ASTM D3039)	$ 250.00
20708	Heating Chamber Time – Per 24 hr period (ASTM D3039)	$ 85.00

Task Code	Calibration Services and Universal Machine Usage	Rate
20801	Calibration/Verification Services	Quotation
20803	Universal Test Machine Usage (Per Hour)	$ 250.00

Ceramic Tile Testing Division

The Ceramic Tile Institute of America (CTIOA) and Twining worked together to advance and develop technology designed to enhance the quality of materials and workmanship in the ceramic tile industry. A separate schedule of fees for these services is available upon request.

Cyclic and Fatigue Testing Programs on Special Products/Parts	Quotation
Engineering and Technical supports/Design of Prototypes and Special	Quotation
Fastener/Coupling Full Testing Program Per New Regulations: Tension, Tension/Bend, Shear, Double Shear, 8 Compressions	Quotation
Fiberglass/Composite Materials Field Testing Program (ASTM D4065, D1143, D4923, D2584, D4476, D1242, D7901, D7921, and D732)	Quotation
Field Testing of Structures and Structural Elements	Quotation
In-Place Shear Testing	Quotation
Materials and/or Product Evaluation Per Specifications	Quotation
Structural Dynamic Testing and Durability Analysis	Quotation

General Conditions

NOTE: Field inspection work conditions are established by contract with Operating Engineers, Local 12.
NOTE: A minimum of 24 hours notice is required for testing and inspection services

Administrative Fees

All administrative costs including report distribution and the Twining ConstructionHive system are billed at 4% of monthly invoice total. Note that hard copies of reports will be sent only to governing jurisdictions that mandate them. All other parties will receive reports electronically. The administrative fee above will be increased by 1% if additional hard copies of reports are requested.

Minimum Charges (Inspection and Technician Personnel Only - Other Personnel Charged on Portal to Portal Basis)

2-Hour Minimum: Inspector arrives at jobsite, no work to perform.	Inspector arrives at jobsite, no work to perform
4-Hour Minimum: 1 to 4 hours of inspection	1 to 4 hours of inspection
8-Hour Minimum: Over 4 hours of inspection	Over 4 hours of inspection

Regular Time

The first 8 hours worked Monday through Friday between 5:00 a.m. and 5:00 p.m.

Time and One-Half (All Types of Inspection)

All shifts will be billed based on the time and date of their start. Any increment past 8 hours through 12 hours worked Monday through Friday and the first 12 hours on Saturday. Time and one-half will also be charged for any time before 5:00 a.m. and after 5:00 p.m.

Double Time (All Types of Inspection)

All shifts will be billed based on the time and date of their start. After the first 12 hours worked Monday through Saturday, all day Sunday, holidays, and the first Saturday following the first Friday in June and December. Holidays are New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day.

Meal Period

When personnel are required by their duties to work more than five consecutive hours without a one-half hour uninterrupted meal period,one half hour at double time rate will be charged in addition to any applicable overtime for actual hours worked.

Shift Differential

A $1.00 per hour shift differential premium will be charged for all inspection hours that fall outside of the 5:00 a.m. to 5:00 p.m. time period. Twining will require 48-hour notice prior to beginning a shift that will include hours falling outside this time period. Should this notice not be provided, all work performed on that shift will be billed at the overtime rate.

If three shifts per day are required, the first shift will be billed at the standard rate. The second shift shall be billed in accordance with the previous paragraph. The third shift shall be billed at 8 hours for the first 6 1/2 hours worked and overtime for all hours thereafter.

TWINING

General Conditions, continued

Travel Time and Mileage
For projects outside a 50-mile radius from the nearest Twining facility, $0.60 per excess mile to and from the project will be charged for inspectors and technicians. Other than small tools, whenever project related equipment is required to be transported to and from the project site, time and mileage for inspectors and field technicians will be billed on a portal to portal basis. For all projects, $0.60 per mile will be charged portal to portal for engineers, consultants, supervisors, and laboratory technicians from the laboratory to the project site and return.

Saturday Sample Pick-Ups
In order to be in strict conformance with testing standards, it may be required that Saturday pick-ups be performed (e.g. concrete specimens cast on Friday must be picked up on Saturday in order to be in conformance with ASTM C31 requiring specimens to be moved to their final curing location within 48 hours of casting.) Applicable charges for Saturday work will apply when this is required. Should these charges not be authorized then Twining will not be responsible for any negative consequences.

Remote Jobs
For projects in excess of 100 miles from Twining, travel time will be charged at the relevant straight time rate.

Reimbursable Expenses
Parking, air fare, car rental, food and lodging, etc. will be charged at cost plus 15% per processed invoice, unless provided by client.

Subsistence
Subsistence on remote jobs will be charged per quotation.

Laboratory Testing Hours
Please note that laboratory testing will be billed on an hourly basis for non-standard tests. If testing is required to be performed on Saturdays, Sundays, holidays, or before 5:30 a.m. or after 4:00 p.m. on weekdays, an additional hourly charge with a minimum of one hour will be applied for the laboratory technician. 1.5 x regular test rate will be charged for rush testing.

Charges for Subcontracted Services

Material sent to outside laboratory for testing:	Cost plus 20%
Material sent to outside fabricator or machine shop:	Cost plus 20%
Glu-Lam beam inspection:	Cost plus 20%
Other subcontractors:	Cost plus 20%
Project exclusive equipment purchase:	Cost plus 20%

Limit of Liability
All contracts are subject to errors and omissions coverage limits of $50,000.00, or contract amount whichever is greater. Higher limits available by quotation.

Certified Payroll
Certified payroll will be provided, upon request, at an additional charge of $180.00/month.

Final Reports Required by Jurisdiction
If a final report or affidavit is required, we must first review all inspection and testing reports and clear up any unresolved issues on these reports. These issues will typically require approval by the engineer or architect of record. This process can take several weeks or just a day, depending on the number and complexity of the issues. Cost for final reports will be billed hourly.

Terms of Payment
Fees charged are for professional and technical services and are due upon presentation. If not paid within 30 days from date of invoice, they are considered past due and a finance charge of 1½% per month will be added to the unpaid balance (APR 18%).

All invoice errors or necessary corrections shall be brought to the attention of Twining within 15 days of receipt of invoice. Thereafter, customer acknowledges invoices are correct and valid. Twining reserves the right to terminate its services to a customer without notice if all invoices are not current. Upon such termination of services, the entire

In the event of any litigation arising from or related to any agreement to provide services whether verbal or written, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorney's fees and all other related expenses in such litigation. Additionally, in the event

Specimen Disposal
Specimens will be discarded after testing unless Twining has been notified prior to testing that the customer wishes to retrieve the specimens or storage arrangements are made.

Oversize Specimens
An extra charge will be made when test specimens require more than one person to handle due to size or weight.

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-33 WITH LEXIPOL, LLC, FOR CONTINUED MANAGEMENT OF THE POLICE DEPARTMENT'S POLICY AND PROCEDURES MANUAL	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	4
		FILE I.D.:	PDT175
		DEPT.:	POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-33 with Lexipol, LLC, for continued management of the Police Department's Policy and Procedures Manual.

Proposed Agreement No. 15-33 has been approved by the City Attorney and is attached for the City Council's review and consideration.

BACKGROUND: The Police Department has relied on Lexipol, LLC, to provide a comprehensive departmental Policy and Procedures Manual with ongoing updates since 2008.

The product provided by Lexipol, LLC, is written by legal and public safety professionals who monitor key court decisions, legislation, and emerging trends within the law enforcement community. Lexipol, LLC, provides regular updates in response to legislative mandates, case law, and best practices. The Policy is completely customizable to reflect the needs of the agency and is available via the Knowledge Management System (KMS), a web-based solution that is accessible to Department personnel 24 hours per day. It is through the KMS that executive staff may manage and edit content as necessary.

While Department staff continues to shoulder the responsibility of reviewing and recommending modifications to the Policy and Procedures Manual in accordance with departmental needs, the professionals at Lexipol, LLC, continuously provide an all-inclusive document that is sound, up-to-date, concise, and defensible.

FISCAL IMPACT: The total cost of services proposed to be provided pursuant to Agreement No. 15-33 is $3,200. Funding for this specific service is included in the Police Department Fiscal Year 2014-15 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-33 with Lexipol, LLC, for continued management of the Police Department's Policy and Procedures Manual.

Prepared by:	Trudy Bon	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Sharon P. Agajanian	Reviewed and Approved By:	M. DeMoet

AGREEMENT FOR USE OF SUBSCRIPTION MATERIAL

Agency's Name: Montclair Police Department

Agency's Address: 4870 Arrow Highway
Montclair, CA 91763

Attention: Robert Avels, Captain

Lexipol's Address: 6B Liberty, Suite 200
Aliso Viejo, CA 92656

Attention: Michael Renoux, Director Contracts

Effective Date: March 31, 2015
(to be completed by Lexipol upon receipt of signed Agreement)

The Agreement for Use of Subscription Material is between Lexipol, LLC, a Delaware limited liability company ("***Lexipol***"), and the Agency identified above. The Agreement consists of (a) this cover sheet; (b) ***Exhibit A*** (Subscriptions Being Purchased and Subscription Fees) attached to this cover sheet (consisting of 1 page), and (c) ***Exhibit B*** (General Terms and Conditions) attached to this cover sheet (consisting of 5 pages). Capitalized terms that are used in Exhibit A and not defined therein shall have the respective meanings given to them in Exhibit B.

AGENCY	**LEXIPOL, LLC**
Signature: _____	Signature: _____
Print Name: Paul M. Eaton	Print Name: _____
Title: Mayor	Title: Chief Executive Officer
Date Signed: _____	Date Signed: _____

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EXHIBIT A

SUBSCRIPTIONS BEING PURCHASED AND SUBSCRIPTION FEES

Agency is purchasing the following service(s):

POLICY MANUAL SUBSCRIPTIONS:		
Law Enforcement Policy Manual ~~& Daily Training Bulletins~~ ☑	Year 1 Pricing $3,200.00	Year 2 Pricing $3,200.00
Custody Policy Manual & Custody Daily Training Bulletins ☐	Year 1 Pricing $_____	Year 2 Pricing $_____
Fire Policy Manual & Fire Daily Training Bulletins ☐	Year 1 Pricing $_____	Year 2 Pricing $_____
Supplemental Manual(s)(Supplement to Policy manuals): Law Enforcement ☐ Custody ☐ Fire ☐	Year 1 Pricing $_____	Year 2 Pricing $_____
	Year 1 Total $3,200.00	**Year 2 Total $**3,200.00

Please complete all fields and place N/A where applicable.

(Chief/Sheriff Name) Michael deMoet
(Title) Chief of Police
(Chief/Sheriff Email) mdemoet@cityofmontclair.org
(Chief/Sheriff Direct Phone) (909) 448-3606

(Custody Facility Manager Name) N/A
(Title)
(Custody Fac. Mgr. Email)
(Custody Fac. Mgr Direct Phone)

(Name of Agency as you want it to appear on the manual) Montclair Police Department

(Agency Street Address) 4870 Arrow Highway
(City) Montclair
(State) CA
(Zip Code) 91763
(County) San Bernardino

(Custody Street Address – If different)
(City)
(State)
(Zip Code)
(County)

(Billing Address if different from above)
(City)
(State)
(Zip Code)

(Agency Phone) (909) 448-3600
(Fax) (909) 626-4892
(Email)

(Risk Management Group/Insurance Pool)
(Accreditation Agency)
(Agency Fiscal Year End) June 30, 2015

(No. of Authorized Sworn Officers) 53
(If Custody - No. of Beds)
(If Fire - No. of Authorized Staff)
(Agency Website) cityofmontclair.org

(LE Primary User Full Name) Robert Avels
(Title) Captain
(LE Primary User Phone) (909) 448-3602
(LE Primary User Email) ravels@cityofmontclair.org

(Custody Primary User Full Name)
(Title)
(Custody Primary User Phone)
(Custody Primary User Email)

(Fire Primary User Full Name)
(Title)
(Fire Primary User Phone)
(Fire Primary User Email)

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Rev 3/11/15

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. Definitions. For purposes of this Agreement, each of the following terms will have the meaning indicated in this Section:

1.1 Agency's Account. "***Agency's Account***" means the account by which Agency accesses the Subscription Materials.

1.2 Agreement. "***Agreement***" means (a) the cover sheet to which these General Terms and Conditions are attached, (b) Exhibit A (Subscriptions Being Purchased and Subscription Fees) attached to that cover sheet, and (c) these General Terms and Conditions.

1.3 Contract Year. "***Contract Year***" means the twelve-month period commencing on the Effective Date and each twelve-month period commencing on each anniversary of the Effective Date, except as may otherwise be modified by Section 2.1 Term below.

1.4 Derivative Work. "***Derivative Work***" means a work that is based on the Subscription Material or any portion thereof, such as a revision, modification, abridgement, condensation, expansion, or any other form in which the Subscription Material or any portion thereof may be recast, transformed, or adapted. For purposes of this Agreement, a Derivative Work also includes any compilation that incorporates any portion of the Subscription Material. Further, "***Derivative Work***" includes any work considered a "derivative work" under United States copyright law.

1.5 Effective Date. "***Effective Date***" means the date specified on the cover sheet to which these General Terms and Conditions are attached.

1.6 Subscription Materials. "***Subscription Materials***" means the policy manuals, supplemental policy publications, daily training bulletins and other materials provided by Lexipol to Agency from time to time during the term of this Agreement under the subscriptions purchased by Agency as specified in Exhibit A.

2. Term and Termination.

2.1 Term. This Agreement is effective upon the execution and delivery of this Agreement by both Lexipol and Agency, and shall continue in effect until the expiration of the first Contract Year (the "***Initial Term***"); provided, however, that the term of this Agreement will automatically be extended for successive one-year periods thereafter (each a "***Renewal Term***"), unless either party gives written notice to the other party to the contrary not less than thirty (30) days prior to the expiration of the Initial Term or the then current Renewal Term, as the case may be. Notwithstanding the foregoing, however, this Agreement will be subject to termination as provided in Section 2.2 below.

2.2 Termination. This Agreement may be terminated by either party, effective immediately, (a) in the event that the other party fails to discharge any obligation or remedy any default under this Agreement for a period of more than thirty (30) calendar days after it has been given written notice of such failure or default; or (b) in the event that the other party makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to the bankruptcy laws of any applicable jurisdiction.

2.3 Effect of Expiration or Termination. Upon the expiration or termination of this Agreement, all of the rights granted to Agency by this Agreement to the subscriptions identified on Exhibit A shall automatically terminate. The termination or expiration of this Agreement shall not, however,

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relieve either party from any obligation or liability that has accrued under this Agreement prior to the date of such termination or expiration. The right to terminate this Agreement pursuant to Section 2.2 above shall be in addition to, and not in lieu of, any other remedy, legal or equitable, to which the terminating party shall be entitled at law or in equity. The provisions of Sections 1 (Definitions), 4 (Copyright; Derivative Works; Lexipol's Ownership), 5 (Right to Use; Limitations on Use of Subscription Material and Derivative Works), 7 (Privacy Policy), 8 (Policy Adoption), 9 (Indemnification), 10 (Limitation of Liability), 12 (Miscellaneous), and this Section 2.3 shall survive the expiration or termination of this Agreement for any reason whatsoever.

3. Subscription Fees, Etc.

3.1 Subscription Fees/Invoicing. Lexipol will invoice Agency at the commencement of the Subscription Service and thirty (30) days prior to the date for each Renewal Term (refer to 2.1 above). Agency will pay to Lexipol the subscription fees specified on Exhibit A within thirty (30) days following Agency's receipt of the invoice for such subscription and renewal fees. All invoices will be sent to Agency at the address for Agency specified on the cover sheet to which these General Terms and Conditions are attached. All payments will be made to Lexipol at the address for Lexipol specified on the cover sheet to which these General Terms and Conditions are attached.

3.2 Taxes; Past Due Amounts. All amounts required to be paid under this Agreement, unless otherwise stated on Exhibit A, are exclusive of all taxes and similar fees now in force or enacted in the future imposed on the subscriptions purchased by Agency under this Agreement and/or delivery by Lexipol to Agency of Subscription Material, all of which Agency will be responsible for and will pay in full, except for taxes based on Lexipol's net income. In the event any amount owed by Agency is not paid when due, and such failure is not cured within ten (10) days after written notice thereof from Lexipol, then in addition to any other amount due, Agency shall pay a late payment charge on the overdue amount at a rate equal to the lower of (a) one percent (1%) per month, or (b) the highest rate permitted by applicable law.

4. Copyright; Derivative Works; Lexipol's Ownership. Agency acknowledges and agrees that the Subscription Material is a proprietary product of Lexipol, protected under U.S. copyright law, and that Lexipol reserves all rights not expressly granted in this Agreement. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants Agency the right to prepare Derivative Works, except as limited by the terms of this agreement; provided, however, that Agency acknowledges and agrees that Lexipol will be the sole owner of all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto, and Agency hereby assigns and transfers to Lexipol all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto. Agency will not remove from any copies of the Subscription Material provided by Lexipol to Agency any copyright notice or other proprietary notice of Lexipol appearing thereon, and shall include such copyright and other notices at the appropriate place on each copy of the Subscription Material and each copy of any Derivative Work made by or for Agency, in any form.

5. Right to Use; Limitations on Use of Subscription Material and Derivative Works. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants to Agency a perpetual, personal, fully paid-up, right to use, except as limited by the terms of this agreement the Subscription Material and any Derivative Works prepared by or for Agency, solely for the Agency's internal purposes. Agency will not use, copy, republish, lend, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means or medium, electronic or mechanical, or by any information storage and retrieval system, any Subscription Material or any Derivative Work prepared by or for Agency other than as expressly authorized by the immediately preceding sentence. Without limiting the generality of the foregoing, Agency will not import, upload, or otherwise make available any Subscription Material or any Derivative Work prepared by or for Agency into or onto any third party knowledge, document, or other content management system or service without Lexipol's prior written consent. The foregoing does not, however, prohibit or restrict Agency from providing Subscription Material or Derivative Works prepared by

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or for Agency pursuant to an order from a court or other governmental agency or other legal process, nor does it prohibit or restrict Agency from displaying the adopted/approved final policy document on a publicly accessible website for official Agency purposes, so long as Agency includes the appropriate copyright and other proprietary notices on such final policy document as required by in Section 4 above.

6. **Account Security**. Agency is solely responsible for maintaining the confidentiality of Agency's user name(s) and password(s) and the security of Agency's Account. Agency will not permit access to Agency's Account, or use of Agency's user name(s) and/or password(s) by any person or entity other than authorized Agency personnel. Agency will immediately notify Lexipol in writing if Agency becomes aware that any person or entity other than authorized Agency personnel has used Agency's Account or Agency's user name(s) and/or password(s).

7. **Privacy Policy**. Lexipol will hold all information Agency provides in confidence unless required to provide information in accordance with an order from a court or other governmental agency or other legal process. Agency acknowledges that Lexipol may provide view-only access and summary information to the Agency's affiliated Risk Management Authority, Insurance Pool or Group if they have provided an economic subsidy. Lexipol will use commercially reasonable efforts to ensure the security of Lexipol's systems and to protect the confidentiality of information Lexipol receives from Agency. Lexipol's system uses Secure Socket Layer (SSL) Protocol for browsers supported by Lexipol application(s). SSL encrypts information as it travels between the Agency and Lexipol. However, Agency acknowledges and agrees that Internet data transmission is not always 100% secure and Lexipol does not warrant or guaranty that information Agency transmits utilizing the Lexipol system or online platform is 100% secure.

8. **Policy Adoption**. Agency hereby acknowledges and agrees that any and all policies included in the Subscription Material provided by Lexipol have been individually reviewed, customized and adopted by Agency for use by Agency. Agency further acknowledges and agrees that neither Lexipol nor any of its agents, employees or representatives shall be considered "policy makers" in any legal or other sense and that the chief executive of Agency will, for all purposes, be considered the "policy maker" with regard to each and every such policy.

9. **Disclaimer of Liability**. In developing the Subscription Materials, Lexipol has made a good faith effort to comply with all applicable statutes, case law and industry standards in effect at the time such Subscription Materials are provided to Agency. While Lexipol has made such a good faith effort, Agency acknowledges and agrees that Lexipol its officers, agents, managers, and employees will have no liability to Agency or any other person or entity arising from or related to the Subscription Materials, or any act or omission by Agency or its personnel pursuant to, or in reliance on, any of the Subscription Materials.

10. **Limitation of Liability**. Lexipol's cumulative liability to Agency and any other person or entity for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement or the use of any Subscription Materials shall not exceed the subscription fees actually paid to Lexipol for the use of the Subscription Materials under this Agreement during the twelve-month period immediately prior to the assertion of such claim, demand or action. In no event shall Lexipol be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits, even if Lexipol has been advised of the possibility of such damages. The limitations set forth in this Section shall apply whether Agency's claim is based on breach of contract, tort, strict liability, product liability or any other theory or cause of action.

11. **Non-Transferability**. The subscriptions and rights to use the Subscription Material granted by this Agreement are personal to Agency and Agency shall not assign or otherwise transfer the same to any other person or entity.

12. **Confidentiality**. From time to time during the term of this Agreement, a party may be required to disclose information to the other party that is marked "confidential" or the like, or that is of such a type that the confidentiality thereof is reasonably apparent ("Confidential Information"). The receiving party will: (a) limit disclosure of any Confidential Information of the other party to the receiving party's directors, officers, employees, agents and other representatives (collectively "Representatives") who have a need to know

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such Confidential Information in connection with the business relationship between the parties to which this Agreement relates, and only for that purpose; (b) advise its Representatives of the confidential nature of the Confidential Information and of the obligations set forth in this Agreement and require such Representatives to keep the Confidential Information confidential and to use it only as permitted by this Agreement; (c) keep all Confidential Information confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information received by it to any third party (except as otherwise provided for herein). Notwithstanding the foregoing, however, a party may disclose Confidential Information of the other party pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request or similar method, provided that the party proposing to make any such disclosure will promptly notify, to the extent practicable, the other party in writing of such demand for disclosure so that the other party may, at its sole expense, seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Each party shall be responsible for any breach of this Section by any of such party's Representatives.

13. Miscellaneous.

13.1 Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.

13.2 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto and hereby expressly supersedes any and all prior written and oral agreements and understandings with respect to the subject matter hereof, including without limitation any and all agreements and understandings pertaining to the use of the Subscription Materials by Agency. No representation, promise, inducement, or statement of intention has been made by any party hereto that is not embodied in this Agreement. Terms and conditions set forth in any purchase order, or any other form or document of Agency, which are inconsistent with, or in addition to, the terms and conditions set forth in this Agreement, are hereby objected to and rejected in their entirety, regardless of when received, without further action or notification by Lexipol, and shall not be considered binding on Lexipol unless specifically agreed to in writing by it.

13.3 Headings. The captions and other headings contained in this Agreement are for convenience only and shall not be considered a part of or affect the construction and interpretation of any provision of this Agreement.

13.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

13.5 Amendment. No amendment, modification, or supplement to this Agreement shall be binding unless it is in writing and signed by the party sought to be bound thereby.

13.6 Attorneys' Fees. If any action is brought by either party to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorneys' fees and expenses of litigation.

13.7 General Interpretation. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person or entity.

13.8 Notices. Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given by personal delivery, by certified mail, postage prepaid, or by recognized overnight delivery service to the appropriate party at the address of such party stated on the cover sheet

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to which these General Terms and Conditions are attached, or such other address as such party may indicate by a notice delivered to the other party in accordance with the terms of this Section. Alternatively, electronic mail or facsimile notice is acceptable when acknowledged by the receiving party.

13.9 **Invalidity of Provisions**. Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Further, if a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable, then the parties agree that the court should endeavor to give effect to the parties' intention as reflected in such provision to the maximum extent possible.

13.10 **Waiver**. Lexipol's failure to exercise, or delay in exercising, any right or remedy under any provision of this Agreement shall not constitute a waiver of such right or remedy.

End of General Terms and Conditions

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AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-34 WITH THE COUNTY OF SAN BERNARDINO RELATED TO DISTRIBUTION OF THE 2015 JUSTICE ASSISTANCE GRANT AWARD CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	5
		FILE I.D.:	PDT175/PDT362
		DEPT.:	POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-34 with the County of San Bernardino regarding distribution of Justice Assistance Grant (JAG) Program funds.

A copy of proposed Agreement No. 15-34 is attached for the City Council's review and consideration.

BACKGROUND: The Police Department has been notified it is eligible to receive a $14,167 JAG Program award. The JAG Program requires that the state's allocation for municipal agencies in the region be distributed and administered directly through San Bernardino County. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, shall disburse appropriate grant allocations to eligible jurisdictions, less a five percent administrative fee as allowable under JAG guidelines. Such appropriations must be made within 60 days of receipt of grant funds by the JAG Program Administrator.

JAG moneys are for the exclusive use of law enforcement services and programs. These funds shall supplement existing services and shall not be used to supplant any existing funding for law enforcement services.

FISCAL IMPACT: Approval of proposed Agreement No. 15-34 would result in a $13,459 JAG Program fund allocation to the Police Department's Fiscal Year 2015-14 Budget. The San Bernardino County Board of Supervisors would retain a five percent administrative fee of $708.

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

1. Approve Agreement No. 15-34 with the County of San Bernardino related to distribution of the 2014 Justice Assistance Grant Award.

2. Authorize the City Manager to sign the Agreement.

Prepared by:	Trudy Bon	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Sharon P. Agajanian	Reviewed and Approved By:	M. DeMoet

INTERLOCAL AGREEMENT
BETWEEN THE TOWN OF APPLE VALLEY, THE CITIES OF ADELANTO, BARSTOW, CHINO, COLTON, FONTANA, HESPERIA, HIGHLAND, MONTCLAIR, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, UPLAND, VICTORVILLE, AND THE COUNTY OF SAN BERNARDINO, CA

CONCERNING DISTRIBUTION OF THE 2015 JUSTICE ASSISTANCE GRANT AWARD

This Agreement is made and entered into this 23rd day of June, 2015, by and between THE COUNTY OF SAN BERNARDINO, acting by and through its governing body, the Board of Supervisors (hereinafter referred to as "COUNTY"), and the aforementioned TOWN (hereinafter referred to as "TOWN") and named CITIES (hereinafter referred to as "CITIES"), acting by and through their respective governing bodies, the Town Council and City Councils, all of whom are situated within the County of San Bernardino, State of California, as follows:

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected on Appendix 1 here attached and hereby incorporated by reference as part of this agreement; and COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of TOWN's and CITIES' programs during the entire permissible duration of said programs; and TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with JAG guidelines; and TOWN and CITIES each agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected on Appendix 1 for administrative fees toward the administration of this program; and additionally the TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines, and that the interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines; and

WHEREAS, the TOWN, CITIES and COUNTY believe it to be in their best interests to reallocate the JAG funds,

NOW THEREFORE, the COUNTY and TOWN and CITIES agree as follows:

Section 1.

COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected in Appendix 1 here attached and hereby incorporated by reference as part of this Agreement, and; COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of the TOWN's and CITIES' programs during the entire permissible duration of said programs.

Section 2.

TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with the JAG guidelines; and TOWN and CITIES agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected in Appendix 1, for administrative fees toward the administration of this program, and; TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines and that all interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines.

Section 3.

TOWN and CITIES agree to enter into a sub-award grant agreement with the COUNTY in order to acknowledge receipt of the federal award information and applicable compliance requirements, including special conditions for each sub-award, before receiving grant funds.

Section 4.

TOWN and CITIES agree to provide COUNTY with sufficient timely information as necessary within five business days after receiving written request from COUNTY to meet JAG requirements for quarterly and annual financial and performance reports.

Section 5.

Nothing arising from this Agreement shall impose any liability for claims or actions against COUNTY other than what is authorized by law.

Section 6.

Nothing arising from this Agreement shall impose any liability for claims or actions against TOWN and/or CITIES other than what is authorized by law.

Section 7.

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable to any other party to this Agreement for any claim or action arising from the services provided under this Agreement.

Section 8.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 9.

By entering into this Agreement, the parties do not intend to create any obligations, either express or implied, other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

WHEREFORE, all parties freely and voluntarily agree to all of the above terms.

TOWN OF APPLE VALLEY, CA

_____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

COUNTY OF SAN BERNARDINO, CA

_____
James Ramos
Chair, County Board of Supervisors

ATTEST:

_____
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

*Jean-Rene Basle
County Counsel

_____
by: Phebe W. Chu, Deputy

*By law, the County Counsel's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our clients. Our approval of this document was offered solely for the benefit of our clients. Other parties should not rely on this approval and should seek review and approval by their own respective attorneys.

WHEREFORE, all parties freely and voluntarily agree to all of the above terms.

CITY OF ADELANTO, CA

_____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

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City Attorney

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CITY OF BARSTOW, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

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CITY OF CHINO, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF COLTON, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

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CITY OF FONTANA, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

_____
City Attorney

CITY OF HESPERIA, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

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CITY OF HIGHLAND, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

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CITY OF MONTCLAIR, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF ONTARIO, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF RANCHO CUCAMONGA, CA

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City Manager

ATTEST:

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City Clerk

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City Attorney

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CITY OF REDLANDS, CA

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Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF RIALTO, CA

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City Administrator

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF SAN BERNARDINO, CA

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Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF UPLAND, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF VICTORVILLE, CA

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City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

_____
City Attorney

2015 Justice Assistance Grant
APPENDIX 1

Jurisdiction	Formula-based Allocation	5% Admin Fee	**Award Amount**
San Bernardino County	$ 75,121	$ (3,755)	$ 71,366
Adelanto	$ 13,822	$ (691)	$ 13,131
Apple Valley	$ 13,871	$ (694)	$ 13,177
Barstow	$ 15,300	$ (765)	$ 14,535
Chino	$ 19,612	$ (981)	$ 18,631
Colton	$ 13,280	$ (664)	$ 12,616
Fontana	$ 56,544	$ (2,827)	$ 53,717
Hesperia	$ 26,757	$ (1,338)	$ 25,419
Highland	$ 17,813	$ (891)	$ 16,922
Montclair	$ 14,167	$ (708)	$ 13,459
Ontario	$ 36,464	$ (1,823)	$ 34,641
Rancho Cucamonga	$ 23,283	$ (1,164)	$ 22,119
Redlands	$ 15,596	$ (780)	$ 14,816
Rialto	$ 35,060	$ (1,753)	$ 33,307
San Bernardino	$ 143,688	$ (7,184)	$ 136,504
Upland	$ 12,171	$ (609)	$ 11,562
Victorville	$ 49,596	$ (2,480)	$ 47,116
Total	$ 582,145	$ (29,107)	$ 553,038

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-35 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT TO PROVIDE AFTER-SCHOOL PROGRAMS	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	6
		FILE I.D.:	HSV030
		DEPT.:	HUMAN SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-35 with the Ontario-Montclair School District (OMSD) to provide after-school programs funded by the After-School Education and Safety Program (ASES) grant.

A copy of proposed Agreement No. 15-35 with OMSD is attached for the City Council's review and consideration.

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

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

Proposed Agreement No. 15-35 would provide funding through the ASES grant for after-school programs at the following 11 school sites: El Camino, Howard, Kingsley, Lehigh, Mission, Monte Vista, Montera, Moreno, Ramona, Serrano, and Vernon.

The total amount of funding for these 11 school sites is $1,303,293.24 and would be used to support academic, recreational, and enrichment activities for children in after-school programs.

The term of proposed Agreement No. 15-35 is July 1, 2015, through June 30, 2016.

FISCAL IMPACT: Should the City Council approve proposed Agreement No. 15-35, OMSD would pay the City of Montclair $1,303,293.24 to fund personnel, supplies, training, and grant oversight.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-35 with the Ontario-Montclair School District to provide after-school programs.

Prepared by:	M. Richter	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Vanessa Tom	Reviewed and Approved By:	M. Richter

OMSD Contract Number:

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

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into this 4th day of June by and between the Ontario-Montclair School District, hereinafter referred to as the "**DISTRICT**", and the City of Montclair, hereinafter referred to as the "**CONSULTANT**".

1. SERVICES TO BE PERFORMED BY CONSULTANT.

a) **CONSULTANT** agrees to perform the following services on the dates and times herein stated in accordance with directions stipulated to by **DISTRICT** (provide attachment if necessary)**:**

See Attachment A for a complete description of services, and Schedule A for a detailed list of schools.

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

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

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

2. COMPENSATION.

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

See Attachment B for Payment Schedule A for a detailed description of compensation.

Compensation for services rendered under this Agreement shall not exceed a total amount of $1,303,293.24.

DISTRICT will pay no additional amount for travel or other expenses of **CONSULTANT** under this Agreement unless specified below. Should travel or other expenses be specified below, **CONSULTANT** shall be entitled to the lesser amount of

1. The not to exceed amount stated, or
2. The actual amount expended. Supporting documentation for the authorized travel or other expenses shall be attached to this Agreement.

No modifications to section 2(a).

b) If this Agreement is with an individual consultant, **CONSULTANT** shall notify the **DISTRICT** whether or not **CONSULTANT** is a retired member of the California State Teacher's Retirement System (STRS) or the California Public Employees Retirement System (PERS).

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

3. <u>TERM OF AGREEMENT.</u>

The term of this Agreement is from July 1, 2015 through June 30, 2016, unless sooner terminated pursuant to the provisions of Section 6 of this Agreement. **DISTRICT** and **CONSULTANT** may mutually agree in writing to extend the term of this Agreement provided, however, **DISTRICT** shall not be obligated to pay **CONSULTANT** any additional consideration unless **CONSULTANT** undertakes additional services, in which instance the consideration shall be increased as **DISTRICT** and **CONSULTANT** shall agree in writing.

4. <u>OBLIGATIONS OF CONSULTANT.</u>

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

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

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

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

agrees to immediately notify the **DISTRICT** and remove said employee from performing services on this Agreement.

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

f) During the entire term of this Agreement, **CONSULTANT** shall procure, pay for and keep in full force and effect the following types of insurance:

1. Comprehensive general liability insurance, including owned and non-owned automobile (vehicle) liability insurance with respect to the services provided by, or on behalf of, **CONSULTANT** under this Agreement. All insurance policies shall state the name of the insurance carrier and name **DISTRICT** as an additional insured. Liability insurance for death, bodily injury and property damage shall be for no less than One Million dollars ($1,000,000) per occurrence.
2. The policies of insurance described in Paragraph (f) l. above shall be carried with responsible and solvent insurance companies authorized to do business in the State of California. True and correct copies of all certificates of insurance reflecting the coverage required in Paragraph (f) 1. above are attached hereto. **CONSULTANT** agrees that it shall not cancel or change the coverage provided by the policies of insurance described in Paragraph (f) 1. above without first giving the **DISTRICT**'s Assistant Superintendent, Business Services, thirty (30) days prior written notice. Should any such policy of insurance be canceled or changed, **CONSULTANT** agrees to immediately provide **DISTRICT** true and correct copies of all new or revised certificates of insurance.

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

5. <u>OBLIGATIONS OF DISTRICT</u>.

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

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

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

6. TERMINATION OF AGREEMENT.

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

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

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

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

No modifications to section 6(d).

7. GENERAL PROVISIONS.

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

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

1. Increase dollar amounts;
2. Administrative changes; and
3. Changes as required by law.

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

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

e) Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records and files of **DISTRICT**, **CONSULTANT**, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars ($10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the State Auditor General of the State of California, at the request of the **DISTRICT** or as a part of any audit of **DISTRICT**, for a period of three (3) years after final payment is made under this Agreement. **CONSULTANT** shall preserve and cause to be preserved such books, records and files for the audit period.

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

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

"DISTRICT"	**"CONSULTANT"**
By: _____	By: _____
Signature	Signature
Phil Hillman	Paul M. Eaton
Printed Name	Printed Name
Chief Business Official	Mayor
Title	Title
_____	_____
Date	Date
950 West D Street	5111 Benito Street
Address	Address
Ontario, CA 91760	Montclair, CA 91763
City, State, Zip	City, State, Zip
(909) 459-2500	(909) 625–9453
Telephone Number	Telephone Number

Attest: _____

Andrea Phillips, Deputy City Clerk

Date of Governing Board's Approval:	_____

Certification of Compliance with California Education Code Section 45125.1

I hereby certify that all owners and employees of City of Montclair ("**CONSULTANT**") who may come in contact with pupils and are required by California Education Code Section 45125.1 to submit or have their fingerprints submitted to the Department of Justice have now done so, that I have received and reviewed the report and that none of the foregoing have been convicted of a felony as defined in California Education Code Section 45122.1. The Ontario-Montclair School District is entitled to rely upon this representation. **CONSULTANT** hereby agrees to indemnify Ontario-Montclair School District for any and all claims, damages, suits and liability that arise out of, relate to or is associated with a failure of **CONSULTANT** to comply with California Education Code Section 45125.1 or with a failure to exercise reasonable care with respect to proper selection and/or supervision of **CONSULTANT's** employees who may come in contact with pupils.

" CONSULTANT"

_____
Signature

Paul M. Eaton
Printed Name

Mayor, City of Montclair
Title

5111 Benito Street
Address

Montclair, CA 91763
City, State, Zip

(909) 626-8571
Telephone Number

_____
Andrea Phillips, Deputy City Clerk

END OF AGREEMENT FOR CONSULTANT SERVICES

Attachment A

Contract No.: C-
CONSULTANT: City of Montclair

1) Services to be performed by **CONSULTANT**

a) **CONSULTANT** agrees to perform the following services on the dates and times herein stated in accordance with directions stipulated to by **DISTRICT** (provide attachment if necessary)**:**

i) **CONSULTANT** will provide staff and materials to operate the after-school program services at the following sites: El Camino, Howard, Kingsley, Lehigh, Mission, Monte Vista, Moreno, Montera, and Ramona elementary schools as well as Serrano and Vernon middle schools.

ii) **CONSULTANT** will have the following responsibilities in support of the ASES program:

(1) Coordinate the academic assistance, homework support, and enrichment portions of the ASES program at each school site.

(2) Hire, train, and supervise site staff, including the learning coordinators and learning leaders.

(3) Seek regular input from principals regarding performance evaluations, including recommendations for retraining and terminating a site coordinator and/or other site staff.

(4) Participate in all cross training for learning coordinators and learning leaders.

(5) Maintain ongoing communication between City of Montclair staff and school staff regarding student needs and progress, including, but not limited to attendance at school-day meetings and/or one-on-one meetings with teachers.

(6) Coordinate ASES activities with school staff to assure program supports current academic goals of teachers and administrators.

(7) Provide academic assistance and other activities specifically supporting, but not duplicating, daytime curriculum and academic goals.

(8) Foster communication with and involvement of parents through parent orientations, parent handbook, development and distribution of periodic newsletters, and hosting, at a minimum, one parent night.

(9) Regularly attend and participate in regularly scheduled governance and operation meetings.

(10) Provide the **DISTRICT**, in a timely manner, with any required documentation, such as, but not limited to, monthly program evaluations, attendance, and snack counts.

Attachment B

Contract No.: C-
CONSULTANT: City of Montclair

1) Compensation
   a) Except as otherwise provided in this Agreement, **DISTRICT** agrees to compensate **CONSULTANT** for services rendered under this Agreement as follows:
      i) **CONSULTANT** will be paid 92.5% of grant award from the California Department of Education (henceforth **CDE**), according to Schedule A, attached hereto.
      ii) Administrative costs may not exceed 7.5% of grant award from **CDE**, according to Schedule A, attached hereto.
      iii) If **DISTRICT** fails to receive 2015-2016 ASES grant funding, **CONSULTANT** will hold **DISTRICT** harmless for any financial liabilities or obligations it has incurred.
      iv) Timing and amounts of payments will be made according to Schedule A, attached hereto. If the funds received from **CDE** change, a pro rata adjustment to the maximum amount available for payment to **CONSULTANT** will be made.
      v) **CONSULTANT** fee will only be paid out of funds received by **DISTRICT** from the State and only up to the limits of this agreement.
      vi) **CONSULTANT** is to provide documentation necessary for annual independent audits, in accordance with **CDE** requirements. Any additional audit cost bill to **DISTRICT** due to lack of documentation will be billed to **CONSULTANT** for payment.

Schedule A

Contract No.: C-
CONSULTANT: City of Montclair

Ontario-Montclair School District
ASES Payment Schedule—City of Montclair
July 1, 2015 through June 30, 2016

Schedule A

No.	School	Program	Allocation	7.50% Admin	Balance	Tenthly Payment
060	El Camino	ASES After-school Base	112,500.00	8,437.50	104,062.50	10,406.25
064	Howard	ASES After-school Base	112,500.00	8,437.50	104,062.50	10,406.25
065	Kingsley	ASES After-school Base	120,060.00	9,004.50	111,055.50	11,105.55
066	Lehigh	ASES After-school Base	122,850.00	9,213.75	113,636.25	11,363.63
071	Mission	ASES After-school Base	131,694.75	9,877.11	121,817.64	12,181.76
072	Monte Vista	ASES After-school Base	160,080.00	12,006.00	148,074.00	14,807.40
073	Moreno	ASES After-school Base	112,500.00	8,437.50	104,062.50	10,406.25
045	Montera	ASES After-school Base	98,550.00	7,391.25	91,158.75	9,115.88
074	Ramona	ASES After-school Base	112,500.00	8,437.50	104,062.50	10,406.25
382	Serrano	ASES After-school Base	102,601.50	7,695.11	94,906.39	9,490.64
383	Vernon	ASES After-school Base	63,789.00	4,784.18	59,004.82	5,900.48
065	Kingsley	ASES Supplemental	27,635.00	2,072.63	25,562.37	2,556.24
066	Lehigh	ASES Supplemental	36,855.00	2,764.13	34,090.87	3,409.09
071	Mission	ASES Supplemental	39,508.43	2,963.13	36,545.30	3,654.53
072	Monte Vista	ASES Supplemental	30,636.00	2,297.70	28,338.30	2,833.83
382	Serrano	ASES Supplemental	24,706.00	1,852.95	22,853.05	2,285.31
			1,408,965.68	105,672.44	1,303,293.24	130,329.34

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-36 WITH THE SAN BERNARDINO COUNTY DEPARTMENT OF AGING AND ADULT SERVICES TO PROVIDE A SENIOR CITIZEN NUTRITION PROGRAM	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	7
		FILE I.D.:	HSV105
		DEPT.:	HUMAN SVCS.

REASON FOR CONSIDERATION: San Bernardino County Department of Aging and Adult Services (DAAS) has presented a contract for the Senior Citizen Nutrition Program for City Council approval.

A copy of proposed Agreement No. 15-36 is attached for the City Council's review and consideration.

BACKGROUND: The San Bernardino County Department of Aging and Adult Services has awarded the City a contract to provide a Senior Citizen Nutrition Program for older adults, ages 60 and over. The Fiscal Year 2015-16 grant amount of $145,000 would be used for part-time salaries, consultant fees, training, consumable supplies, and catering services needed to operate the program. The City of Montclair is contracted to serve annually 22,217 meals and provide 251 days of service.

The term of proposed Agreement No. 15-36 is July 1, 2015, through June 30, 2016.

FISCAL IMPACT: Should Agreement No. 15-36 be approved, the grant in the amount of $145,000 would be awarded to the City. These funds have been allocated to the City through Title III of the Older Americans Act.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-36 with the San Bernardino County Department of Aging and Adult Services to provide a Senior Citizen Nutrition Program.

Prepared by:	M. Richter	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Vanessa Tom	Reviewed and Approved By:	M. Richter

SAN BERNARDINO COUNTY

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

☐ New ☒ Change ☐ Cancel	FAS Vendor Code CITYOFM731	**SC**	Dept. OOA	**A**	Contract Number 13-547 A-4
ePro Vendor Number 00003363					ePro Contract Number 146519
County Department Department of Aging and Adult Services		Dept. OOA	Orgn.		Contractor's License No.
County Department Contract Representative Becky Giroux		Telephone (909) 386-8146			Total Contract Amount NOT TO EXCEED $358,787

Contract Type: ☐ Revenue ☒ Encumbered ☐ Unencumbered ☐ Other:

If not encumbered or revenue contract type, provide reason:

Commodity Code	Contract Start Date	Contract End Date	Original Amount	Amendment Amount
95200	July 1, 2013	June 30, 2016	$86,204	$145,000

Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount
AAF	OOA	210	300	3357		$109,380
AAF	OOA	235	300	3357		$10,810
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization		Obj/Rev Source	GRC/PROJ/JOB No	Amount

Project Name	Estimated Payment Total by Fiscal Year					
	FY	Amount	I/D	FY	Amount	I/D
Elderly Nutrition Program	15/16	$120,190	I			

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

Name
City of Montclair

hereinafter called Contractor

Address
5111 Benito Street

Montclair, CA 91763

Telephone
(909) 626-8571

Federal ID No. or Social Security No.

IT IS HEREBY AGREED AS FOLLOWS*:*

AMENDMENT NO. 4:

It is hereby agreed to amend Contract No. 13-547 as follows:

Auditor-Controller/Treasurer/Tax Collector Use Only		*CAO Use Only*	
☐ Contract Database	☐ FAS	Not required for mid fiscal year cancellations	
Input Date	Keyed By	Effective Date	Analyst Initials

III. CONTRACTOR GENERAL RESPONSIBILITIES

Paragraph Q, Item 11f is added to read as follows:

f. For Cyber (internet) and Electronic Data Processing (EDP) contracts – Cyber Liability Insurance with limits of no less than $1,000,000 for each occurrence or event with an annual aggregate of $2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

Paragraph T is amended to read as follows:

T. Contractor agrees to and shall comply with the County's Equal Employment Opportunity Program, Employment Discrimination, and Civil Rights Compliance requirements:

1. Equal Employment Opportunity Program: The Contractor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and all rules and regulations adopted pursuant thereto: Executive Orders 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250; Title VII of the Civil Rights Act of 1964; Division 21 of the California Department of Social Services Manual of Policies and Procedures; California Welfare and Institutions Code section 10000), the California Fair Employment and Housing Act; and other applicable federal, state, and county laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.

2. Employment Discrimination: During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

3. Civil Rights Compliance: The Contractor shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with the County Human Services Contracts Unit within 30 days of awarding of the Contract. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, the County shall supply a sample of the Plan format. The Contractor shall be monitored by the County for compliance with provisions of its Civil Rights Plan. Additionally, the Contractor shall submit to County an Assurance of Compliance with the California Department of Social Services Nondiscrimination in State and Federally Assisted Programs Statement annually.

V. FISCAL PROVISIONS MANAGEMENT

Paragraph A is amended to read as follows:

A. The maximum amount of reimbursement under this Contract shall not exceed $358,787, of which $351,766 may be federally funded, and shall be subject to availability of funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's approved and allowable services and expenses incurred in the performance hereof, including travel and per diem. These funds are divided as follows:

Original Contract	July 1, 2013 through June 30, 2014	$86,204
Amendment No. 1	July 1, 2013 through June 30, 2014	No Change
Amendment No. 2	July 1, 2014 through June 30, 2015	$89,149
Amendment No. 3	Increase for February 1, 2015 through June 30, 2015	$38,434
Amendment No. 4	July 1, 2015 through June 30, 2016	$145,000

Paragraph B is amended to read as follows:

B. Contractor shall be compensated on a reimbursement basis, not to exceed the cost per meal rates shown below:

2015/16 Congregate Site $6.04 per meal, up to 22,217 meals

Notwithstanding the fee-for-service amounts shown above, the total funds payable to Contractor by DAAS shall not exceed 1) the maximum amount shown in Paragraph A above, or 2) the total allowable cost reported by Contractor for services provided pursuant to this Contract.

Paragraph C, Item 2 is amended to read as follows:

2. Contractor shall provide a minimum of $14,776 in matching contributions for 2015-16, which is the amount of Federal Title III funds provided under the Contract multiplied by 11.11% (Attachment P).

VIII. TERM is amended to read as follows:

This Contract is effective as of July 1, 2013 and expires June 30, 2016, but may be terminated earlier in accordance with provisions of Section IX of the Contract.

ATTACHMENT A – SCOPE OF WORK 2015-16 is added to this contract.

ATTACHMENT N – PAYMENTS, BUDGETS, CLOSEOUT, AND AUDITS FOR FISCAL YEAR 2015-16 is added to this Contract.

ATTACHMENT O – PROGRAM BUDGET July 1, 2015 through June 30, 2016 is added to this Contract.

ATTACHMENT P – MATCHING FUNDS NARRATIVE July 1, 2015 through June 30, 2016 is added to this Contract.

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

COUNTY OF SAN BERNARDINO

►_____
James Ramos, Chairman, Board of Supervisors

Dated: _____

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

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

By _____
Deputy

_____City of Montclair_____
(Print or type name of contractor)

By ►_____
(Authorized signature - sign in blue ink)

Name ____Paul M. Eaton_____
(Print or type name of person signing contract)

Title _____Mayor_____
(Print or Type)

Dated:_____

Address___5111 Benito Street_____

___Montclair, CA 91763_____

Approved as to Legal Form	Reviewed by Contract Compliance	Presented to BOS for Signature
►_____	►_____	►_____
Jacqueline Carey-Wilson, Deputy County Counsel	Regina Dalton, Contracts Manager	Ron Buttram, Director
Date_____	Date_____	Date_____

San Bernardino County
Elderly Nutrition Program
Scope of Work
2015-16
July 1, 2015

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

Contractor: City of Montclair

Service Area: Montclair

I. Program Description:

A. Purpose – The purpose of the ENP is to provide nutrition services as described in the Older Americans Act (OAA) of 1965, as amended, and to assist older individuals in California to live independently, by promoting better health through improved nutrition, and reduced isolation through programs coordinated with nutrition-related supportive services.

B. Definition – Nutrition Services means the procurement, preparation, transport, and service of meals, nutrition education, nutrition screening, and nutrition counseling, to eligible individuals at congregate sites or in their homes.

C. Goals – to maintain or improve the physical, psychological, and social well-being of older individuals, by providing or securing appropriate nutrition services.

D. Objectives:

1. Give preference to older individuals in greatest economic or social need with particular attention to low-income minority individuals.
2. Serve meals that provide one-third (1/3) of the Dietary Reference Intakes (DRI's) and are safe and of good quality.
3. Promote and maintain high food safety and sanitation standards.
4. Promote good health behaviors through nutrition education and nutrition screening of participants.
5. Promote or maintain coordination with other nutrition-related supportive services for older individuals.

E. Target Population – The ENP Provider shall target individuals who are sixty (60) years of age or older, minorities, low income and living in rural areas of the County of San Bernardino.

II. Eligibility for Nutrition Services:

A. Congregate Meals – Individuals eligible to receive a meal at a congregate nutrition site are:

1. Any older individual 60 or older.
2. The spouse of any older individual 60 or older.
3. A person with a disability, under age sixty (60) who resides in housing facilities occupied primarily by older individuals (60 or older) at which congregate nutrition services are provided.
4. A disabled individual who resides at home with and accompanies an older individual who participates in the program.

B. Volunteer Meals:

1. A volunteer under age sixty (60) may be offered a meal if doing so will not deprive an older individual who is 60 or older of a meal.

C. Home-Delivered Meals – Individuals eligible to receive a home-delivered meal are:

1. Any older individual who is frail, as defined below, and homebound by reason of illness, disability, or isolation:
   a. "Frail" means that an older individual is determined to be functionally impaired because the individual either:

1) Is unable to perform at least two (2) activities of daily living, including bathing, toileting, dressing, feeding, breathing, transferring and mobility and associated tasks, without substantial human assistance, including verbal reminding, physical cueing or supervision.
2) Due to a cognitive or other mental impairment, requires substantial supervision because the older individual behaves in a manner that possess a serious health or safety hazard to the individual or to others.

2. A spouse of a person in sub-section (C)(1) above, regardless of age or condition, if an assessment concludes that it is in the best interest of the homebound older individual.
3. An individual with a disability who resides at home with older individuals if an assessment concludes that it is in the best interest of the homebound older individual who participates in the program.
4. Priority shall be given to older individuals in sub-section (C)(1) above.

III. Requirements for Nutrition Services:

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

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

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

IV. Program Outcomes:

A. Total Number of Meals to be Served: 22,217**

1. A minimum of 95% of the total number of meals is to be provided. The Director of DAAS must approve requests to serve less than 95% of the total number of meals to be provided. All such requests must be in writing.

Program: C-1 (Congregate Meals)	Program C-2 (Home-Delivered Meals)
# of Days of Service: 249	# of Days of Service: N/A
Number of Meals: 22,217	Number of Meals: N/A
Sites to be Served: City of Montclair Community/Senior Center	Areas to be Served: N/A

V. Staffing:

A. Manager or Director:

1. The ENP provider shall have a manager on staff who shall conduct the day-to-day management and administrative functions of the ENP, and either have (1), (2), or (3):
   a. Possess an associate degree in institutional food service management, or a closely related field, such as, but not limited to, restaurant management, plus two (2) years' experience as a food service supervisor, or,
   b. Demonstrate experience in food service, such as, but not limited to, cooking at a restaurant, and within twelve (12) months of hire successfully complete a minimum of twenty (20) hours specifically related to food service management, business administration, or personnel management at a college level. Prior to completion of meeting the hours, this individual's performance shall be evaluated through quarterly monitoring by a registered dietitian, or,
   c. Two years' experience managing food services. Such experience shall be verified and approved by a registered dietitian prior to hire.
2. The ENP Provider shall maintain documentation on file of the qualifications of the Program Manager or staff.
3. If the Provider has more than one site, the Manager/Director shall monitor the sites on a bi-monthly basis. The bi-monthly visit shall be for the purpose of monitoring the food service practices of the employees and the implementation of the program requirements at the site level. Documentation of each visit shall be maintained on file for DAAS review.

B. Personnel – Paid Staff/Volunteers:

1. There shall be sufficient qualified paid staff or volunteer staff with the appropriate education and experience to carry out the requirements of the ENP. The total number of staff should be based on the method and level of services provided and size of the service area.
2. Contractor is encouraged to hire multi-lingual/multi-cultural staff to increase low-income and ethnic minority program participation in accordance with federal mandates. Contractor shall recruit for vacant positions in an open and competitive application process free of discriminatory questions. Written job descriptions for all paid and volunteer staff shall be maintained.

3. Contractor shall complete a written work performance evaluation on all paid and volunteer staff at least annually.
4. All staff, paid and volunteer, that will be involved in food service operation or clean-up except home-delivered meal drivers must be in possession of a current San Bernardino County-issued Food Worker Card and Certificate.
5. Volunteers shall be recruited and used in any phase of the program operation where qualified.
6. Volunteers shall be screened and selected through a formal process that assesses their capabilities.
7. Volunteers shall receive the same training as paid staff.
8. Volunteers that are paid through other job training programs are not considered volunteers and must be paid the agreed upon rate charged for regular paid staff.
9. The ENP Provider shall maintain a written Volunteer Policy that describes how volunteers are recruited, screened, what topics they are taught at orientation, and how often their performance is evaluated.

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

VI. Staff Training Activities:

A. A yearly written Staff Training Plan shall be developed, implemented, and maintained on file by the ENP Provider, as required in Title 22, Division 1.8, Section 7636.7(c).
B. The Provider's Registered Dietitian shall review and approve the content of the Plan prior to presentation.
C. The Staff Training Plan must identify who is to be trained, who will conduct the training, content of the training, and when it is scheduled.
D. A copy of the Staff Training Plan that has been approved by the Provider's Registered Dietitian must be submitted to DAAS by July 31 of the FY it is being provided in. The DAAS Registered Dietitian will review and approve the Staff Training Plan and return it to the Provider. The DAAS approved Staff Training Plan must be kept on file.
E. A minimum of four (4) hours of staff training shall be provided annually for paid and volunteer food service staff, including congregate and home-delivered meal staff.
F. Training sessions shall be evaluated by those receiving the training.
G. The ENP Provider shall maintain documentation of each training session on file. Documentation includes, but is not limited to, sign-in sheets, agendas, handouts, and completed evaluations.
H. All staff, paid and volunteer, shall be oriented and trained to perform their assigned responsibilities and tasks. Training, at a minimum, shall include:
1. Food safety, prevention of food borne illness, and Hazard Analysis Critical Control Points (HACCP) principles.
2. Accident prevention, instruction on fire safety, first aid, choking, earthquake preparedness, and other emergency procedures.
3. Elder Abuse Law and reporting procedures.
4. CDA Security Awareness Training (annually).

VII. Senior Participants:

A. Satisfaction Survey:

1. The ENP Provider shall conduct a Client Satisfaction Survey at least annually. The Survey instrument must be approved by DAAS prior to its use and all findings from the Survey must be used to improve services. The Provider must keep the completed Surveys and the tabulated results on file. A copy of the tabulated results must be submitted to DAAS by March 7th of the FY it is being conducted for.

B. Complaint Procedures:
1. Each Provider shall have a written Complaint Procedure.
2. The Complaint Procedure will be available for the participants and will provide them the opportunity to provide positive as well as negative feedback to the Program Manager.
3. The Provider shall have an assessment tool readily accessible for the seniors attending the congregate site or receiving a home-delivered meal.

C. Nutrition Education Services for Participants:
1. Nutrition Education shall be provided a minimum of four (4) times per year to participants in congregate and home-delivered meal programs.
   a. Nutrition Education for congregate sites is defined as demonstrations, presentation, lectures or small group discussions, all of which may be augmented with printed materials.
   b. Nutrition Education for home-delivered meal participants may consist solely of printed material that is in conjunction with a congregate meal Nutrition Education presentation.
2. Nutrition Education shall be based on the particular need of congregate and home-delivered meal participants. An annual Needs Assessment shall be performed by the ENP Provider to make this determination.
3. The Nutrition Education Plan and annual Needs Assessment must be submitted to DAAS by July31 of the fiscal year in which it is being provided.
4. Nutrition Education sessions must be reported monthly to DAAS using the Nutrition Education Monthly Service Unit Report.

Nutrition Education Units of Service:

Program: C-1 (Congregate Meals)	Program: C-2 (Home-Delivered Meals)
# of Units to be Provided: 351	# of Units to be Provided: N/A
# of Sites to be Presented at: 1	# of Participants to be Presented to: N/A

VIII. Menu Planning Guidelines/Menu Requirements:

A. Menus to cover a minimum of 3-months shall be planned and submitted to DAAS. Menu cycles must be 4 weeks or longer.

B. Menu cycles shall include the availability of seasonal foods.

C. Health, cultural, ethnic and regional dietary practices shall be considered in menu planning, food selection, and meal preparation.

D. Menus shall be planned with guidance from the Provider's Registered Dietitian, analyzed by either the computerized or the component method, checked for required menu elements, and then approved as meeting requirements by the Provider's Registered Dietitian. Upon approval they shall be forwarded to the DAAS Registered Dietitian for certification.

E. Menus shall be submitted to the DAAS Registered Dietitian forty-five (45) days prior to the menu start date. Allow thirty (30) days for the menu certification process. Timely submitted menus will be returned to the Provider at least fifteen (15) days prior to the menu start date. ENP Providers are required to have menus certified prior to the menu start date. All signatures on the menu shall be original signatures.

F. A copy of the certified menu must be posted in a spot conspicuous to clients at each congregate site.

G. Copies of the menus shall be made available to the participants upon request.

H. In planning the menus, the current Dietary Reference Intakes (DRI) and the Dietary Guidelines for Americans (DGA) are to be considered. Menus shall conform to the following criteria referenced in the sources:
1. Provide an average of 550-750 calories per meal.

2. Limit total fat to no more than 25-35% of the calories averaged for the week.
3. Choose and prepare foods with low amounts of salt, soy sauce and other high sodium items.
4. Include good sources of dietary fiber such as whole grains and cooked dry beans at least two times a week.
5. Include a variety of foods and preparation methods with consideration to color, combinations, texture, size, shape, taste, and preference of the participants served.
6. Dietary Reference Intake Values:
   a. Table one (1) represents the most current Dietary Reference Intakes (DRI) values and daily compliance range for target nutrients. The values provided are based on the U.S. Department of Agriculture (USDA) Food Guide calculated for one (1) meal for a woman over seventy (70) years of age whose activity level is sedentary. This example represents a majority of the older adult population served by the ENP statewide.
      1) The nutrients selected for this Table are based on the target nutrients to:
         a) Promote health and prevent disease
         b) Prevent deficiencies
         c) Indicate diet quality
         d) Manage disease
   b. Of these Target Nutrients, meals must supply a minimum of 33 1/3 percent of the DRIs for Calories, Protein, Vitamin A, Vitamin C, Fiber, and Calcium.

Table 1
Target Nutrients

Nutrient	Target Value * per meal	Daily Compliance Range
Calories (Kcal)	>550 Kcal	>550 – 700 Kcal
Protein	15 gm	15 gm (in the primary protein source)
Fat (% of total calories)	20-35%	<35% weekly average
Saturated Fat (% of total calories)	<10%	<10%
Trans Fat	<0.5g	CRFC Chapter 12.6 section 114377**
A (µg RAE)	233 µg	> 233 µg 3 out of 5 days /wk or 4 out of 7 days/wk
Vitamin C (mg)	25 mg	25 mg
Vitamin B12 (µg)	0.8 µg	0.8 µg (may average over a week)
Calcium (mg)	400 mg	>400 mg (may average over a week)
Magnesium (mg)	105 mg	>105 mg (may average over a week)
Sodium (mg)	<500-750 mg	<1,000 mg (over 1,000 mg place an icon on the menu)
Fiber (gm)	>7 gm	>7 gm (may average over a week)
Potassium (gm)	1565 mg	1565 mg(may average over a week)
Vitamin D	200 IU	200 IU (may average over a week)

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

**California Retail Food Code: Commencing January 1, 2011, no food containing artificial trans-fat, including oil and shortening that contains artificial trans-fat for use in the deep frying of yeast dough or cake batter, maybe storage, distributed, served by, or used in the preparation of any food within a food facility.

***RAE = Retinol Activity Equivalent.

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

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

I. Meal Elements – required for both computerized and component menus:

1. Protein – meat, fish, poultry, legumes, eggs, and cheese:
   a. A minimum of 2.0 ounces of cooked, edible portions of meat, fish, poultry, legumes, eggs, cheese, (or a combination thereof) providing at least 15 grams of protein. Programs should consider the preferences of the participants they serve.
   b. Legumes may not be counted as both vegetable and protein. ENP Providers may use other protein sources to provide the occasional vegetarian meal.
2. Vegetables (1-2 servings):
   a. One serving cooked or raw vegetables = 1/2 cup
   b. Vegetables as a primary ingredient in soups, stews, casseroles, or other combination dishes must total ½ cup (cooked) per serving.
   c. One serving raw leafy vegetables (salads) = 1 cup per.
3. Fruit (1 serving):
   a. A serving of fruit equals:
      1) 1 medium sized whole fruit
      2) ½ cup fresh, chopped, cooked, frozen, or canned drained fruit
      3) ½ cup 100% fruit juice
   b. Fresh, frozen, or canned fruit should be packed in juice, light syrup, or without sugar. Fruit packed in high sugar content syrup must be rinsed before using.
   c. Fruit juice may be used only occasionally, as it contributes no fiber and can raise blood sugar in those with diabetes
4. Breads/Grains (1 ounce-equivalent serving):
   a. One serving equals :
      1) 1 slice of bread, a medium dinner roll, or 1/2 burger bun
      2) ½ cup cooked rice, barley, corn meal, or other cooked breakfast cereal
      3) ½ cup cooked spaghetti or other pasta
   b. One-half of the daily intake of grains should be from whole grains. Grains that are processed (not whole) must be fortified.
5. Milk (8 fl. oz.):
   a. Each meal shall contain eight (8) fluid ounces of fortified nonfat milk, 1%fat milk, buttermilk or calcium-fortified soymilk or calcium-fortified orange juice. If a participant's personal preference precludes the acceptance of milk with the meal, an equivalent high calcium substitute must be offered.
6. Fat (Optional):
   a. Each meal may contain fat components to increase the palatability and acceptability of the meal.
   b. When selecting and preparing meat, poultry, dry beans, and milk or milk products, make choices that are lean, low fat, or fat free.
   c. Less than 10% of calories should come from saturated fat, and minimize trans fats. Keep total fat intake between 20 to 35 percent of calories, with most fats coming from sources of polyunsaturated and monounsaturated fats such as fish, nuts, and vegetable oils

7. Dessert (Optional):
   a. Dessert may be provided as an option to satisfy the caloric requirements or for additional nutrients. Use fruit as a dessert as often as possible. Limit sweets that are high sugar, high fat, and/or high refined grains to no more than once or twice per week.
   b. When a dessert contains ½ cup of fruit per serving, it may be counted as a serving of fruit.
8. Condiments and Product Substitutes:
   a. Sugar substitutes, pepper, herbal seasonings, lemon, vinegar, non-dairy coffee creamer, salt, and sugar may be provided, but should not be counted as fulfilling any part of the nutritive requirements.
   b. Condiments such as high sodium salad dressings, ketchup, soy sauce, mustard, and mayonnaise do not need to be counted in a menu analysis if they are served "on the side" and are not combined with the food.
   c. At least one low-sodium salad dressing option must be provided for leafy green salads.
   d. Oil-and-vinegar and other salad dressings served combined with salads must be accounted for in the nutrient analysis of the menu and/or recipe.
9. Sodium:
   a. The commitment to reduce sodium in the meals stems from the fact that nutrition-related chronic diseases remain the primary cause of death among people aged 65 and older. California has a diverse population, and the ENPs in the State provide culturally appropriate meals for many ethnicities. Asian meals traditionally have higher sodium levels. Programs that choose to provide culturally appropriate meals, but are concerned with the sodium content of the meals, may consider:
      1) Using low sodium soy sauce or diluting soy sauce with water to produce low sodium soy sauce;
      2) Offering soy sauce as a condiment to be added by the senior;
      3) Providing Nutrition Education on sodium;
      4) Continuing to work with the sodium levels of meals, making small steps to reduce the risk of developing kidney stones, and possibly decrease bone loss with age;
      5) Not providing potassium chloride salt substitutes;
      6) Noting meals that have more than 1000 mg of sodium on the menu as such: "This meal contains more than 1000 mg of sodium," or using an icon denoting a high sodium meal; and
      7) Using low sodium versions of high sodium foods when available and feasible with budget allowances.
10. Menu Item Flexibility:
    The ENP Provider has the discretion to allow occasional flexibility in planning meals that may not meet the meal pattern, but does meet the nutrient value requirements. Fortified food products and combination dishes used in a menu may not match the meal pattern, but may provide for the required nutrient values. For example, a fortified snack bar as a dessert could be used to boost the nutrient value of a boxed lunch or special occasion meal.

J. Meal Element/Nutrient Analysis:
A meal element and nutrient analysis of the entire menu cycle conducted and/or approved by a Registered Dietitian shall be done to ensure compliance with Title 22, Division 1.8, Section 7638.5.
1. Meal Element Analysis: Use Section "I" Requirements Above
2. Computerized Nutrient Analysis Requirements

a. Although not required, use of computerized nutrient analysis is strongly recommended and will help ensure and verify the nutritional adequacy of meals. The goal of assessing nutrient intakes of groups is to determine the prevalence of inadequate or excessive nutrient intakes within a particular group of individuals. While meal patterns serve as a basic framework for menu planning, providers are encouraged to use computerized nutrient analysis because it provides specific information on nutrients the menu may **not** be providing. The information that a menu is not supplying all of the desired nutrients will guide the development of future menus. As required menu elements are expanded, it is more difficult to meet all of the requirements on a daily basis. ENP Providers should focus on:
   1) Vitamin A
   2) Vitamin C
   3) Protein
   4) Fat
   5) Sodium
   6) Fiber

b. Not all nutrient guidelines will be met with each meal. However, areas that do not meet the requirements should be the focus of future menu revisions and nutrition education.

c. The following nutrients should be included in the analysis when the computerized nutrient analysis method is used: calories; protein; total fat; saturated fat; total fiber; Vitamins A, C, D, E, K, thiamin, riboflavin, niacin, B6, folate, B12, calcium, chromium, copper, iron, magnesium, sodium, and zinc. In addition to meeting one-third of the DRIs, the menus should also follow the DGA.

K. Component Nutrient Analysis Requirements:

1. The California 1600-calorie component meal pattern has been developed to reflect the new DGA requirements for those programs that are not using computerized nutrient analysis. Items that provide the following target nutrients should be **identified on the menu** when using a component meal pattern template:
   a. Vitamin C – Provide one-third (1/3) of the DRI for Vitamin C each meal – 25 mg (for a 1600-calorie menu).
   b. Vitamin A – Provide one-third (1/3) of the DRI for Vitamin A at least three (3) times per week, 233 μg (for a 1600-calorie menu).
   c. Sodium – meals that contain over 1,000 mg of sodium must be noted on the menu as a high sodium meal.
2. Table 2 describes the elements in the California 1600-calorie meal pattern. Serving sizes are based on the USDA My Plate. This sample component meal pattern does not assure that meals meet one-third (1/3) of the DRI's and the DGA. Meals will require specific types of fruits and vegetables, whole grains, and high fiber foods in order to assure the target nutrients are provided. The component meal pattern may be deficient in Vitamin B12, requiring additional nutrition education for participants on the selection of foods that are good sources of this nutrient.
3. The meal pattern in Table 2 below is based on the minimum requirements for a sedentary female 70 years of age. If the majority of the population served by a provider falls within another requirement range (i.e. active 60 year old men), the serving sizes and minimum number of servings required can be adjusted to meet the service population. ENP Providers should verify the population served and develop menu criteria accordingly.

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

Food Group	Required servings for 550 calories per meal	Serving sizes for 1600 calorie level
Lean meat or beans	1 serving 2 ounces per meal	2 ounces = 1 serving
Vegetable	1 – 2 servings	½ cup = 1 serving
Fruit	1 serving	½ cup = 1 serving
Bread or Grain At least ½ whole grain	1 – 2 servings	1 slice Bread = 1 serving ½ cup of rice or pasta = 1 serving
Non-fat or 1% fat milk or milk alternate	1 serving	1 cup or equivalent measure
Fat	Optional	
Dessert	Optional - limit sweets use fruit	Select foods high in fiber and low in fat and sugar

(1) The number of servings per meal estimates provision of one-third of the DRIs.
(2) Caloric value (1,600 Kcal/day) based on a 70-year-old female, “sedentary" physical activity level using Table 3 - Estimated Caloric Requirements in Each Gender and Age Group at Three Levels of Physical Activity, from the DGA 2010.

IX. Food Procurement:

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

X. Food Storage:

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

XI. Food Production:

A. Food production procedures shall comply with Title 22, CRFC standards, and HACCP best practices guidelines.
B. Food production and meal service shall be under the supervision of a trained staff in food service management to ensure food service sanitation and the practice of hygienic food handling techniques are followed. This person shall function with the advice of the Provider’s Registered Dietitian.
C. Meals shall be served as indicated on the certified menus. In the event that a menu substitution must occur, the following procedure must be followed:
   1. The Provider’s Registered Dietitian must approve all menu substitutions.
   2. A Menu Substitution Form must be completed and signed by the Provider’s Registered Dietitian.
   3. The completed Menu Substitution form shall be kept on file for DAAS review.
D. Production Control:
   1. Production schedules or worksheets must be available in the food preparation area.

2. Food shall be prepared in sufficient quantities to serve all participants. Careful planning shall minimize the leftover food and prevent waste.
3. Standardized recipes shall be used to ensure consistency of quality and quantity and adherence to menu guidelines.
4. Appropriate utensils for correct and consistent portion control shall be available and used at each site.

E. Meal Service/Temperature Monitoring:

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

XII. Food Service Requirements:

A. The ENP Provider shall ensure that the following forms are available, completed **daily**, and maintained at each nutrition site for a minimum of 12 months:

1. Food Temperature Logs – separate logs shall be available for congregate meals, home delivered meals, and individual meals chilling process.
2. Cleaning Schedule
3. Equipment Temperature Log – for all dish machines, refrigerators, and freezers.
4. Production Schedule – applicable only if food is cooked at the site.
5. The current Environmental Health inspection detailed report shall be available at the site for review

6. Staff and volunteers who are involved in any part of food service operation or clean-up except home-delivered meals drivers shall possess a current San Bernardino County-issued Food Worker Card and Certificate that shall be available for review.

XIII. Program Requirements:

A. Client Intake Sheets:

1. The ENP Provider will ensure that each participant completes the Client Intake Sheet form (provided by DAAS) to determine his or her level of nutritional risk. Forms shall be completed for:
   a. Congregate Meal Participants – at the beginning of service and then annually thereafter for clients who remain on the program.
      1) Sections 1 and 3 are required for congregate meals.
   b. Home-Delivered Participants – at the beginning of service and then quarterly thereafter for clients who remain on the program.
      1) Sections 1, 2, and 3 are required for home-delivered meals.
2. ENP Providers who are required to complete their own data entry into the SAMS System must enter the annual and quarterly Client Intake Sheets into the database in a timely manner.
3. ENP Providers who are not required to complete their own data entry must send the Client Intake Sheets to DAAS for data entry into the SAMS System.

B. Outreach/Marketing Activities:

1. ENP Providers are required to provide outreach in the community through community organizations and other groups. All outreach and marketing activities shall be documented and kept on file for the annual monitoring visit conducted by DAAS.
2. ENP Providers shall develop and have handouts, brochures, and/or signs available in languages other than English and posted in locations such as churches, community service locations, and small stores serving the minority communities.

C. Emergency Procedures:

1. ENP Providers shall have a written Emergency/Disaster Plan.
2. Each nutrition site shall have an evacuation plan posted identifying the emergency exits and assembly areas.
3. Staff must be knowledgeable of emergency procedures.
4. Where feasible and appropriate, ENP Providers shall make arrangements for the availability of meals to participants during a major disaster, as defined in 42 U.S.C., Chapter 68, Section 5122 (2). Such arrangements shall be included in the Emergency/Disaster Plan.

D. Donations and Confidentiality:

1. An Eligible individual who receives a meal shall be given the opportunity to contribute to the cost of the meal
2. The ENP Provider shall develop a suggested contribution/donation amount. When developing this contribution/donation amount, the income ranges of the older individuals in the community and the Provider's other sources of income shall be considered.
3. A sign indicating the suggested contribution for eligible individuals and the fee for guests shall be posted near the contribution container at each congregate meal site. A guest fee shall cover all meal costs.
4. No eligible individual shall be denied participation because of failure or inability to contribute.
5. The Provider shall ensure that the amount of the eligible participant's contribution is kept confidential.
6. The ENP Provider shall establish written procedures to protect contributions and fees from loss, mishandling, and theft (i.e. Contribution/Donation Procedures). Such Procedures shall be kept on file for DAAS review.
7. All contributions and fees shall be identified as program income and used to increase the number of meals served, to facilitate access to such meals, and to provide nutrition-related supportive services.

E. "No Soliciting" Sign:

1. The ENP Provider shall ensure that a "No Soliciting" sign is posted on the door leading to the congregate nutrition site. No soliciting of any kind is permitted on the premises during the lunch hours for services or goods promoted by businesses.

F. Coordination:

1. If applicable, develop a fair and equitable policy and procedure for referring participants to the appropriate transportation provider for securing public transportation to and from nutrition sites and have the policy available for review by DAAS.
2. Include the following statement on all advertising, brochures, poster, etc., "Funding for this service has been provided by the San Bernardino County Department of Aging and Adult Services through a grant award from the California Department of Aging."
3. Coordinate service with other County departments and local agencies by providing time for presentations or special activities that promote a community based system of care for the participants attending nutrition sites.

G. Reporting:

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

a) Client Intake Sheets for any new clients or any annual or quarterly assessments completed in the month.
b) Rosters
c) Routes (if applicable)

9. Nutrition Education Monthly Service Unit Report
   a. The Nutrition Education Monthly Service Unit Report is a tool that is used to report the number of Nutrition Education service units that have been provided to participants. This report is to be completed and submitted to DAAS by the 5th business day of the month following the month of service. Copies of any handouts presented to the participants as a component of the Nutrition Education shall be attached to the Nutrition Education Monthly Service Unit Report.

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

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

Payments, Budgets, Closeout, and Audits
For Fiscal Year 2015-16

I. FUNDS

A. Expenditure of Funds

1. Contractor shall expend all funds received hereunder in accordance with this Agreement.

2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with California Department of Human Resources' rules and regulations. This is not to be construed as limiting Contractor from paying any differences in costs between the rates specified above and any rates the Contractor is obligated to pay under other contractual agreements from funds other than those provided pursuant to this Agreement.

3. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from County.

4. Contractor agrees to include these requirements in all contracts it enters into with subcontractors or vendors to provide services pursuant to this Agreement.

5. County reserves the right to refuse payment to Contractor or disallow costs for any expenditure, when determined by the County to be out of compliance with this Agreement, unrelated or inappropriate to the contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.

B. Accountability for Funds

1. Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by Contractor, and shall be maintained in accordance with Generally Acceptable Accounting Principles and Procedures, and the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

2. Contractor shall promptly forward payroll taxes, insurances and contributions, including State disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies.

3. Adequate source documentation of each transaction shall be maintained relative to the allow ability of expenditures reimbursed by DAAS under this Contract. If the allow ability of expenditures cannot be determined because records or documentation of Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures may be disallowed by DAAS.

4. Financial Management Systems
Contractor shall meet the following standards for its financial management systems, as stipulated in 45 CFR Section 92.20 (governmental) or 45 CFR Section 74.21 (not for profit organizations):
   a. Financial Reporting
   b. Accounting Records
   c. Internal Control
   d. Budgetary Control
   e. Allowable Costs
   f. Source Documentation
   g. Cash Management

C. Unexpended Funds

Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the Contractor shall return to County immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation or expiration of this Agreement or dissolution of the entity.

D. Availability of funds

1. It is understood by the parties that this Agreement may have been written before ascertaining the availability or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur of this Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if sufficient funds are made available to the County by the United States Government or State of California for the fiscal years appropriate for the purpose of the services described herein.
3. Funding Reduction(s)
   a) If funding for any County fiscal year is reduced or deleted for the purposes of this program, the County shall have the option to either:
      1) Terminate the Agreement
      2) Amend the agreement to reflect the reduced funding that will be available.
   b) In the event that County elects to offer an amendment, it shall be mutually understood by both parties that 1) County reserves the right to determine which contracts, if any under this program shall be reduced; 2) some contracts may be reduced by a greater amount than others; 3) the County shall determine in its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

E. Program Income

1. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated.
2. Program Income must be used to pay for current allowable costs of the program in the same fiscal year that the income was earned (except as noted below).
3. Program Income must be spent before contract funds and may reduce the amount of contract funds payable to Contractor.
4. If Program Income is earned in excess of the amount reported by County in the Contractor's approved budget, the excess amount may be deferred for use in the first quarter of the following contract period, which is the last quarter of the federal fiscal year, if approved by County.
5. If Program Income is deferred for use it must be used by the last day of the federal fiscal year and reported when used.
6. Program Income may not be used to meet any requirements for matching contributions specified in this Agreement.
7. Program Income must be used to expand baseline services.

F. One Time Only (OTO) Funds

OTO funds shall be only be used for the following purposes:

1. The purchase of equipment that enhances the delivery of services to the eligible service population.

2. Home and community-based projects that are approved by County in advance.
3. Innovative pilot projects that are approved in advance by County, and are designed for the development of a comprehensive and coordinated system of care as defined in [45 CFR 1321.53(a) & (b).
4. OTO funds may be used to maintain or increase baseline services; however it is understood by the parties that such use of OTO funds creates no expectation of service delivery beyond the current contract period.
5. Nutrition Services Incentive Program (NSIP) OTO funds shall be used only to purchase food to be used by Contractor in Contractor's Elderly Nutrition Program.

G. Matching Contributions

1. Cash and/or in-kind contributions may be counted as match if such contributions are used to meet program requirements.
2. Matching contributions (cash or in-kind) must be verifiable from the records of the Contractor or its subcontractors.
3. Only allowable costs as established by Office of Management and Budget (OMB) cost principles may be reported as matching contributions.
4. Services of volunteers or other costs reported as "in-kind" matching contributions shall be valued at rates consistent with those of similar work or services paid by Contractor. If Contractor does not offer similar work or purchase similar services, rates shall be consistent with those in local market area.

H. Budget and Budget Revision

1. Contractor shall be compensated for expenses only as itemized in the approved budget that is incorporated by reference into this Agreement. The Contractor shall not be entitled to payment for expenses related to this Agreement until the budget has been reviewed and approved by County.

2. No budget revision may result in an increase of the maximum dollar amount stated in Section V, Paragraph A. The written request must specify the line item or Service Category changes requested, and must include justification for the request changes.

   For the purpose of this section,

   a. "Service Category" shall be defined as that classification of activities defined in the Older Americans Act (OAA) that is specific to each OAA funded grant program; and

   b. "Service" shall be defined as the activities that are defined within a Service Category.

   Examples of Service Categories include Supportive Services, Congregate and Home-delivered Nutrition Services, Disease Prevention/Health Promotion Services, and Family Caregiver or Grandparent Support Services. Examples of Services include nutrition education, transportation, information assistance, senior center staffing, respite care, access assistance, and supplemental services.

   County shall notify the Contractor in writing of the status of the budget revision request within fourteen (14) calendar days of receipt of the Contractor's written request. The County reserves the right to deny the Contractor's invoice for expenditures in excess of the approved budgeted line item amount.

3. Contractor shall submit a budget revision to the County, in advance of expenditures when:
   a. Changes to line item expenditures are expected to exceed the amount of the approved budgeted line item by more than ten (10%) of the amount specified in Section V, Paragraph A.
   b. New budget line items are to be added.
   c. When the changes being requested involved the transfer of funds between Service Category.
   d. When the changes being requested involve the transfer of funds amount Services within a Service Category.
   e. When otherwise requested by County.

4. Contractor shall maintain a written record of all budget changes including line item or service category changes. This record shall be available to the Department upon request and shall be maintained in the same manner as all other financial records.

5. The final date to submit to a budget revision is March 30th of the contract period unless otherwise specified by County.

I. Indirect Costs

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.

2. Examples of indirect cost may include: depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting

3. The maximum reimbursement amount allowable for indirect costs is eight (8) percent of Contractor's direct costs, excluding in-kind contributions and non-expendable equipment. Indirect costs exceeding the eight (8) percent maximum may be budgeted as in-kind and be used to meet the minimum matching contribution requirements.

4. Contractor agrees to include the above requirement in all contracts it enters into with subcontractors or vendors to provide services pursuant to this agreement.

5. Reimbursement for indirect costs shall be on the basis of an indirect cost rate plan documenting the methodology used to determine the indirect cost rate, which shall be submitted by Contractor to DAAS and be approved by DAAS.

J. Financial Closeout

1. Contractor shall submit a final statement of expenditures and income ("Financial Closeout") to County within thirty days of the end of contract period, unless otherwise specified by County.

2. Federal funds otherwise payable to Contractor by County may be reduced proportionately by County to maintain the required matching contributions ratio if amount of matching contributions reported by Contractor is less than minimum required matching contribution amount specified in Section V.A ("Fiscal Provisions") of this Contract

K. Subcontracts or Vendor Agreements

1. Without the prior written consent of the Director of DAAS or his/her designee, this Contract is not assignable by Contractor either in whole or in part.
2. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Director of DAAS or his/her designee. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor.
3. Contractor shall include language in all subcontracts that require subcontractor to comply with all applicable State and federal laws.
4. Contractor shall have no authority to contract for, on behalf of, or incur obligations on behalf of County or State.
5. Copies of subcontracts, vendor agreements, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available to DAAS upon request.
6. Contractor shall monitor the insurance requirements of its subcontractors and/or vendors.
7. Contractor shall ensure that the subcontractor and/or vendor will complete all reporting and expenditure documents requested by DAAS. These reporting and expenditure documents shall be sent to Contractor in a timely manner and at intervals as determined by DAAS.
8. Contractor shall monitor the budget, expenditures, and performance of its subcontractors and/or vendors.
9. Contractor shall provide support and technical assistance to subcontractors and respond in writing to all written requests for direction, guidance, and interpretation of instructions to include client and service data.

L. Audits

1. Contractors that expend $750,000 or more in Federal awards shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1996, Public Law 104-156, and Office of Management and Budget [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133].
2. A copy of audit report shall be submitted to DAAS within 30 days after receipt of the auditor's report or nine months after the audit period, whichever occurs first, unless a longer period is agreed to in advance by the cognizant or oversight federal agency.
3. Contractor shall ensure that State-funded expenditures are displayed discretely along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under the appropriate Catalog of Federal Domestic Assistance (CFDA) number as referenced herein. In addition, should contractor's SEFA totals be reported on the basis of a fiscal year period other than County's fiscal year (July 1 through June 30), a supplemental schedule shall be provided that reconciles Contractor's reported expenditures to County fiscal year periods.
4. For state contracts that do not have CFDA numbers, Contractor shall ensure that State-funded expenditures are discretely identified in the SEFA by the appropriate program name, identifying grant/contract number and as passed through the California Department of Aging.
5. The following closely related programs identified by CFDA number are to be considered as an "Other Cluster" for purposes of determining major programs or whether a program specific audit may be elected. Contractor shall identify the CFDA titles and numbers to the

independent auditor conducting the organization's single audit as well to each of Contractor's subrecipients.

6. The Federal Grantor for the following programs is the U.S Department of Health and Human Services, Administration on Aging:

93.044	Special Programs for the Aging – Title III, Part B = Grants for Supportive Services and Senior Centers (Title III-B).
93.045	Special Programs for the Aging – Title III, Part C – Nutrition Services (Title III-C)
93.052	National Family Caregiver Support – Title III, Part E
93.053	Nutrition Services Incentive Program (NSIP)

7. The Federal Grantor for the following program is the U.S Centers for Medicare and Medicaid Services:

93.779	State Health Insurance Assistance Program (HICAP)
93.071	MIPPA: MSP, LIS & Prescription Drug Enrollment Assistance through the Aging Network, SHIP, and ADRCs
93.626	SHIP Options Counseling for Medicare/Medicaid (FA)

8. The Federal Grantor for the following program is the Administration for Community Living grants:

93.071	MIPPA: Priority Area 2 AAAs

9. Cluster of programs means a grouping of closely-related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA) and other clusters. "Other Clusters" are defined by the OMB in the Compliance Supplement or as designated by a State for federal awards provided to its sub recipients that meet the definition of cluster of programs. When designating an "other cluster", a State shall identify the federal awards included in the cluster and advise the subrecepients of compliance requirements applicable to the cluster, consistent with S.400 (d) (1) and S.400 (d) (2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in S.520, and with the exception of R&D as described in S.200 (c), whether a program-specific audit may be elected. (Federal Office of Management and Budget, (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Corporations).

10. Contractor shall perform a reconciliation of its "Financial Closeout Report" to the audited financial statements. The reconciliation shall be maintained and be made available to DAAS for review.

11. Contractor shall ensure that subcontractor single audit reports for Contractor meet [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133] requirements, including but not limited to:
    a. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within 30 days after receipt of the auditor's report or nine months after the end of the audit period, whichever occurs first.
    b. Properly procured – use procurement standards provided for in OMB Circular A-133 and provide maximum opportunities to small and minority audit firms.
    c. Performed in accordance with Generally Accepted Government Auditing Standards – shall be performed by an independent auditor and be organization-wide.
    d. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements; and the schedule of findings and questioned costs.
    e. Performed in accordance with provisions applicable to this program as identified in [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133 Compliance Supplement].

12. Requirements identified in the provision above shall be included by Contractor in all subcontracts.

13. Contractor shall include in its contract with the independent auditor that the auditor will comply with all applicable requirements/standards, that the County shall have access to all audit reports and supporting work papers, and that the County shall have the option to perform additional work if needed.

14. Unless prohibited by law, the cost of audits completed in accordance with provisions of the Single Audit Act Amendments of 1996 is allowable charges to Federal awards. Contractor may not charge to Federal awards the cost of any audit under the Single Audit Act Amendments of 1996 not conducted in accordance with the Act. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has Federal Awards expended of less than $500,000 per year, and is thereby exempted under OMB Circular A-133, Subsection __200 (d).

15. Contractor shall cooperate with and participate in any additional audits which may be required by State or County.

COUNTY OF SAN BERNARDINO NUTRITION SERVICES
PROGRAM BUDGET

Provider: City of Montclair Period: 07/01/15-06/30/16 ORIG _X___ Amend ___

CONGREGATE SITES C-1 ☒ HOME DELIVERED MEALS C-2 ☐

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

		A	b	C=a+b
		Cost to Provider for the year		
Expenditure Category:		**Cash**	**In-Kind**	**Annual Expense**
1	Personnel	$65,230	$51,328	$116,558
2	Staff Travel & Training			
3	Equipment			
4	Non-Inventory Equipment			
5	Consultants	$2,232		$2,232
6	Catered Food	$84,708		$84,708
7	Raw Food	$13,305		$13,305
8	Other Expenses:			
	a. Consumable Supplies	$11,304		$11,304
	b. Insurance	$7,916		$7,916
	c. Repair & Maintenance	$2,016		$2,016
	d. Rent/Building Space			
	e. Utilities			
	f. Vehicle Operations	$7,307		$7,307
	g. Miscellaneous	$3,767		$3,767
9	Indirect Cost			
10	Nutrition Education	$235		$235
Total Expenditures (add lines 1-10)		**$198,020**	**$51,328**	**$249,348**

Revenue Sources:			
State funds			
Federal Funds	$133,000		$133,000
NSIP	$12,000		$12,000
State Special Nutrition Funds			
County funds			
Program Income	$25,208		$25,208
Deferred Income			
Matching Cash	$27,812		$27,812
Matching In-Kind	$51,328		$51,328
Non-Match Cash			
Non-Match In-Kind			
Total Revenue	**$249,348**		**$249,348**

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

D	E	f=d*e
Estimated annual number of meals	**Proposed meal cost per unit**	**Annual Budget**
22,217	$6.04	$134,191

Submitted by: DAAS Approval:

_____ _____ _____
Name Date

_____ _____
Signature Date

ATTACHMENT P

COUNTY OF SAN BERNARDINO NUTRITION SERVICES
MATCHING FUNDS NARRATIVE

Provider: City of Montclair Period: 07/01/15-06/30/16 ORIG _X__ Amend ___

CONGREGATE SITES C-1 ☒ HOME DELIVERED MEALS C-2 ☐

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

Line Item	Rate	Annual Amount	Description/Justification
Personnel	$20.05/Hr	$10,426	Senior Program Specialist – Oversees Senior Center
Personnel	$41.06/Hr	$17,081	Director of Human Services- Oversees Division Operation
Personnel	$8.00/Hr	$51,328	Volunteer Service Hours – In Kind
Other Expenses – Vehicle Operations		$305	Vehicle operation cost related to the program

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-37 WITH WEST COAST ARBORISTS FOR TREE MAINTENANCE SERVICES	**DATE:**	JUNE 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	8
		FILE I.D.:	STA700
		DEPT.:	PUBLIC WORKS

REASON FOR CONSIDERATION: Agreement No. 12-48 with West Coast Arborists (WCA) for tree maintenance services expires on June 30, 2015. Approval of Agreement No. 15-37 will extend tree maintenance services from WCA for one additional year. Agreements with the City require City Council approval.

A copy of proposed Agreement No. 15-37 with West Coast Arborists is attached for the City Council's review and consideration.

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

Proposed Agreement No. 15-37 would extend the term of Agreement No. 12-48 by one year, beginning July 1, 2015 and expiring on June 30, 2016, with new rates.

Recently, the Department of Industrial Relations (DIR) adopted a new job classification known as Landscape Maintenance Tree Trimmer and a wage rate appropriate for this classification. The newly adopted classification wage rate will apply to all projects going out for bid as well as all agreements being renewed on or after March 4, 2015. Due to this recent change, WCA is increasing the cost of their contract by an amount appropriate to cover the cost of all new wages being paid under the new classification. A description of items and costs contained in proposed Agreement No. 15-37 is shown on the following page.

WCA continues to provide the City with quality tree-trimming and other tree-related services. WCA has been utilized by the City to trim trees since October 2000. The company is responsive to staff's requests and has established an internet-based inventory of all City trees at no additional cost. Public Works staff uses this inventory, which provides information related to tree location, tree species, work history, and the value of each tree, in its annual tree trimming program. This year, WCA completed a full inventory of all City-owned and privately-owned trees, and trees on vacant public, residential, and commercial properties, and has incorporated them into GIS form.

Prepared by:		Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Marissa Perrupka	Reviewed and Approved By:	

Item	*Description*	*Unit*	*Cost*
1	Tree trimming	Each	$ 62.00
2	Palm Tree Trimming	Each	$ 62.00
3	Complete Tree and Stump Removal	Inch	$ 22.00
4	Stump removal	Inch	$ 6.75
5	Tree planting 15-gallon w/out root barrier	Each	$162.50
6	Tree planting 24-inch box w/out root barrier	Each	$336.00
7	Specialty Tree Planting 15-gal w/out root barrier	Each	$177.65
8	Specialty Tree Planting 24" Box w/out root barrier	Each	$355.25
9	Root pruning	Foot	$ 10.30
10	Three-man crew rental, aerial unit, dump truck, and chipper	Hour	$120.90
11	Emergency work call out	Hour	$255.00
12	Palm tree trimming	Each	$ 45.90

FISCAL IMPACT: The cost to provide tree maintenance services is not expected to exceed $125,000 during Fiscal Year 2015-16. Funds for this purpose are included in the Fiscal Year 2015-16 City budget under Public Works/Tree Maintenance.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-37 with West Coast Arborists for tree maintenance services.

AN AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR AND WEST COAST ARBORISTS FOR TREE MAINTENANCE SERVICES

THIS AGREEMENT is made and entered into this 1st day of July, 2015, by and between the CITY OF MONTCLAIR, a Municipal Corporation, County of San Bernardino, State of California, hereinafter referred to as "CITY," and WEST COAST ARBORISTS, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

SECTION I

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

SECTION II

This Agreement is for a period of one (1) year from the date hereinabove set forth expiring on June 30, 2016, subject to the right of either party to cancel without cause by giving a minimum of thirty (30) days' written notice to the other of such cancellation.

SECTION III

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

Description	**Unit Prices**	**Unit Description**
Tree trimming	$62.00	Each
Palm Tree Trimming	$62.00	Each
Complete Tree and Stump Removal	$22.00	Diameter inch
Stump removal	$6.75	Diameter inch
Tree planting 15-gallon w/out RB	$162.50	Each
Tree planting 24-inch box w/out RB	$336.00	Each
Speciality Tree Planting 15-gal w/out RB	$177.65	Each
Speciality Tree Planting 24” Box w/out RB	$355.25	Each
Root pruning	$10.30	Each (foot)

Three-man crew rental, aerial unit, dump truck, and chipper	$120.90	Hour
Emergency work call out	$255.00	Hour
Palm tree trimming	$45.90	Each

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

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

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

SECTION IV

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

SECTION V

Not used.

SECTION VI

The CONTRACTOR shall neither commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to the CITY nor shall the CONTRACTOR allow any employee to commence work on the maintenance services subject to this Agreement until all insurance required has been obtained. The CONTRACTOR shall take out and maintain, at all times during the term of this Agreement, the policies of insurance as set forth hereinafter.

SECTION VII

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

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

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

SECTION VIII

Throughout the term of this Agreement, at the CONTRACTOR'S sole cost and expense, the CONTRACTOR shall keep, or cause to be kept, in full force and effect for the mutual benefit of the CITY and the CONTRACTOR comprehensive, broad form, general public liability, and automobile insurance against claims and liabilities for personal injury, death, or property damage arising from the CONTRACTOR'S activities, providing protection of at least One Million Dollars ($1,000,000) for any one person Three Million Dollars ($3,000,000) per accident or occurrence for bodily injury or death, and at least One Million Dollars ($1,000,000) for property damage.

SECTION IX

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

The CONTRACTOR shall furnish the CITY with copies of all such policies promptly upon receipt of them or certificate evidencing the insurance. The CONTRACTOR may effect for its own account insurance not required under this Agreement.

SECTION X

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

It is further agreed that in the event the CONTRACTOR fails to prosecute the work or any part thereof contemplated by this Agreement, the Public Works

Superintendent, or his designated representative, shall so certify to the City Manager of the CITY; and if thereafter the CONTRACTOR, for a period of five (5) days after written notice, continues to fail to do so, then the CITY may exclude the CONTRACTOR from the premises or any portion thereof and may complete the work contemplated by this Agreement or any portion of said work by letting the unfinished portion of said work, or the portion taken over by the CITY, the cost of which shall be a charge against the CONTRACTOR and may be deducted from any money due or becoming due to the CONTRACTOR from the CITY; or the CONTRACTOR may be compelled to pay the CITY the amount of said charge or the portion thereof unsatisfied.

SECTION XI

SPECIFIC

A. Scope of Work

The work shall consist of furnishing all materials, labor, equipment, and incidentals necessary for pruning and removal of street and park trees in accordance with the Contractor's request for proposals.

1. WORKING HOURS: All work shall be performed between the hours of 7:00 a.m. and 5:00 p.m. weekdays. No weekend or holiday work shall be permitted unless authorized by the Public Works Superintendent.

2. PUBLIC SAFETY AND COOPERATION: All work shall be conducted in such a manner as to cause the least possible interference with, or annoyance to others and maintain safe conditions at all times while work operation are in progress.

3. INSPECTION BY THE CITY: The City shall inspect all work performed under this contract for compliance to the specifications and report any deficiencies to the Contractor.

4. DAMAGE TO PROPERTY: The Contractor shall not damage any public or private property as a result of the work specified. Any damage resulting from the Contractor's work shall be repaired, restored or replaced in kind within twenty-four (24) hours.

5. CERTIFIED ARBORIST: The Contractor shall employ a full-time, permanent Certified Arborist, as accredited by the International Society of Arboriculture at the time of proposal submittal, bid award and for the duration of the Agreement.

   The Certified Arborist shall be responsible for the Contractor's employees performing the work as specified herein, daily inspections of the worksite, and supervision of the Contractor's employees. The Certified Arborist shall represent the Contractor regarding any disputes that may arise with the City, public, and the Contractor's employees.

6. WORKMANSHIP: All work shall be completed in a timely and workmanlike manner. The Contractor shall provide qualified tree workers trained according to the tree care standards accepted by the International Society of Arboriculture and the National Arborists Association.

   All work shall be performed in a safe manner in compliance with the American National Safety Institute, Z133.1 Safety Standards for Tree Care Operations, as published by American National Safety Institute, Inc., 1430 Broadway, New York, New York 10018.

   The Contractor shall provide qualified tree workers certified to perform tree work near energized primary and secondary electrical distribution lines. The Contractor shall comply with the Electrical Safety Orders issued by the State of California Occupational Health and Safety Administration (Cal/OSHA) including all amendments and revisions.

7. MEASUREMENT AND PAYMENT: The unit prices called for in the Agreement shall be full compensation for all labor, materials, and equipment necessary to complete the work as specified

   No further compensation shall be made unless authorized by the Public Works Superintendent or his designated representative.

8. NOTIFICATION TO RESIDENTS: The Contractor shall notify all affected residents and businesses of tree pruning and removal operations twenty-four (24) hours before the start of work. The Contractor is responsible for posting "Temporary No Parking" signs at least twenty-four (24) hours before using any parking lanes for tree trimming operations. Every effort shall be made by the Contractor to minimize the duration of driveway blocking. Further, the Contractor shall provide access to each residential or commercial establishment each evening.

9. TRAFFIC AND SAFETY REQUIREMENTS: Any contractor performing work in a public right-of-way or parks shall conduct the operations so as to cause the least possible obstruction and inconvenience to public traffic and pedestrians and take all necessary measures to maintain an adequate traffic flow to prevent accidents and to protect the worksite.

   All traffic controls shall be in accordance with the Manual of Traffic Controls for Construction and Maintenance Work Zones published by State of California, Department of Transportation. All traffic devices, safety lights, and flagmen shall be provided by the Contractor.

   The Contractor shall receive approval from the Public Works Superintendent prior to the partial or complete closure of any lanes, streets, or intersections.

B. Complete Tree Pruning Specifications

All trees shall be pruned only in such a manner as to maintain the natural structure, form, health, and appearance of the tree species. Tree pruning shall

consist of the total removal of those dead and living branches that might compromise the health, strength, and natural form of the tree. Specifically, mature trees shall be pruned in such a manner as to:

1. Prevent branch and foliage interference with the requirements of safe public passage. Over residential streets, limbs shall be maintained gradually from eight (8) feet at the curb to seventeen (17) feet over traffic lanes. Over arterial streets, limbs shall be maintained at a maximum height of fourteen (14) feet from grade to wood.

   Over sidewalks, limbs shall be maintained at a height of seven (7) feet from the grade to wood.

2. Remove all dead and dying branched and branch stubs that are ½ inch or larger.

3. Remove all broken or loose braches.

4. Remove any live branches that interfere with the tree's structural strength and healthful development, which will include the following:

   - Limbs that rub and abrade a more important branch.

   - Limbs of weak structure that are not important to the framework of the tree.

   - Limbs that, if allowed to grow, would wedge apart the junction of more important branches.

   - Branches near the end of a limb that will produce more weight or offer more resistance to wind that the limb are able to support.

   - Undesirable sucker and water sprout growth giving specific attention not to nick or damage the sprout "burl."

   - Selective removal of one or more developing leaders where multiple branch growth exists near the end of broken or stubbed limbs.

   - Selective removal of limbs obstructing buildings or other structures, streetlights or traffic signs.

5. Cut back ends of branches and reduce weight where excessive overburden appears likely to result in breakage of supporting limbs.

6. On mature trees only, clear water sprout or sucker growth to a minimum height of eight (8) feet above ground level.

7. Maintain a balanced appearance when viewed from the opposite side of the street immediately opposite the tree.

8. Remove all vines entwined in trees and on tree trunks. Vine tendrils shall be removed without injury to the trees.

9. Clear all branches and foliage within four (4) to six (6) feet of primary electrical lines.

10. When pruning cuts are made to a side limb, the remaining limb shall possess a basal thickness of at least one third the diameter of the cut. Such cuts shall be considered proper only when the remaining limb is vigorous enough to maintain adequate foliage to produce wood growth capable of callusing the pruning cut within a reasonable amount of time.

11. All final pruning cuts shall be made in such a manner so as to favor the earliest possible covering of the wound by natural callus growth. Flush cuts shall be made and the branch collar shall not be removed.

12. Tree limbs shall be removed and controlled in such a manner as to cause no damage to other parts of the tree, or to other plants or property.

13. All tools used on a tree known to contain an infectious tree disease shall be properly disinfected immediately before and after completing work on the tree. All significant pest, disease or structural weakness or defects observed by the Contractor while performing this work shall be promptly reported to the City.

14. All pruning tools and saws used for tree pruning shall be kept sharpened at all times to result in final cut with a nonabrasive wood surface and secure bark. All trees six (6) inches in diameter (DBH) or less shall be pruned with hand tools only. Chain saws will not be permitted on any trees with six (6) inches or less (DBH).

15. Whenever pruning cuts are made, while removing limbs too large to hold securely in one hand during the curing operation, the limb shall be cut off first, one (1) to two (2) feet beyond the intended final cut. Then the final cut shall be made in a manner to prevent the tearing of bark and wood.

16. Live, healthy limbs with a diameter of three (3) inches or greater shall not be removed without prior approval from the Public Works Superintendent.

17. No more than twenty (20) percent of live wood may be removed from the crown of any tree. The exception to this is Live Oaks, which are limited to no more than ten (10) percent.

18. Any extraneous metal, wire, rubber or other material interfering with the natural growth of the tree shall be removed.

19. The use of climbing spurs or spike shoes is strictly prohibited except in the case of aerial rescue.

20. All pruning shall be performed in such a manner as to encourage and promote the natural growth and shape of the tree species. The Contractor shall not perform any of the following procedures:

- The severe cutting back of growing tips including topping, dehorning, heading back, pollarding, hat racking.
- Flush cutting where a cut is made even with the surface with the trunk or limb, removing the branch collar and branch bark ridge.
- Stub cutting where branch removal results in the base of the branch removed protruding more than approximately one-quarter inch beyond the zone of the branch collar and branch bark ridge.
- Removal of all the inner branches and foliage also know as lion tailing.

C. Removals

Removals of trees shall be completed in the safest and most efficient manner possible while providing minimal inconvenience to the resident. Removals shall include the total removal of all brush, surface roots, and stumps.

Stumps may be removed in whole by digging out each individual stump or by grinding the stump to a minimum of twelve (12) inches below the top of the curb. In each instance, the areas shall be backfilled and graded to conform to the surrounding area. Whenever a tree is removed, the Contractor is responsible for notifying Dig Alert at 1 (800) 227-2600, two (2) days before digging. Stumps must be removed within two (2) days of the date that the tree is removed.

D. Disposal of Tree Branches, Brush, and Stumps

All tree branches, brush, and stumps produced as a result of the Contractor's operations shall be reduced, reused, recycled, and/or transformed whenever possible.

1. Reducing will include, but not limited to, chipping, grinding, and/or shredding. Disposal at a landfill is acceptable only if the material is accepted by the landfill for use as alternate daily cover.

2. Reusing shall include, but not limited to, using chipped, ground, and/or shredded tree materials as mulch.

3. Recycling shall include, but not limited to, chipped, ground, or shredded tree material used to produce compost utilizing either a low or high technology.

4. Transformation will include, but not limited to, burning green waste, such as tree wood chips, for the purpose of producing energy.

   Worksites shall be cleaned on a daily basis with no limbs, brush or debris left overnight.

SECTION XII

MISCELLANEOUS PROVISIONS

A. **Assignment.** No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, either in whole or in part, by the CONTRACTOR without the written consent of the CITY.

B. **Independent Contractor.** The parties hereto agree that CONTRACTOR and its employees, officers, and agents are independent contractors under this Agreement, and shall not be construed for any purpose whatsoever to be employees of the CITY.

C. **Compliance With Laws.** The CONTRACTOR shall comply with all applicable laws in performing its obligations under this Agreement.

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

E. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Stat of California.

F. **Attorneys' Fees.** In the event that any legal proceeding is instituted to enforce any term or provision of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount to be determined by the Court to be reasonable.

G. **Entire Agreement.** This Agreement supersedes any and all other agreements either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any other party that is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing, signed by all parties.

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

CONTRACTOR:

WEST COAST ARBORISTS

Patrick Mahoney, President	Date

CITY:

CITY OF MONTCLAIR

Paul M. Eaton Mayor	Date

ATTEST:

Andrea M. Phillips Deputy City Clerk	Date

APPROVED AS TO FORM:

Diane E. Robbins City Attorney	Date

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-38 WITH SOUTHERN CALIFORNIA LANDSCAPE, INC., FOR LANDSCAPE SERVICES AT PASEOS PARK	**DATE:**	JUNE 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	9
		FILE I.D.:	PRK050
		DEPT.:	PUBLIC WORKS

REASON FOR CONSIDERATION: Agreement No. 14-20 with Southern California Landscape, Inc., for landscape maintenance services at Paseos Park expires on June 30, 2015. Approval of Agreement No. 15-38 will extend landscape maintenance services from Southern California Landscape, Inc., for three additional years. Agreements with the City require City Council approval.

A copy of proposed Agreement No. 15-38 is attached for City Council review and consideration.

BACKGROUND: At its meeting on March 7, 2014, the City Council approved Agreement No. 14-20 with Southern California Landscape, Inc., for landscape maintenance of Paseos Park. Agreement No. 14-20 included a provision, if agreeable by both parties, to extend the term of the Agreement by up to three additional three-year terms. Approval of Agreement No. 15-38 would exercise the first three-year term extension for this agreement.

Proposed Agreement No. 15-38 would extend the term of Agreement No. 14-20 by three years, beginning July 1, 2015 and expiring on June 30, 2018.

FISCAL IMPACT: The approval process for the Paseos development project included the formation of a Community Facilities District, which pays for the maintenance of various features within the development. Among those features included is the public park. The maintenance cost is $1,575 per month, plus $500 for annual dethatching, and a contingency amount of $3,500 for unforeseen repairs due to accidents and/or vandalism.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-38 with Southern California Landscape, Inc., for landscape maintenance services at Paseos Park.

Prepared by:		Fiscal Impact Finance Review:	
Proofed by:		Reviewed and Approved By:	

AN AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR AND SOUTHERN CALIFORNIA LANDSCAPE, INC., LANDSCAPE MAINTENANCE SERVICES FOR PASEOS PARK

THIS AGREEMENT, made effective as of the 1st day of July, 2015, by and between the CITY OF MONTCLAIR, a Municipal Corporation, County of San Bernardino, State of California, hereinafter referred to as "CITY"; and Southern California Landscape, Inc., hereinafter referred to as "CONTRACTOR."

WITNESSETH:

SECTION I

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

SECTION II

This Agreement is for a period of three (3) years from the date hereinabove set forth expiring on June 30, 2018, subject to the right of either party to cancel without cause by giving a minimum of thirty (30) days' written notice to the other of such cancellation.

SECTION III

All of the work and services to be performed pursuant to this Agreement shall be performed in a good and workmanlike manner for the total monthly sum of $1,575.00 including annual dethatching at a rate of $500.00, with payments to be made on the 1st day of each and every calendar month, during the term of this agreement, which will be paid the CONTRACTOR for all work and services to be performed pursuant to this Agreement. CONTRACTOR shall pay prevailing wages in accordance with the laws of the State of California.

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

SECTION IV

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

SECTION V

Not used.

SECTION VI

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

SECTION VII

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

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

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

SECTION VIII

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

general public liability, and automobile insurance against claims and liabilities for personal injury, death, or property damage arising from the CONTRACTOR'S activities, providing protection of at least One Million Dollars ($1,000,000) for bodily injury or death to any one person and Three Million Dollars ($2,000,000) for any one accident or occurrence and at least One Million Dollars ($1,000,000) for property damage.

SECTION IX

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

SECTION X

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

SECTION XI

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

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

SECTION XII

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

SECTION XIII

SPECIFIC

A. Trees, Plants, Shrubbery

1. All plants and shrubbery shall be properly irrigated, pruned, and shaped in season to produce the best possible effect and growth condition including tree skirts to have a minimum seven feet of clearance.

2. Tree trimming, planting, and staking shall be completed by the CITY.

3. The CITY may make periodic soil analyses to determine soil amendment requirements (gypsum, sulfur, iron chelates, etc.) as well as fertilization demands, and the Contractor is required to make the necessary applications within two weeks of notification. In lieu of soil tests, the CITY/AGENCY may require the CONTRACTOR to provide an all–purpose fertilizer for application.

B. Lawns

1. All lawn areas will be mowed and edged weekly. As work is completed, the clippings, trimmings, weeds, and other extraneous materials shall be removed, leaving the lawns in a neat and attractive condition. The CONTRACTOR is responsible for cost of disposing such material.

2. All lawns shall be fed with commercial fertilizer supplied by the CONTRACTOR two times each year. Time of application of fertilizer shall be as specified by the CITY. Prior to fertilizing, the CONTRACTOR shall first mow the lawn to the appropriate height. Selective weed killer supplied by the CONTRACTOR, shall be applied to provide complete dandelion, crabgrass, or other weed control. Chemicals used shall meet Department of Food and Agriculture regulations. The CONTRACTOR is liable for misuse.

3. All lawns shall be mowed between 2 and 2 1/2 inches.

4. All landscape areas will be monitored and treated for Gopher Control by the CONTRACTOR as needed. The CONTRACTOR, at no additional cost to the CITY, shall furnish chemicals and licenses necessary for Gopher Control.

C. Replacements

1. Any plant material that may expire from normal causes shall be replaced and replanted with a like or more desirable species without additional cost to the CITY.

2. Any plantings, cobblestone or stamped concrete areas, or portions of the irrigation systems that are damaged by vehicles, vandalism, or other means beyond the CONTRACTOR'S control shall be repaired and/or replaced by the CITY.

D. Irrigation System

1. Sprinkler heads shall be adjusted and kept clean to provide the best possible coverage. Missing, broken, worn, or sprinkler heads damaged while performing the duties pursuant to the Agreement shall be immediately replaced by CONTRACTOR to allow continuous irrigation without additional cost to the CITY.

2. Automatic irrigation controllers, remote control valves, and sprinkler heads will be properly checked and adjusted by the CONTRACTOR weekly.

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

E. Debris

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

F. Cobblestone Concrete, Bomanite, and Stamped Concrete Areas

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

G. Management and Supervision

1. The sites defined by this Agreement shall be closely inspected by the CONTRACTOR'S Maintenance Superintendent to ensure proper work procedures are followed.

2. Monthly maintenance reports by CONTRACTOR'S Maintenance Superintendent shall be submitted for CITY'S information.

3. The landscape maintenance will be scheduled first to meet the requirements of the landscape and secondly to fit the working procedures of the CITY.

SECTION XIV

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

A. Paseos Park, located at 9018 Sycamore Avenue, Montclair, Ca. 91763

B. Parkways:

1. **Monte Vista from Moreno St north to 175 feet north of Olive St**
2. **Moreno St from Monte Vista to 550 feet East.**

SECTION XIV

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

SECTION XV

MISCELLANEOUS PROVISIONS

A. Assignment. No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, either in whole or in part, by the CONTRACTOR without the written consent of the CITY.

B. Independent Contractor. The parties hereto agree that CONTRACTOR and its employees, officers, and agents are independent contractors under this Agreement, and shall not be construed for any purpose whatsoever to be employees of the CITY.

C. Compliance with Laws. The CONTRACTOR shall comply with all applicable laws in performing its obligations under this Agreement.

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

E. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

F. Attorney's Fees. In the event that any legal proceeding is instituted to enforce any term or provisions of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorney's fees and costs from the opposing party in an amount to be determined by the court to be reasonable.

G. **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any other party that is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing, signed by all parties.

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

Contractor:

SOUTHERN CALIFORNIA LANDSCAPE, INC.

Name	Title	Date

City:

CITY OF MONTCLAIR

Paul M. Eaton Mayor	Date

ATTEST:

Andrea M. Phillips Deputy City Clerk	Date

APPROVED AS TO FORM:

Diane E. Robbins City Attorney	Date

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-39 WITH NCM ENGINEERING CORPORATION FOR THE PREPARATION OF DESIGN AND CONSTRUCTION DRAWINGS FOR THE MONTE VISTA AVENUE/UNION PACIFIC RAILROAD GRADE SEPARATION PROJECT CONSIDER AMENDING THE FISCAL YEAR 2014-2018 CAPITAL IMPROVEMENT PROGRAM TO REFLECT AUTHORIZED FEDERAL FUNDING	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	10
		FILE I.D.:	STA110
		DEPT.:	PUBLIC WORKS

REASON FOR CONSIDERATION: The City Council is being asked to consider approval of Agreement No. 15-39 with NCM Engineering Corporation for the design and development of construction drawings for the construction of a grade separation between the Union Pacific railroad tracks and Monte Vista Avenue. Agreements with the City require City Council approval.

Copies of proposed Agreement No. 15-39 are included in Council Members' agenda packets for City Council review and consideration. Copies are also available to the public upon request from the City Clerk's Office.

BACKGROUND: In 2000, then-Governor Gray Davis signed into law the Traffic Congestion Relief Act of 2000. The intent of the legislation was to relieve traffic congestion throughout the state and included $95 million for construction of street/railroad grade separations in San Bernardino County. San Bernardino Associated Governments (SANBAG) was designated as the local authority to prioritize projects and distribute funding for projects in San Bernardino County. SANBAG designated $16.8 million for a grade separation between Monte Vista Avenue and the Union Pacific Railroad tracks.

The City was responsible for developing a design and preparing construction drawings for this project. In January 2002, the City entered into Agreement No. 02-1 with Lim and Nascimento (LAN) Engineering Corporation for the preparation of a Project Report and Environmental Documentation under the California Environmental Quality Act (CEQA) for this project. Later that same year, LAN Engineering Corporation's scope of services was expanded to include preparation of construction drawings under Agreement No. 02-135. By late 2002, the design was complete and the City began the right-of-way acquisition process necessary for this project.

Unfortunately, in January 2003, the City was notified by SANBAG that the state was withdrawing all unspent funding, effectively killing the project at that time. For the next few years, the City sought alternative sources of funding without much success.

Prepared by:		Fiscal Impact Finance Review:	
Proofed by:		Reviewed and Approved By:	

In late 2005, with the economy seemingly improving, the state restored partial funding to the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project, allowing the City to continue with right-of-way acquisition.

Between 2003 and 2006, property values had increased significantly and the restored funding was not sufficient to complete the right-of-way acquisition. The former Redevelopment Agency stepped in with supplement funding, allowing the City to complete the acquisitions. The City was also successful in getting $1.6 million in federal money for the project, and SANBAG stepped forward with additional federal funds to assure there would be sufficient funds to complete construction.

With the introduction of federal money into the project, it was necessary to reopen the environmental process in order to comply with the National Environmental Policy Act (NEPA). The City had hoped to use some of the federal money for this purpose, but was advised by Caltrans that federal money could not be used to perform the environmental work on a project that was already designed. With no state funds available and no non-federal SANBAG money available, the City had to once again use its own funds to complete the NEPA process. This time Measure I money was used, and in 2011, the City entered into Agreement No. 11-133 with AECOM Technical Services, Inc. AECOM Technical Services, Inc., had acquired LAN Engineering Corporation in 2009. The NEPA process was successfully completed in summer 2013.

The City then attempted to update its construction and maintenance agreement with Union Pacific Railroad and sought Caltrans approval for amending the agreement with AECOM Technical Services, Inc., for revisions to the plans that had been completed ten years earlier. Two significant problems were encountered. First, the railroad would no longer honor the original agreement, which had expired ten years earlier when the funding had been withdrawn by the state. Furthermore, the original agreement had proposed a three-span structure across the railroad tracks. Union Pacific Railroad now wanted a clear-span structure, which meant the original design would no longer work. Compounding that issue was the second problem, which was that Caltrans would not approve the use of AECOM Technical Services, Inc. (AECOM). The original selection of its predecessor, LAN Engineering Corporation, had not included a Disadvantaged Business Enterprise goal, a requirement when federal funds are being used. It was not a problem that could be fixed after the fact. Both these problems effectively meant the original design and designer could not be used. The City was left with no other viable option than to select a new consultant to design the project from scratch.

In May 2014, the City released its request for proposals (RFP) for design services required for the grade separation project. The City received three responses to the request. Those responding to the RFP included AECOM, NCM Engineering Corporation, and Moffat and Nichol Engineers. After a thorough review of all proposals and interviews with all three consultants, the City determined that NCM Engineering Corporation was the best consultant for the project. One of the factors considered in selecting NCM Engineering Corporation was that the project manager identified for the project, a former employee of AECOM, was intimately familiar with the design work previously done.

The last item of work performed by AECOM under its original and amended agreements with the City was to negotiate with Union Pacific Railroad regarding the span requirement. Although Union Pacific Railroad had initially stated a clear-span structure would be required, the City, with support from AECOM, and Union Pacific Railroad were able to arrive at a compromise. A two-span structure with one

permanent support in the railroad right-of-way would be permitted. The compromise means that the new bridge will fit within right-of-way already acquired, and equally important, will fit within the CEQA and NEPA cleared project footprint.

Over the past year, the City has negotiated a scope of services and fee appropriate for the job, secured Caltrans' approval for the consultant, and successfully undergone a preaward audit with Caltrans regarding the billing rates to be used by NCM Engineering Corporation and all of its subconsultants. The final approval from Caltrans allowing the City to award the design contract was received May 18, 2015.

FISCAL IMPACT: The fee negotiated with NCM Engineering Corporation is $1,699,596. With all funding through the Traffic Congestion Relief Act of 2000 fully expended and the Redevelopment Agency no longer able to provide funding, the design work will be fully funded with federal money and a local match made up of local Measure I funds. The match requirement is 20%.

The request for authorization to award the contract (RFA) to NCM Engineering Corporation was based on the estimated design cost when the RFA was first submitted to Caltrans last June. At that time, the total estimated cost was $1.8 million. The table below shows the fund authorization amount based on both the estimated design cost of $1.8 million and the actual contract amount of $1,699,596.

	Total Costs	Participating Costs (Federal)	Matching Funds (Local)
Authorized	$1,800,000	$1,439,839.50	$360,160.50
Actual	$1,699,596	$1,359,676.80	$339,919.20

The Measure I Expenditure Plan for Fiscal Year 2014/15 includes $175,000 for maintenance activities and demolition work associated with properties previously acquired for this project, and $320,000 for matching fund requirements associated with the design. Very little of the $175,000 has been used this year for maintenance, and no demolition has occurred. Therefore, sufficient funds exist to meet the City's local match requirement.

An amendment to the FY2014-2018 Capital Improvement Program (CIP) is also required to show the revised federal funding and local match. The revised CIP worksheet is based on the funds authorized by Caltrans for the design phase of this project. The authorized funds are slightly more than the actual contract. That difference will be used as a contingency in the event additional design services are required.

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

1. Approve Agreement No. 15-39 with NCM Engineering Corporation for the preparation of design and construction drawings for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.

2. Amend the Fiscal Year 2014-2018 Capital Improvement Program to reflect the authorized federal funding.

Infrastructure Fund
Capital Project Funding Information

Project Name: Monte Vista Avenue/Union Pacific Grade Separation Project

Project Details: This project will construct a bridge over the Union Pacific Railroad tracks at Monte Vista Avenue. (This project was previously identified as Project No. 1-03-7.) Project was to be funded 100% by state, but due to state funding issues, construction will use Measure I and federal funds.

Preparation Date: October 15, 2012

Department: Public Works Department

Estimated Start Date: Constr.-2016

Project No. (Assigned by Finance): 7004

Contact/Ext.: Michael C. Hudson 441

Phase	Prior Years	Fiscal Years 2014/2015	2015/2016	2016/2017	Total	Estimated Completion	Grant Billing Date	Fund/Program (Fund Name & Number)
Environmental	250,000.00				250,000.00	Completed	Billed previously	TCRP
	300,000.00				300,000.00	Completed	N/A	Measure I
Design	2,110,000.00				2,110,000.00			TCRP
	300,000.00				300,000.00	Dec. 2013	N/A	Measure I
		1,439,839.50			1,439,839.50	Dec. 2015		Fed HPP
		360,160.50						Measure I
R/W Acquisition	8,458,000.00				8,458,000.00	Completed		TCRP
	1,250,000.00				1,250,000.00	Completed		RDA
Construction	300,000.00				300,000.00	Dec. 2013	N/A	Measure I
			10,000,000.00		10,000,000.00	2017		Fed PNRS
			5,000,000.00		5,000,000.00	2017		CPUC
Total	12,968,000.00	1,800,000.00	15,000,000.00	0.00	29,768,000.00	Dec. 2017		

Approvals:

Department: Public Works Department By: MSCH Date: August 7, 2014

Finance By: Date:

City Council Date:

Total Project Cost: $29,768,000.00

Revision Number: #1-8/7/14 #2-6/1/15

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-40 WITH CIHIGOYENETCHE, GROSSBERG & CLOUSE TO PROVIDE LEGAL AND CONSULTING SERVICES RELATED TO LITIGATION AND EMPLOYEE RELATIONS MATTERS	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	11
		FILE I.D.:	LEG150
		DEPT.:	ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-40 with the law firm of Cihigoyenetche, Grossberg & Clouse to provide legal and consulting services related to litigation and employee relation matters.

A copy of proposed Agreement No. 15-40 is attached for the City Council's review and consideration.

BACKGROUND: The City of Montclair has utilized legal services from various law firms for purposes of employer-employee relations, labor relations, grievances, disciplinary actions, and other litigation matters. As a result of the office closure of one of the attorney's retained by the City, Attorney Diane Robbins contacted Scott J. Grossberg from the law firm of Cihigoyenetche, Grossberg & Clouse to discuss providing services for the City of Montclair on employee related litigation. Mr. Grossberg is very knowledgeable on matters related to public employees and has extensive experience with civil litigation in both federal and state court.

In May 2015, City Attorney Robbins consulted with Mr. Grossberg to develop a contract for the law firm of Cihigoyenetche, Grossberg & Clouse to provide legal and consulting services to the City of Montclair effective May 15, 2015. Mr. Grossberg would be used primarily for employer-employee-related issues. The proposed hourly rates are competitive with the hourly rates of other law firms utilized by the City for legal and consulting services.

FISCAL IMPACT: The proposed fees for the subject legal services are contained in proposed Agreement No. 15-40 and summarized below:

Proposed Hourly Rates

Partner of the firm	$190
Associate of the firm	$180
Paralegal of the firm	$ 90

Prepared by:	Gary E. Chandler	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:		Reviewed and Approved By:	

The City will pay for all reasonable and necessary expenses incurred by the firm such as automobile travel at the rate of $.57 per mile and other travel related expenses, toll charge telephone calls, facsimile costs, postage and overnight delivery charges, expenses for the printing or reproduction of documents at the rate of $.020 per page, filing fees and other costs imposed by the Court, investigator's fees, court reporters' fees, process servers' and messengers' fees.

Since these services are utilized on an as-needed basis, the exact fiscal impact is currently unknown. Funds for attorney services are currently included in the Fiscal Year 2014-15 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-40 to retain the law firm of Cihigoyenetche, Grossberg & Clouse to provide legal and consulting services related to litigation and employee relations matters.

CIHIGOYENETCHE, GROSSBERG & CLOUSE
8038 Haven Avenue, Suite E
Rancho Cucamonga, California 91730
(909) 483-1850

RETAINER AGREEMENT FOR LEGAL SERVICES LITIGATION

1. **PARTIES**. This Retainer Agreement for Legal Services is entered into and effective as of May 15, 2015, between CIHIGOYENETCHE, GROSSBERG & CLOUSE ("The Firm") and the CITY OF MONTCLAIR ("The Client"). The Firm and the Client may be referred to as the "Parties."

2. **SCOPE OF AGREEMENT**. The Client retains and employs The Firm to represent it and to act as attorney at law for it in all litigation matters assigned to The Firm by The Client, together with any legal services requested specifically by The Client. The scope of this Retainer Agreement may sometimes be referred to as "The Retention."

3. **THE FIRM'S DUTIES**. The Firm shall represent The Client and provide legal advice and litigation services with the degree of learning and skill ordinarily possessed by reputable members of the Bar practicing in Southern California under similar circumstances and in similar cases.[1]

4. **HOURLY/RETAINER ACCOUNT**. The Client agrees that The Firm shall charge The Client the sum of One Hundred Ninety Dollars ($190.00) per hour for legal services rendered by a partner of The Firm, and One Hundred Eighty Dollars ($180.00) per hour for legal services rendered by an Associate of The Firm, and Ninety Dollars ($90.00) per hour for legal

[1] The Firm does not purport to give and shall not be deemed to have given advice as to tax, probate, financial, or similar matters. To the extent that The Firm does not provide advice on such matters, comments on those topics is for discussion purposes only and should not be relied upon by The Client. It is The Client's responsibility to seek legal and accounting advice regarding such matters from professionals specializing in those areas. Nothing said or done by The Firm or any person acting on behalf of The Firm shall be a waiver or limitation of this provision.

services rendered by a Paralegal of The Firm. A monthly billing statement shall be directed to The Client, attention of Edward C. Starr, City Manager. The Firm may demand, as necessary, additional sums to be placed on retainer if The Client fails to make payments in a timely manner for fees incurred and billed. The Firm will be reimbursed from The Client for all costs and fees based on The Retention, to which The Firm will bill or invoice The Client. No initial retainer deposit is required from The Client, unless demanded by The Firm.

5. **AMOUNT OF FEES INCURRED**. The Firm is unable to predict the amount of fees which may be incurred in The Retention, in part because the costs incurred are related to the outcome of the action(s), the conduct and cooperation of the opposing side and its attorneys, the judge(s) assigned to the case and the rulings of the Court, over which The Firm has little or no control.

The Client acknowledges that the fees incurred for work performed by The Firm on its behalf are due and owing within 30 days of the work being performed. At The Firm's discretion, it may choose to defer payment. Notwithstanding this, The Client agrees that it shall tender payment within 30 days of written demand by The Firm for payment. Unless expressly stated thereon, monthly statements generated by The Firm shall not constitute written demand, but shall simply be a written reflection of work performed and fees incurred.

6. **"COSTS" INCLUDING OTHER CHARGES**. In addition to the fee set forth above, The Client agrees to pay all reasonable and necessary expenses incurred by The Firm on behalf of The Client in connection with The Retention including, but not limited to:

A. Automobile travel at the rate of $ .57 per mile;

B. Other travel expenses and actual costs, including but not limited to, airfare, taxi cab fare, meals and lodgings;

C. Toll charge telephone calls;

D. Facsimile costs, overnight delivery charges and postage;

E. Expenses for the printing or reproduction of documents at the rate of $0.20 per page;

F. Filing fees and such other costs as are imposed by the Court, judicial body or governmental agency;

G. Investigator's fees, special outside consultation or research, expert consultation and expert witnesses;

H. Court reporters' fees and other deposition charges;

I. Process servers' and messengers' fees.

7. **ADVANCING COSTS**. The Firm shall not be obligated to pay or advance any of the costs or expenses referred to above and may at The Firm's sole option: (a) require The Client to advance the payment for any such costs or expenses; or (b) arrange to have those costs directly billed to The Client. Notwithstanding this provision, The Firm may, at its option, advance such costs and expenses as it deems appropriate and obtain reimbursement from The Client. If The Firm elects to advance any item or items of costs on behalf of The Client, The Firm shall not be deemed to create an obligation to advance the same or similar items of costs at any time in the future.

8. **OTHER OBLIGATIONS OF THE CLIENT**. The Client agrees to truthfully disclose all relevant information to The Firm and to follow The Firm's instructions. The Client agrees to fully cooperate with The Firm so that The Firm may fully discharge its duties under this Retainer Agreement. Cooperation shall include, but is not limited to, attendance at all proceedings, meetings, conferences, depositions, hearings, trials and other events at which The

Client's presence is deemed required by The Firm. In addition, The Client shall provide The Firm with any information, documents, summaries, compilations and other information promptly upon request.

9. **WITHDRAWAL BY FIRM**. Should The Firm determine at any time that the continued representation of The Client is or may be a conflict of interest, The Firm may withdraw from representation of The Client unless the conflict can reasonably be avoided or waived to the satisfaction of The Firm. The Client is advised and agrees that the failure of The Client to carry out any of its obligations under this Retainer Agreement shall be grounds for The Firm to withdraw. In the event The Firm withdraws, upon reasonable notice, The Client nonetheless shall be obligated to pay fees, costs and other out-of-pocket expenditures up to that time and for such other fees, costs and other out-of-pocket expenses as The Firm incurs in concluding the representation, including, but not limited to, consulting with successor counsel and providing The Client's successor counsel copies of the files.

10. **DISCHARGE OF FIRM**. The Client may discharge The Firm at any time or for any reason, but shall be obligated to pay all fees, costs, and other out-of-pocket expenditures accrued up to that time and for such other fees, costs and other out-of-pocket expenses as The Firm incurs in concluding the representation, including but not limited to, consulting with successor counsel and providing the Client or successor counsel copies of the files.

11. **COPY OF THE FILES**. The Client agrees that The Firm upon the conclusion of the matter or in the event of withdrawal or discharge shall have a right, at the expense of The Client, to keep a copy of all writings and items which constitute the file.

12. **LIENS BY THE FIRM**. The Firm shall have all general, possessory, and retaining liens, and all special or charging liens known to the common law or other laws, for the fees, costs and expenses incurred.

13. **ATTORNEYS' FEES.** In the event that any controversy, claim or dispute arises between any of the Parties covered by this Retainer Agreement, including but not limited to, construction or enforceability of this Retainer Agreement and/or the rights or obligations of the Parties of this Retainer Agreement, the prevailing party shall be entitled to recover all reasonable costs and expenses incurred including, but not limited to, reasonable attorney's fees and costs.

14. **MANDATORY ARBITRATION**. Any controversy, claim or dispute between or among The Client and The Firm and any of its employees including, but not limited to, those which arise out of or relate to this Retainer Agreement or the representation of The Client by The Firm and any of its employees and including any claim or damage arising out of an alleged tort, shall be subject to mandatory arbitration before all such arbitration panel(s) as exist or which may be appointed by the San Bernardino County Bar Association to hear and resolve such disputes. Excluding any limits placed upon the scope of the arbitration, the arbitration rules provided by statutes covering disputes between attorneys and clients and the rules of the San Bernardino County Bar Association then in effect shall apply to the arbitration of all such disputes. In the event that the San Bernardino County Bar Association declines jurisdiction over the dispute, the Parties agree to select a retired judge of the Superior Court of California as an arbitrator with jurisdiction to hear and decide the dispute. In the event that the Parties cannot agree to the selection of a retired judge, any party covered by this Retainer Agreement may petition the Superior Court of the County of San Bernardino to appoint an arbitrator, if possible, from its panel of arbitrators with jurisdiction to hear and decide the dispute. The decision of the

arbitrator(s) shall be final and no appeal shall lie from such determination. However, nothing herein shall prevent either The Firm or any of its employees or The Client from commencing or prosecuting any action in any court of competent jurisdiction to secure relief in aid of such arbitration including, but not limited to, provisional remedies.

15. **NO GUARANTEES**. The Client understands and acknowledges that there are certain risks and uncertainties in the pursuit of the matter for which The Firm has been retained, that law is not an exact science, that The Firm has made no representations or guarantees of success regarding the conclusion of this matter, and that all expressions relative thereto are matters of The Firm's opinion only. In other words, The Firm makes no representations or guarantees of success regarding any matters assigned by The Client to The Firm.

16. **MISCELLANEOUS PROVISIONS**.

A. **Other Parties Bound**. This Retainer Agreement shall be binding upon and inure to the benefit of The Firm, The Client, and their respective legal representatives, successors, and assigns.

B. **Severability**. In the event that any covenant, condition or provision of this Retainer Agreement is held to be invalid, void or illegal, it shall be deemed severable from the remainder of this Retainer Agreement and shall in no way affect, impair or invalidate any other covenant, condition or other provision of this Retainer Agreement. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

C. **Waiver and Agreement**. No breach of any provision of this Retainer Agreement can be waived unless in writing. Waiver of any one breach of any provision of this

Retainer Agreement shall not be deemed to be a waiver of any other breach of the same or any other provision of this Retainer Agreement. This Retainer Agreement may be amended only by a written agreement executed by the Parties in interest at the time of the modification.

D. **California Law Applies**. This Retainer Agreement, negotiated in, signed in, and to be performed in whole or in part in the State of California, shall be interpreted according to the laws of the State of California.

E. **Captions**. Paragraph titles or captions contained in this Retainer Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Retainer Agreement or the rights or obligations of The Firm or The Client.

F. **Number and Gender**. Whenever the singular number is used in this Retainer Agreement and when required by the context, the same shall include the plural, and the masculine, feminine and neuter genders shall include the others.

G. **Integration**. This Retainer Agreement sets forth the entire agreement between The Firm and The Client with regard to the subject matter of this Retainer Agreement. All agreements, covenants, representations and warranties, express and implied, oral and written, of the Parties with regard to the subject matter of this Retainer Agreement are contained within this Retainer Agreement, and the documents referred to in this Retainer Agreement or implementing the provisions of this Retainer Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written have been made by either party to the other with respect to the subject matter of this Retainer Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and representations, covenants, and warranties with respect to the subject matter of this Retainer

Agreement are waived, merged in this Retainer Agreement and superseded in and by this Retainer Agreement. This is an integrated Retainer Agreement.

H. **Independent Advice of Counsel**. The Client acknowledges that The Firm does not represent it until after this Retainer Agreement has been signed and all actions taken in advance of that time or dependent upon this Retainer Agreement being fully executed. The Client further acknowledges that The Firm has not given it legal advice regarding this Retainer Agreement and that it had been advised by The Firm that it may and it should seek independent legal advice before entering into this Retainer Agreement. The Client further acknowledges that it has had the opportunity to consult with other counsel or attorneys regarding the provisions of this Retainer Agreement and that it has entered into this Retainer Agreement solely upon its own judgment, belief and knowledge, and the advice and recommendations of its own independently selected counsel.

I. **Interpretation**. This Retainer Agreement shall not be strictly construed against any party, regardless of the party who causes the Retainer Agreement to be drafted and regardless of whether a party was and or was not represented by counsel. This Agreement shall be interpreted fairly in accordance with its terms to achieve the result intended by reference to the language of this Retainer Agreement.

J. **Warranty of Authority**. The individual who signs on behalf of The Client represents that he/she is authorized to bind The Client to the terms of this Retainer Agreement, and authorizes The Firm to spend such time, advance such costs and to make such out-of-pocket expenditures on behalf of The Client as may be reasonably necessary in the proper handling of legal matters.

K. **Receipt of Copy and Acknowledgment That Retainer Agreement Has Been Read**. The person(s) signing below represents that he/she has read the entirety of this Retainer Agreement and understands and agrees with each and every provision in it. The Client further acknowledges that it has read and received a copy of this Agreement and its attachment and the full text Section 6148 of the California Business and Professions Code prior to signing this Retainer Agreement.

DATED: _____ CIHIGOYENETCHE, GROSSBERG & CLOUSE

By: _____
Scott J. Grossberg, Partner

DATED: _____ CITY OF MONTCLAIR

By: _____
Paul M. Eaton, Mayor

ATTEST

By: _____
Andrea M. Phillips, Deputy City Clerk

APPROVED AS TO FORM

By: _____
Diane E. Robbins, City Attorney

THE TEXT OF BUSINESS AND PROFESSIONS CODE SECTION 6148 IS REPRINTED ON THE FOLLOWING PAGES.

BUSINESS AND PROFESSIONS CODE SECTION 6148

6148. Contracts for services not coming within § 6147; bills rendered by attorney; contents; failure to comply

(a) In any case not coming within Section 6147 in which it is reasonably foreseeable that total expense to a clients, including attorney fees, will exceed one thousand dollars ($1,000), the contract for services in the case shall be in writing. At the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the clients, or the clients' guardian or representative, to the clients or to the clients' guardian or representative. The written contract shall contain all of the following:

(1) Any basis of compensation including, but not limited to, hourly rates, statutory fees or flat fees, and other standard rates, fees, and charges applicable to the case.

(2) The general nature of the legal services to be provided to the clients.

(3) The respective responsibilities of the attorney and the clients as to the performance of the contract.

(b) All bills rendered by an attorney to a client shall clearly state the basis thereof. Bills for the fee portion of the bill shall include the amount, rate, basis for calculation, or other method of determination of the attorney's fees and costs. Bills for the cost and expense portion of the bill shall clearly identify the costs and expenses incurred and the amount of the costs and expenses. Upon request by the clients, the attorney shall provide a bill to the clients no later than 10 days following the request unless the attorney has provided a bill to the clients within 31 days prior to the request, in which case the attorney may provide a bill to the clients no later than 31 days following the date the most recent bill was provided. The client is entitled to make similar requests at intervals of no less than 30 days following the initial request. In providing responses to clients requests for billing information, the attorney may use billing data that is currently effective on the date of the request, or, if any fees or costs to that date cannot be accurately determined, they shall be described and estimated.

(c) Failure to comply with any provision of this section renders the agreement voidable at the option of the clients, and the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.

(d) This section shall not apply to any of the following:

(1) Services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the clients or where a writing is otherwise impractical.

(2) An arrangement as to the fee implied by the fact that the attorney's services are of the same general kind as previously rendered to and paid for by the clients.

(3) If the clients knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required.

(4) If the clients is a corporation.

(e) This section applies prospectively only to fee agreements following its operative date.

(f) This section shall become operative on January 1, 2000.

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 15-41 WITH THE SAN BERNARDINO COUNTY DEPARTMENT OF AGING AND ADULT SERVICES TO SUPPORT THE SENIOR CITIZEN TRANSPORTATION PROGRAM	**DATE:**	June 1, 2015
		SECTION:	AGREEMENTS
		ITEM NO.:	12
		FILE I.D.:	HSV105
		DEPT.:	HUMAN SVCS.

REASON FOR CONSIDERATION: San Bernardino County Department of Aging and Adult Services (DAAS) has presented a three-year renewable contract for the Senior Citizen Transportation Program for City Council approval.

A copy of proposed Agreement No. 15-41 is attached for City Council review and consideration.

BACKGROUND: The San Bernardino County Department of Aging and Adult Services has awarded the City a contract to provide funding to support the Senior Citizen Transportation Program for older adults, ages 60 and over. The three-year renewable grant is for a total of $30,000. The first year of the grant for Fiscal Year 2015-16, in the amount of $10,000, would be used to help fund part-time salaries. The City of Montclair is contracted to serve annually 40 participants and provide 3,500 units of service (one unit is equivalent to a one-way trip).

The term of proposed Agreement No. 15-41 is July 1, 2015, through June 30, 2018.

FISCAL IMPACT: Should the City Council approve Agreement No. 15-41, a grant in the amount of $10,000 for the first year of the three-year renewable grant would be awarded to the City. These funds have been allocated to the City through a DAAS Senior Supportive Services grant.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-41 with the San Bernardino County Department of Aging and Adult Services to provide funding towards the Senior Citizen Transportation Program.

Prepared by:	M. Richter	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Vanessa Tom	Reviewed and Approved By:	M. Richter

SAN BERNARDINO COUNTY

F A S

STANDARD CONTRACT

☒ New ☐ Change ☐ Cancel	FAS Vendor Code CITYOFM731	**SC**	Dept. OOA	**A**	Contract Number
ePro Vendor Number 00003363					ePro Contract Number
County Department Department of Aging and Adult Services		Dept. OOA	Orgn. 671		Contractor's License No.
County Department Contract Representative Becky Giroux		Telephone (909) 386-8146			Total Contract Amount NOT TO EXCEED $30,000

Contract Type: ☐ Revenue ☒ Encumbered ☐ Unencumbered ☐ Other:

If not encumbered or revenue contract type, provide reason:

Commodity Code	Contract Start Date	Contract End Date	Original Amount	Amendment Amount
92500	July 1, 2015	June 30, 2018	$30,000	

Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount
AAF	OOA	671	300	3357		$30,000
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount $

Project Name: Senior Supportive Services

Estimated Payment Total by Fiscal Year

FY	Amount	I/D	FY	Amount	I/D
2015/16	$10,000	I			
2016/17	$10,000	I			
2017/18	$10,000	I			

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

Name: City of Montclair hereinafter called Contractor

Address: 5111 Benito Street

Montclair, CA 91763

Telephone: (909) 626-8571 Federal ID No. or Social Security No.

IT IS HEREBY AGREED AS FOLLOWS*:*

WHEREAS, The County desires to provide Senior Supportive Services; and

WHEREAS, County has been allocated funds by the Older Americans Act by California Department of Aging to provide such services; and

WHEREAS, County finds Contractor qualified to provide such services; and

WHEREAS, County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

NOW THEREFORE, County and Contractor mutually agree to the following terms and conditions:

Auditor-Controller/Treasurer/Tax Collector Use Only		*CAO Use Only*	
☐ Contract Database	☐ FAS	Not required for mid fiscal year cancellations	
Input Date	Keyed By	Effective Date	Analyst Initials

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I. DEFINITIONS

A. CCR – California Code of Regulations

B. CDA – California Department of Aging

C. CFDA – Catalog of Federal Domestic Assistance

D. CFR – Code of Federal Regulations

E. Contract – The cover sheet, terms and conditions, attachments, addendums, and amendments, unless otherwise specified.

F. Contractor – The entity to which funds are awarded under this contract and which is accountable to DAAS for use of these funds and is responsible for executing its provisions and services.

G. Cost Reimbursement – Payment method in which allowable and reasonable costs incurred by a contractor in the performance of the contract, which may include overhead, personnel, utilities, etc. are reimbursed in accordance with the terms of the contract.

H. DAAS – Department of Aging and Adult Services and the designated Area Agency on Aging in San Bernardino County.

I. DHS – California State Department of Health Services

J. DOJ – Department of Justice

K. Elderly – Any individual who is sixty (60) years of age or older, also "older individual."

L. Equipment – Tangible personal property with a useful life of more than one year and an acquisition cost of $500 or more per unit.

M. HS – Human Services – A system of integrated services, where the programs and resources of nine County departments come together to provide a rich, more complete array of services to the citizens of San Bernardino County under one coordinated effort.

N. In-Kind Match – Contributions from third parties, such as volunteered time and use of facilities to hold meetings or conduct project activities.

O. Indirect Costs – Costs incurred for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objective specifically benefitted, without effort disproportionate to the results achieved.

P. Matching Contributions – The value of third-party in-kind contributions and that portion of program and administrative costs funded (cash or in-kind) by the Contractor, subcontractor, or other local resources.

1. Cash – Cash other than program income contributed to the project from local or State funds. With the exception of Community Development Block Grants (CDBG), Federal funds cannot be used as cash match. Costs borne by the Contractor and cash contributions from any and all third parties, i.e., company/private donations, vendor general fund, are considered cash matching funds.

2. In-Kind – Contributions from third parties are considered in-kind matching funds. Examples of in-kind match include volunteered time and use of facilities to hold meetings or conduct project activities.

Q. Non-Matching Contributions – Local funding that does not qualify as matching contributions and/or is not being budgeted as matching contributions (e.g., federal funds, overmatch, etc.)

R. OAA – Older Americans Act – Provides comprehensive, coordinated, community-based systems of services to the elderly to enable them to maintain health, personal dignity, and independence.

S. OMB – Office of Management and Budget

T. Program Income – Revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:

1. Voluntary contributions received from a participant or responsible party as a result of services.
2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
3. Royalties received on patents and copyrights from contract-supported activities.
4. Proceeds from sale of items fabricated under a contract agreement.

U. Regional Service Area (RSA) – Designated service area to facilitate the local planning, coordination, and provision of a basic continuum of eligible supportive services.

V. SEFA – Schedule of Expenditures of Federal Awards

W. Single Audit Entity – Non-Federal entities that expend $750,000 or more in a fiscal year in Federal awards. Single Audit Entities must have a single or program-specific audit conducted for the year in accordance with OMB Circular A-133.

X. State – State of California

Y. USC – United States Code

Z. W & I – California Welfare and Institutions Code

II. CONTRACTOR SERVICE RESPONSIBILITIES

Contractor shall provide all services as outlined in Work Plan (Attachment A)

III. CONTRACTOR GENERAL RESPONSIBILITIES

A. In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino. Contractor agrees to comply with the applicable federal suspension and debarment regulations, including, but not limited to 7 Code of Federal Regulations (CFR) Part 3017, 45 CFR 76, 40 CFR 32, or 34 CFR 85. By signing this Agreement, Contractor certifies that:

1. Neither it nor its principals is presently debarred, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;

2. Have not within a three-year period preceding this agreement been convicted of or had a judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction, or a violation of Federal or State antitrust statutes or

commission of embezzlement, theft, forgery, bribery. Falsification, or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in Paragraph (A)(2) herein; and

4. Have not within a three-year period preceding this Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

B. Without the prior written consent of the Assistant Executive Officer for Human Services, this Contract is not assignable by Contractor either in whole or in part.

C. Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, Chief Executive Officer of the County or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

D. If during the course of the administration of this Contract, the County determines that the Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

E. Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. Said records shall be kept and maintained within the County of San Bernardino. County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.

Records, should include, but are not limited to, monthly summary sheets, sign-in sheets, and other primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must also comply with the appropriate Office of Management and Budget (OMB) Circulars that state the administrative requirements, cost principles and other standards for accountancy.

All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of the Contract.

F. Contractor shall notify County in writing of any change in mailing address and/or physical location within ten (10) days of the change, and shall immediately notify County of changes in telephone or fax numbers.

G. Contractor shall notify County of any continuing vacancies and any positions that become vacant during the term of this Contract that will result in reduction of services to be provided under this Contract. Upon notice of vacancies, the Contractor shall apprise County of the steps being taken to provide the services and to fill the position as expeditiously as possible. Vacancies and associated problems shall be reported to County on each periodically required report for the duration of said vacancies and/or problems.

H. Contractor shall designate an individual to serve as the primary point of contact for the Contract. Contractor shall notify the County when the primary contact will be unavailable/out of the office for

one (1) or more workdays. Contractor or designee must respond to County inquiries within two (2) County business days.

Subcontracting

1. General

   a. Without the prior written consent of the Director of DAAS or his/her designee, this Contract is not assignable by Contractor either in whole or in part. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Director of DAAS or his/her designee. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor.

   b. The Contractor shall have no authority to contract for, on behalf of , or incur obligations on behalf of the County.

2. Awards

   a. Policies and procedures used in processing and awarding the subcontracts must be as follows:

      1) Organized and structured

      2) Reasonable and equitable

      3) Documented and approved by appropriate authorities

      4) Consistent with applicable federal, state, and local procurement requirements

      5) Uniformly applied

      6) Open for public review and scrutiny

   b. Copies of subcontracts, agreements, memoranda and/or letters of understanding shall be on file with the Contractor and shall be made available for review at the request of the County.

   c. A copy of the executed subcontract shall be submitted to the Director of DAAS.

3. Financial

   a. Funds for this Contract shall not be obligated in subcontracts for services beyond the ending date of this contract.

   b. Contractor must ensure cost incurred by the subcontractor is verifiable from their records.

   c. The Contractor shall review, approve, and monitor subcontractor performance, budgets and expenditures pertaining to the contracted service(s).

   d. If applicable[1], the Contractor shall monitor on an ongoing basis, the subcontractor's use of federal and state funds through reporting, site visits, regular contact, or other means to provide reasonable assurance that the subcontractor administers funds in compliance with laws, regulations, and the provisions of contracts. (OMB Circular A-133.400(d)(3).

   e. The maximum reimbursement amount allowable for indirect cost is 8% of subcontractor's direct cost, excluding in-kind contributions and nonexpendable equipment.

4. Monitoring

a. Contractor shall monitor the budget and expenditures of its subcontractors and/or vendors.

b. Contractor shall report immediately to the DAAS in writing any incidents of alleged fraud and/or abuse by either the Contractor or Subcontractor.

c. The Contractor shall monitor the insurance requirements of its subcontractors and/or vendors.

d. Contractor shall monitor the performance of its subcontractors and/or vendors requiring subcontractor to maintain adequate staff.

e. The Contractor shall satisfy, settle, and resolve all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontract agreement.

f. The Contractor shall not delegate or contract the above responsibilities to any other entity, including, but not limited to disputes, claims, protest of award, or other matters of a contractual nature.

g. The Contractor will provide support and technical assistance to subcontractors and respond in writing to all written request for direction, guidance, and interpretation of instructions to include client and service data.

5. Subcontract Termination

Contractor shall notify DAAS in writing of termination of this subcontract within three (3) business days of receipt of notification of intent to terminate subcontracted service(s).

I. Contractor shall provide a system, approved by the County, through which recipients of service shall have the opportunity to express and have considered their views and complaints regarding the delivery of services. The procedure must be in writing and posted in clear view of all recipients.

Contractor will ensure that staff are knowledgeable on the Client Complaint and Grievance Procedures (Attachment B) and ensure that any complaints by recipients are referred to the County in accordance with the procedure.

J. Contractor shall notify the County of all upcoming meetings of the Board of Directors or other governing party and shall keep the County apprised of any and all actions taken by its Board of Directors which may impact on the Contract. All Board of Directors' minutes shall be submitted to the County with the monthly report submitted in the month following approval of the minutes. Further, a County representative shall have the option of attending Board meetings during the term of this Contract.

K. Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this Contract, except for statistical information not identifying any participant. The Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

L. Contractor shall ensure that all staff, volunteers and/or subcontractors performing services under this Contract comply with the terms and conditions as set forth in the Human Services Information Privacy and Security Requirements prior to providing any services. Contractor shall immediately notify the County of any suspected or actual breach of confidential information as further detailed in the requirements. These requirements specified at http://hss.sbcounty.gov/Privacy/ are hereby incorporated by this reference.

M. Elder and Dependent Adult Abuse Reporting

Contractor agrees to and shall comply with the County's Elder and Dependent Adult Abuse Reporting requirements: Under the terms of this Contract, as changes in the Elder and Dependent Adult Reporting Laws are enacted, the Contractor is bound to comply with the most current regulations.

1. Who Must Report:
In accordance with W & I Code Section 15630, all employees of the Contractor and its subcontractors are mandated reporters of elder and dependent adult abuse. Contractor assures all employees, agents, consultants or volunteers who perform services under this Contract and are mandated to report elder and dependent adult abuse will sign a statement (SOC 341A) http://www.dss.cahwnet.gov/Forms/English/SOC341.pdf, upon the commencement of their employment, acknowledging their reporting requirements and their compliance with them.

2. When To Report:
Mandated reporters are required to report all instances of known or suspected abuse of the elderly and dependent adults immediately or as soon as practically possible, under the following circumstances:

   a. When the mandated reporter has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, isolation, neglect, financial abuse, mental abuse or sexual abuse; or
   b. When the mandated reporter is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, neglect, financial abuse, mental abuse or sexual abuse.

3. To Whom To Report:
Incidents of elder and dependent adult abuse must be reported to the correct agency as follows:

   a. If the abuse has occurred in a long term care facility, except a state mental hospital or state developmental center, the report shall be made to the local Long-Term Care Ombudsman or local law enforcement;
   b. If the abuse has occurred in a state mental hospital or state developmental center, the report shall be made to the designated investigators of the State Department of Mental Health or the State Department of Developmental Services or to the local law enforcement;
   c. If the abuse occurred anywhere other than a long-term care facility or State mental hospital or State developmental center, the report shall be made to Adult Protective Services or local law enforcement.

4. How To Report:
Mandated reporters are required to take the following steps in all instances of known or suspected abuse of the elderly and dependent adults:

   a. Place an immediate telephone call to Adult Protective services (1-877-565-2020) or local law enforcement to report the incident.
   b. Within two (2) working days of making the telephonic report to the responsible agency, complete a written "Report of Suspected Dependent Adult/Elder Abuse" (SOC 341) form, http://www.dss.cahwnet.gov/Forms/English/SOC341.pdf. The completed form must be submitted to the same agency to which the incident was reported by telephone.

O. Contractor shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code Section 11105.3 prior to providing any services. This includes licensed personnel who are not able to provide documentation of prior DOJ

clearance. A copy of a license from the State of California, which requires a DOJ clearance, is sufficient proof. The County must be immediately notified of any records showing a conviction. The County may instruct Contractor to take action to deny/terminate employment or terminate internship and/or volunteer services where the records show the person is unsuitable for employment, internship, or volunteer services.

P. Contractor shall notify the County of any staff member, paid intern or volunteer who is knowingly or negligently employed who has been convicted of any crime of violence or of any sexual crime. Contractor shall investigate all incidents where an applicant, employee, intern or volunteer has been arrested and/or convicted for any crime listed in Penal Code Section 11105.3 and shall notify the County. In the County's discretion, the County may instruct Contractor to take action to either deny/terminate employment or terminate internship and/or volunteer services where the investigation shows that the underlying conduct renders the person unsuitable for employment, internship, or volunteer services.

Contractor shall immediately notify the County concerning the arrest and/or conviction, for other than minor traffic offenses, of any paid employee, agent, consultant, intern, or volunteer staff, when such information becomes known to Contractor.

Q. Contractor shall make every reasonable effort to prevent employees, consultants or members of its governing bodies from using their positions for purposes that are or give the appearance of being motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. In the event County determines a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicants and such persons have successfully competed for employment with other applicants on a merit basis.

R. Contractor agrees to and shall comply with the following indemnification and insurance requirements:

1. Indemnification – The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Contractor's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

3. Waiver of Subrogation Rights – The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents

from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

4. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

5. Severability of Interests – The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

6. Proof of Coverage – The Contractor shall furnish Certificates of Insurance to the County Department administering the contract evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

7. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

8. Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of $10,000 shall be declared to and approved by Risk Management.

9. Failure to Procure Coverage – In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

10. Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

    Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

    Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

11. The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that

coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

a. Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with $250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

   If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

   With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

b. Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars ($1,000,000), per occurrence. The policy coverage shall include:

   1) Premises operations and mobile equipment.

   2) Products and completed operations.

   3) Broad form property damage (including completed operations).

   4) Explosion, collapse and underground hazards.

   5) Personal injury

   6) Contractual liability.

   7) $2,000,000 general aggregate limit.

c. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars ($1,000,000) for bodily injury and property damage, per occurrence.

   If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars ($2,000,000) for bodily injury and property damage per occurrence.

   If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

d. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary

coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

e. Professional Liability – Professional Liability Insurance with limits of not less than one million ($1,000,000) per claim or occurrence and two million ($2,000,000) aggregate limits

or

Errors and Omissions Liability Insurance with limits of not less than one million ($1,000,000) and two million ($2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million ($1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

f. For Cyber (internet) and Electronic Data Processing (EDP) contracts – Cyber Liability Insurance with limits of no less than $1,000,000 for each occurrence or event with an annual aggregate of $2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

S. Contractor shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract and shall procure all licenses and pay all fees and other charges required thereby. Contractor shall maintain all required licenses during the term of this Contract. Failure to comply with the provisions of this section may result in immediate termination of this Contract.

T. Contractor shall comply with all applicable local health and safety clearances, including fire clearances, for each site where services are provided under the terms of this Contract.

U. Contractor agrees to and shall comply with the County's Equal Employment Opportunity Program, Employment Discrimination, and Civil Rights Compliance requirements:

1. Equal Employment Opportunity Program: The Contractor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and all rules and regulations adopted pursuant thereto: Executive Orders 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250; Title VII of the Civil Rights Act of 1964; Division 21 of the California Department of Social Services Manual of Policies and Procedures; California Welfare and Institutions Code Section 10000), the California Fair Employment and Housing Act; and other applicable federal, state, and county laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.

2. Employment Discrimination: During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the

Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

3. Civil Rights Compliance: The Contractor shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with the County Human Services Contracts Unit within 30 days of awarding of the Contract. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, the County shall supply a sample of the Plan format. The Contractor shall be monitored by the County for compliance with provisions of its Civil Rights Plan. Contractor is required to submit Assurance of Compliance (Attachment C), along with their agency's Civil Rights Plan. Additionally, the Contractor shall submit to County an Assurance of Compliance with the California Department of Social Services Non-discrimination in State and Federally Assisted Programs Statement annually.

V. Contractor agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).

W. Contractor shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (California Code of Regulations title 20, Section 1401 et seq.).

X. If the amount available to Contractor under this Contract, as specified in Section V, Paragraph A, exceeds $100,000, Contractor agrees to comply with the Clean Air Act (42 U.S.C. Section 7606), Section 508 of the Clean Water Act (33 U.S.C. Section 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 C.F.R. Section 1.1 et seq.).

Y. Contractor shall use recycled and recyclable products, whenever practicable, in fulfilling the terms of this Contract. Recycled printed products shall include a symbol identifying the recycled material.

Z. Contractor understands and agrees that any and all legal fees or costs associated with lawsuits concerning this Contract against the County shall be the Contractor's sole expense and shall not be charged as a cost under this Contract. In the event of any Contract dispute hereunder, each Party to this Contract shall bear its own attorney's fees and costs regardless of who prevails in the outcome of the dispute.

AA. Contractor shall register with 211 San Bernardino County Inland Empire United Way within 30 days of contract effective date and follow necessary procedures to be included in the 211 database. The contractor shall notify the 211 San Bernardino County Inland Empire United Way of any changes in program services, location or contact information within ten (10) days of any change. Services performed as a result of being included in the 211 database, are separate and apart from the services being performed under this Contract and payment for such services will not be the responsibility of the County.

BB. Contractor agrees that any news releases, advertisements, public announcements or photographs arising out of the Agreement or Vendor's relationship with County shall not be made or used without prior written approval of the CFS Director or their designee.

CC. The Contractor, by signing this Contract, hereby certifies to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into

of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities" form (Attachment D), in accordance with its instructions.

3. The Contractor shall require that the language of this certification be included in any subcontracts at all tiers, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

DD. IRAN CONTRACTING ACT OF 2010, Public Contract Code Section 2200 et seq. (Applicable for all Contracts of one million dollars ($1,000,000) or more). In accordance with Public Contract Code Section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person (as defined in Public Contract Code Section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code Section 2205.

EE. Contractor shall complete and submit Information Sheet (Attachment E) in accordance with its instructions.

FF. Per DAAS contract with CDA, Article II A (27), Community Focal Points List (Attachment F) provides Contractors with additional resources for their customers.

IV. COUNTY RESPONSIBILITIES

County shall:

A. The County shall monitor and evaluate the performance of the Contractor in meeting the terms of the Contract and the quality and effectiveness of services provided based on the criteria as determined by the County.

B. The County shall provide consultation and technical assistance in monitoring the terms of this Contract.

C. The County shall compensate the Contractor for approved expenses in accordance with Section V of the Contract.

V. FISCAL PROVISIONS

A. The maximum amount of reimbursement under this Contract shall not exceed a cumulative total of $30,000 of which $30,000 may be federally funded, and shall be subject to availability of funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem. Overtime and holiday make-up time will not be permitted. Payments are subject to provisions in the Payments, Budgets, Closeout, and Audits (Attachment G).

B. Contractor shall be compensated on a cost reimbursement basis on the basis of the Program Display For Fiscal Years 2015-18 (Attachment H) attached hereto and incorporated by reference into this Contract.

C. Reports

1. Contractor, at such times and in such forms as DAAS may require, shall furnish statements, records, reports, data, and information requested by DAAS pertaining to the Contractor's performance of services hereunder and other matters covered by this Contract. The forms shall be reviewed for timeliness, completeness, and correctness of the information submitted, by the Program Director or his/her designee, prior to submission to DAAS. Incomplete forms shall be returned to the Contractor for completion. (In the event of changes in these forms, DAAS shall advise the Contractor via written notice.) The Contractor shall develop and implement a process for ensuring quality control.

   Contractor shall meet the following standards for the submission of required reports:

   a. Financial Reporting – Accurate, current, and complete disclosure of the financial results of the program shall be made in accordance with the financial reporting requirements of this Contract. The following reports are to be submitted to DAAS when indicated:

      1) Monthly-III B Supportive Services Invoice (Attachment I) – Due to DAAS Administration by the 5th working day of the month following the month of service to the address stated below:

         DAAS Administration
         Attention: IIIB Program Analyst
         686 East Mill Street
         San Bernardino, CA 92415-0640

      2) Annually – The following reports are due on an annual basis no later than August 1:

         - Financial Close-out Report (if requested by DAAS)
         - Periodic Inventory Report
         - Annual reports should be mailed to the following address:

           DAAS Administration
           Attention: IIIB Fiscal Analyst
           686 East Mill Street
           San Bernardino, CA 92415-0640

      3) Single Audit – If Contractor is a Single Audit entity as defined in this Agreement, Contractor shall:

         - Communicate the Catalog of Federal Domestic Assistance (CFDA) number to the independent auditor conducting the organization's Single Audit. The CFDA number for the IIIB Support Services is 93.044.
         - Provide a copy of Contractor's Schedule of Expenditures of Federal Awards (SEFA) to DAAS on an annual basis.

D. Matching Contribution

1. In general, acceptable matching contributions are those that:

   a. Are verifiable from the Contractor's records

   b. Are not included as contributions for other federally-assisted programs or projects

c. Are necessary and reasonable for proper and efficient accomplishment of program objectives

d. Are not paid by the federal government under another award, except where authorized by Federal statute to be allowed for cost sharing or matching.

e. Are provided for in the approved budget when required

f. Conform to other laws, regulations, and provisions of contract or agreements applicable to the program

2. Contractor shall provide a minimum of $791 in matching contribution per year during the Contract period, which is the amount of Federal Title III funds provided under the Contract multiplied by 11.11%.

E. Contractor shall submit itemized invoices to the County, by the tenth (10th) calendar day following the month of service to:

DAAS Administration
Attention: IIIB Fiscal Analyst
686 East Mill Street
San Bernardino, CA 92415-0640

F. Under normal conditions, Contractor shall expect payment approximately 60 days after submission of a correctly prepared invoice.

G. Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

H. Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.

I. Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.

J. County is not liable for the payment of any taxes, other than applicable sales or use tax, resulting from this Contract however designated, levied or imposed, unless County would otherwise be liable for the payment of such taxes in the course of its normal business operations.

K. Upon written demonstration of need by Contractor and at the option of the County, up to 10% of Title III funds may be advanced to Contractor upon the approval of the Director of DAAS. Any such advance shall cause the amounts payable to Contractor in subsequent months to be reduced by the determined by dividing the balance left by the number of months remaining in the Contract term. No advance will increase the amount shown in Section V, Paragraph A.

VI. RIGHT TO MONITOR AND AUDIT

A. County shall have the absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract.

B. County or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services

provided under this Contract. Full cooperation shall be given by Contractor in any auditing or monitoring conducted.

C. Contractor shall cooperate with County in the implementation, monitoring and evaluation of this Contract and comply with any and all reporting requirements established by this Contract.

D. All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by county, federal and state representatives for a period of three years after final payment under the Contract or until all pending county, state, and federal audits are completed, whichever is later. Records of the Contractor which do not pertain to the services under this Contract may be subject to review or audit unless provided in this or another Contract. Technical program data shall be retained locally and made available upon the County's reasonable advance written notice or turned over to County. If said records are not made available at the scheduled monitoring visit, Contractor may, at County's option, be required to reimburse County for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed $50 per hour (including travel time) and may be deducted from the following month's claim for reimbursement.

E. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Contractor.

F. Upon County request, Contractor shall hire a licensed Certified Public Accountant, approved by the County, who shall prepare and file with County, within 60 days after the termination of the Contract, a fiscal and program compliance audit of related expenditures during the term of the Contract.

VII. CORRECTION OF PERFORMANCE DEFICIENCIES

A. Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

B. In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

1. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at sole discretion of County; and/or

2. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or

3. Withhold funds pending duration of the breach; and/or

4. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "2" of this paragraph; and/or

5. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

C. Appeal Procedures

If Contractor disagrees with any decision or action taken by the County or DAAS related to this Contract, Contractor may choose to file a formal grievance by following the procedures below:

1. The Contractor shall file a formal written grievance with the DAAS Deputy Director of Administrative Services ("DAAS Deputy Director") within fifteen (15) business days after the Contractor is aware of the factors or conditions precipitating the contract dispute. The written grievance shall set forth the subject of the grievance, identify the specific clause in dispute and shall provide a detailed statement of the grievance, including dates, names, places, and the specific remedy or action requested. The filing address is 686 East Mill

Street, San Bernardino, California, 92415-0640. The DAAS Deputy Director shall provide a written response to Contractor within fifteen (15) business days of receipt of the grievance.

2. If Contractor is not satisfied with the DAAS Deputy Director's response, Contractor may file a written grievance appeal, which shall include a statement by the Contractor as to why the DAAS Deputy Director's response is not satisfactory, to the Director of DAAS within fifteen (15) business days of receipt of the DAAS Deputy Director's response. The filing address is 686 East Mill Street, San Bernardino, California, 92415-0640. The Director of DAAS shall provide a written response to Contractor within fifteen (15) business days. The Director of DAAS shall have final authority for the decision on the grievance except as provided below.

3. If Contractor is not satisfied with the DAAS Director's response, Contractor may file a written grievance appeal, which shall include a statement by the Contractor as to why the DAAS Director's response is not satisfactory, to the Assistant Executive Officer of Human Services (AEO) within fifteen (15) business days of receipt of the DAAS Director's response. The filing address is 385 North Arrowhead Avenue, Fifth Floor, San Bernardino, California, 92415-0128. The AEO shall provide a written response to Contractor within fifteen (15) business days. The AEO shall have final authority for the decision on the grievance except as provided below.

4. For those appeals which involve CDA programmatic policies and directives issued to the County and contained within this Contract, the following applies. If Contractor is not satisfied with the AEO's decision, the written grievance may be registered in writing with the CDA, Case Management Branch, 1300 National Drive, Suite 200, Sacramento, California, 95834, within fifteen (15) business days following receipt of the AEO's decision. Contractor shall submit to CDA the original written grievance along with a copy of the DAAS Deputy Director's written response, the Contractor's appeal to the Director of DAAS, the Director of DAAS' decision, the Contractor's appeal to the Assistant Executive Officer, and the Assistant Executive Officer's decision. CDA shall have final authority for the decision on the grievance.

VIII. TERM

This Contract is effective as of July 1, 2015 and expires June 30, 2018, but may be terminated earlier in accordance with provisions of Section IX of this Contract.

IX. EARLY TERMINATION

A. The County may terminate the Contract immediately under the provisions of Section VII, Paragraph B, Item 5 of the Contract. In addition, the Contract may be terminated without cause by the County by serving a written notice to the Contractor thirty (30) calendar days in advance of termination. The Assistant Executive Officer for Human Services is authorized to exercise the County's rights with respect to any termination of this Contract.

B. Contractor shall only be reimbursed for costs and uncancelable obligations incurred prior to the date of termination. Contractor shall not be reimbursed for costs incurred after the date of termination.

X. GENERAL PROVISIONS

A. When notices are required to be given pursuant to this Contract, the notices shall be in writing and mailed to the following respective addresses listed below.

Contractor: City of Montclair
5111 Benito Street
Montclair, CA 91763

County: County of San Bernardino
Human Services
Attn: Contracts Unit
150 S. Lena Road
San Bernardino, CA 92415-0515

B. Nothing contained in this Contract shall be construed as creating a joint venture, partnership or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C. Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate any Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a Contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies

D. Property

1. Unless otherwise provided for in this Section, property refers to all assets, used in operation of this Contract.

   a. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles.

   b. Property does not include consumable office supplies such as paper, pencils, typing ribbons, and file folders.

2. Property meeting all of the following criteria is subject to the reporting requirements:

   a. Have a normal useful life of at least 1 year;

   b. Have a unit acquisition cost of at least $500 (a desktop or laptop setup including all peripherals is considered a unit, if purchased as a unit)

   c. Is used to conduct business under this Contract.

3. Additions, improvements, and betterments to assets meeting all of the conditions must also be reported. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.

4. Intangibles are property which lack physical substance but give valuable rights to the owner. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

5. All purchases of property meeting all of the following criteria above require the following:

   a. If purchase of equipment is to be reimbursed by DAAS, the equipment to be purchased must be specified in the budget previously submitted and approved by DAAS, or be specified in a revised budget that Contractor submits to DAAS for approval.

   b. Contractor must seek bids from multiple firms in selecting a supplier of goods. "Multiple firms" means a minimum of three (3) separate and distinct business entities in competition to supply the same or similar good. When selecting a bid, Contractor must consider such factors as type of goods/supplies needed, cost, schedule, and availability.

   c. Prior to any property/equipment purchases of $500 or more by Contractor the "Request To Purchase Property/Equipment Form" (Attachment J), and "Property/Equipment Bid Form" (Attachment K), must be submitted by Contractor and be approved by DAAS.

6. The Contractor shall record the following information when property is acquired:

   a. Date acquired;

   b. Property description (include model number);

   c. CDA tag number or other tag identifying it as CDA property;

   d. Location of property;

   e. Cost or other basis of valuation;

   f. Fund source; and

   g. Rate of depreciation (or depreciation schedule), if applicable.

7. The Contractor shall not use DAAS funded property as collateral to obtain loans, etc. Any liens placed against properties purchased with the funds available through this contract should be reported to DAAS within five (5) days. The Contractor shall maintain and submit to DAAS annually with the closeout, a current inventory of property furnished or purchased by either the Contractor or the subcontractor with funds awarded under the terms of this Contract or any predecessor contracts for the same purpose. The Contractor shall use the Report of Project Property Furnished/Purchased with Agreement Funds (CDA 32), unless otherwise directed by DAAS.

8. Disposal of Property

   a. Prior to disposal of any property purchased by the Contractor or subcontractor with funds from this Agreement or any predecessor Agreement, the Contractor must obtain approval from DAAS for all items with a unit cost of $500 or more. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from DAAS. The Contractor shall use the Request to Dispose of Property (CDA 248) to request disposal of property from DAAS.

   b. Contractor shall remove all confidential, sensitive, or personal information from CDA property prior to disposal, including removal or destruction of data on computing devices with digital memory and storage capacity. This includes, but is not limited to, magnetic tapes, flash drives, personal computers, personal digital assistants (PDAs), cell or smart phones, multi-function printers, and laptops.

9. The Contractor shall immediately investigate, and within five (5) days fully document the loss, destruction, or theft of such property.

10. DAAS reserves title to all DAAS-purchased or financed property not fully consumed in the performance of this Contract, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.

11. Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until the Contractor has complied with all written instructions from DAAS regarding the final disposition of the property.

12. In the event of the Contractor's dissolution or upon termination of this Contract, the Contractor shall provide a final property inventory to DAAS. DAAS reserves the right to require the Contractor to transfer such property to another entity, or to DAAS. To exercise the above right, no later than 120 days after termination of the Contract or notification of the Contractor's dissolution, DAAS will issue specific written disposition instructions to the Contractor

14. The Contractor shall use the property for the purpose for which it was intended under the Contract. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of DAAS for other purposes in the following order:

    a. Another DAAS program providing the same or similar service; or

    b. Another DAAS -funded program.

15. Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the Director of DAAS. As a condition of the approval, DAAS may require reimbursement under this Contract for its use.

16. The Contractor or subcontractor shall not use equipment or supplies acquired under this Contract with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately owned business entity.

17. Contractor shall include the provision contained in this Section in all its subcontracts awarded under this Agreement.

E. The state and County shall have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation. The Federal Government (Department of Health and Human Services) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use and to authorize others to use for Federal Government purposes, such software modification, and documentation. Proprietary software packages that are sold or leased to the general public are not subject to the ownership provisions.

F. County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under the Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of the Contract shall acknowledge San Bernardino County as the funding agency and Contractor as the creator of the publication. No such materials or properties produced in whole or in part under the Contract shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printed material, and periodicals, assembled pursuant to the Contract must be filed with County prior to publication. Contractor shall receive written permission from County prior to publication of said training materials.

G. All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Section VIII, Term. Unless otherwise directed by County, Contractor may retain copies of such items.

H. County shall have Power of Attorney to pay unpaid delinquent debts and unpaid wages for work provided under this Contract from accounts payable to Contractor in the event debts and wages have not been paid on a current basis.

I. No waiver of any of the provisions of the Contract shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the Contract shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.

J. Any alterations, variations, modifications, or waivers of provisions of the Contract, unless specifically allowed in the Contract, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this Contract. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

K. If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.

L. This Contract shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The Parties agree to the exclusive jurisdiction of the federal court located in the County of Riverside and the state court located in the County of San Bernardino, for any and all disputes arising under this Contract, to the exclusion of all other federal and state courts.

M. Contractor shall encourage seniors to contribute to the cost of services by notifying them at least annually, using the DAAS Senior Services Programs (Attachment L) Voluntary Contribution Flyer.

N. Contractor shall sign and return a Contractor/Vendor Confidentiality Statement (Attachment M) with this Agreement. This is to ensure that Contractors are aware of, and agree to comply with, their obligations to protect CDA information assets from unauthorized access and disclosure.

O. Contractor shall complete the Security Incident Report (Attachment N) when CDA information assets are accessed, modified, destroyed, or disclosed without proper authorization, or are lost or stolen. The Contractor must report all security incidents to DAAS immediately upon detection. The Security Incident Report must be submitted to DAAS within five (5) business days of the date incident was detected.

XI CONCLUSION

A. This Contract, consisting of 22 pages and Attachments A through N, is the full and complete document describing services to be rendered by Contractor to the County including all covenants, conditions and benefits.

B. The signatures of the Parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.

C. **IN WITNESS WHEREOF**, the Board of Supervisors of the County of San Bernardino has caused this Contract to be subscribed to by the Clerk thereof, and Contractor has caused this Contract to be subscribed in its behalf by its duly authorized officers, the day, month and year written.

COUNTY OF SAN BERNARDINO

►

James Ramos, Chairman, Board of Supervisors

Dated: _____

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

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

By _____
Deputy

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

By ►
(Authorized signature – sign in blue ink)

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

Title: Mayor
(Print or Type)

Dated: _____

Address: 5111 Benito Street
Montclair, CA 91763

Approved as to Legal Form	Reviewed by Contract Compliance	Presented to BOS for Signature
►	►	►
Jacqueline Carey-Wilson, Deputy County Counsel	Regina Dalton, HS Contracts Unit	Ron Buttram, Director
Date _____	Date _____	Date _____

WORK PLAN

City of Montclair

FY 2015 – 2018

This work plan contains the measurable objectives mandated by the County of the service provider. The work plan specifies and establishes time frames either on an annual basis or, where required by state regulations, on a quarterly basis. The work plan constitutes the primary document for ongoing monitoring, Annual Program Performance Review/Fiscal Audit and will be used to measure the provider's efforts toward providing quality services.

I. Scope of Work

A. Services will be provided as follows:

RSA	Communities
Valleys	City of Montclair only

B. Services shall be provided as follows:

East Desert Regional Service Area				
Service Category	**Number of Clients to be served**	**Number of Priority Clients to be served**	**Number of Units to be provided**	**Registered[1]/Non Registered[2] Service**
Assisted Transportation	**40/year**	**30/year**	**3,500/year**	**Registered**

[1] **Registered Service** - Reporting requirements include unduplicated client counts by individual characteristics, ADLs/IADLs and service units.

[2] **Non-Registered** - Reporting requirements include estimated unduplicated client counts and service units.

C. Service Definitions – Service category definitions and units of measure are as follows:

III B Services

Service Category	Unit Measure	Definitions
Assisted Transportation	1 One Way Trip	Assistance and transportation, including escort, to a person who has difficulties (physical or cognitive) using regular vehicular transportation.

D. Clientele and Eligibility Criteria

1. The clients served under this program are individuals age 60 and older. Proof of age or citizenship shall not be required as a condition of receiving services. Means tests shall not be used by any Contractor for any Title III-B services.
2. Services shall not be denied to any Title III-B client that does not contribute toward the cost of the services received.
3. Clients will be given priority for services who are socially and/or economically needy with particular attention to low income minority individuals, older individuals with Limited English Proficiency, and older individuals residing in rural areas and who are not eligible for services from any other source.
4. Cost sharing shall not be implemented for any Title III-B service until so notified by DAAS.
5. Individuals referred by DAAS staff shall be given first priority for services under this agreement.

E. Intended Outcomes

1. Staff and/or volunteers providing services must be trained and qualified in the safe provision of services provided under this contract.
2. Outreach shall be conducted by Contractor in the communities served through a minimum of 4 presentations to community groups and organizations. All outreach activities will be documented and kept on file to be reviewed during program monitoring to be scheduled and conducted by DAAS staff.
3. A cost allocation plan which explains the methods used to allocate costs between programs with funds received from DAAS shall be developed by Contractor and on hand for review by DAAS.
4. A client or participant satisfaction survey shall be conducted by Contractor at least once a year. The survey form must be approved by designated DAAS staff prior to its use and all findings from the survey must be used to improve services. The returned surveys and tabulated results must be kept on file for review by DAAS staff.
5. For churches, community service centers and small stores serving minority communities, Contractor shall prepare posters, signs and brochures in languages other than English. Contractor shall post signs and distribute brochures in those communities.

II. **Service Delivery Activities**

A. Staffing

1. The Contractor shall maintain adequate staff to meet the contractor's obligations under this Agreement. This includes a Director and additional personnel as determined by the size of the service area and the method and level of service provision needed to fully comply with the terms of this work plan and agreement.
2. This staff shall be available to DAAS for training and meetings which DAAS may find necessary from time to time. Volunteer Staff

B. Volunteers are individuals who work without pay in the performance of essential duties to conduct the program. In some cases, the Director may be a volunteer.

1. Volunteers shall not replace paid personnel.

C. Training Activities

1. Provide training both on the job and in formal training sessions, as appropriate, to improve the understanding of paid staff about the service(s) being provided. Wherever required by law and/or ordinance, licensed staff must be trained to carry out assigned duties. In addition, annually evaluate paid staff performance to determine his/her effectiveness, skill development and understanding of tasks they are assigned. Documentation of training shall be kept on file at the provider's main office for review by DAAS during program monitoring to be scheduled and conducted by DAAS.

2. Volunteers should be provided on the job training and opportunities for formal training to improve skills and understanding of the service being provided. Wherever required by law or ordinance, volunteers must be trained and/or licensed to carry out assigned duties. Documentation of training shall be kept on file at the provider's main office for review by DAAS during program monitoring to be scheduled and conducted by DAAS staff.

III. Other Service Requirements

A. Physical Set-Up

1. Where services are provided in a care center, office or any setting outside the client's home, the environment must be attractive, clean and free from obstacles which could cause injury.

2. Post floor plans identifying emergency exits, assembly areas, etc. and conduct evacuation drills at least twice a year. Proof of evacuation drills will be kept on file duly signed by the Fire Marshal or other authorized agency within the community where the service site is located.

B. Client Contributions and Confidentiality

1. Provider shall encourage seniors to contribute to the cost of services by notifying them at least annually, using the DAAS Senior Services Programs (Attachment M) “Voluntary Contribution Flyer,” that donations are accepted and are important to maintaining the service(s) provided. Provider shall notify Title III-B Senior Service Program clients of voluntary contribution opportunities by posting the voluntary contribution flyer in a prominent area where services are provided (if not in-home) and by issuing the half-sheet flyer at the time of program enrollment. The provider shall not in any way employ tactics which could be viewed as coercive, embarrassing, and/or obligatory to the service being provided.

2. Provider shall encourage seniors to contribute to the cost of services by notifying them at least annually, using the DAAS Senior Services Programs (Attachment M) “Voluntary Contribution Flyer for Senior Programs,” that donations are accepted and are important to maintaining the service(s) provided. Provider shall notify Title III-B Senior Service Program clients of voluntary contribution opportunities by posting the voluntary contribution flyer in a prominent area where services are provided (if not in-home) and by issuing the half-sheet flyer at the time of program enrollment. The provider shall not in any way employ tactics which could be viewed as coercive, embarrassing, and/or obligatory to the service being provided.

3. Any donation letters sent to clients for Title III services may not resemble a bill or a statement and shall stipulate that contributions are voluntary and not required to receive service.

4. The provider shall ensure that all donations by eligible participants are kept confidential.

5. Provider shall establish appropriate procedures to safeguard and account for all contributions.

C. Coordination Activities

1. Provider shall participate within appropriate coordination bodies established by state law and/or county ordinance.

2. Provider shall include the following statement on all advertising, posters and brochures, etc. for services funded through this Contract:

   "Funding for this service has been provided by the San Bernardino County Department of Aging and Adult Services through a grant award from the California Department of Aging."

3. Provider shall coordinate service with other County departments and local agencies by providing time within the facility during participant meetings, staff meetings and volunteer meetings, etc., for presentations on special activities that promote a Community Based System of Care for elderly clients. All coordination activities must be documented and kept on file for review by DAAS.

D. Program Reporting Requirements

1. Contractor, at such times and in such forms as DAAS may require, shall furnish statements, records, reports, data and information requested by DAAS pertaining to Contractor's performance of services hereunder and other matters covered by this Contract. The forms shall be reviewed for timeliness, completeness, and correctness of the information submitted, by the Program Director or his/her designee, prior to submission to DAAS. Incomplete forms shall be returned to the Contractor for completion. (In the event of changes in these forms, DAAS shall advise the Contractor via written notice.) The Contractor shall develop and implement a process for ensuring quality control which includes orienting and training staff regarding program data collection and reporting requirements.

2. DAAS will provide orientation and staff training regarding data collection and reporting requirements.

3. Contractor shall meet the following standard for its financial management systems:

   a. The following reports are to be submitted to DAAS when Indicated:

      1) Monthly (Due by the 5th working day of each month)

         a) For Non-registered Services:

            - DAAS III-B Non-Registered Service Unit Report

         b) For Registered Services:

            - Monthly Units Roster
            - Newly enrolled or updated client "Intake Sheets"
            - "New Client Roster" if new clients enrolled in a contracted, registered service.

      2) Quarterly

            - Program modification request in writing to DAAS. Contractor shall describe, in detail, necessary program changes and the reasons for the requested modification.

   b. DAAS may require financial reports more frequently than indicated above or with more detail (or both), upon written notice to the Contractor, until such time as DAAS determines that the financial management standards are met.

c. Report service and client data will be verified by DAAS during the program monitoring visit. Additionally, audit files shall include but are not limited to a copy of the Monthly Service Report.

d. Report monthly expenditures to DAAS as required in Section V, Paragraph D of Contract. Maintain support files including but not limited to invoices, payroll, and other supporting documents, all of which will be attached to a copy of the expenditures report and kept on file by month for review during the Annual Audit.

e. Maintain records, by month, that support claimed in-kind expenditures.

In the event additional funds become available, the provider will use the funds to increase the services provided to elderly clients by either increasing the number of individuals served or by increasing the units of service provided or both. Exceptions to this requirement, for instance the use of additional funds to purchase equipment, must be fully documented in writing and submitted to the department for prior approval according to Section X, Paragraph D of Contract. Failure to abide by this work plan will constitute just cause for sanctions being imposed.

CLIENT COMPLAINT AND GRIEVANCE PROCEDURES
Older Americans Act Programs

(Instructions: The service recipient is to read, sign, and receive a copy of this form. The original of the form is to be filed in the service recipient's case file maintained by contractor. The reverse side of this form may be used to file a complaint or grievance with the contractor/service provider.)

If you believe you have been discriminated against, or that there has been a violation of any laws or regulations, or if you have a problem regarding services received, you have the right to file a grievance.

The following procedures are to be followed when filing a grievance:

1. Identify the complaint/grievance in writing and discuss it with the contractor/service provider.

   Time frame: Within 1 week of discrimination/violation/problem.

If resolved at this level, no further action is required. If no resolution is apparent within 15 business days, proceed with Step 2.

2. Forward the written complaint/grievance to the **Deputy Director of Administration** at the following address:

   Department of Aging and Adult Services
   686 East Mill Street
   San Bernardino, CA 92415-0640
   ATTN: **Deputy Director**

   Time frame: Within 1 week of Step 1.

If resolved at this level, no further action is required. If no resolution is apparent within 15 business days, proceed with Step 3.

3. If no solution is apparent after Steps 1-2 have been exhausted, forward copy of written grievance to:

   Human Services, Contract Manager
   150 S. Lena Road
   San Bernardino, CA 92415-0515

You will be contacted within 15 business days of any actions being taken.
Please note: Each of these steps must be completed in the sequence shown.

If you believe that your civil rights have been violated, please contact:

Deputy Director, Administration
Department of Aging and Adult Services
686 East Mill Street
San Bernardino, CA 92415-0640

GRIEVANCE PROCEDURE CERTIFICATION

This is to certify that I have read, understood, and received a copy of the Client Complaint and Grievance Procedures for Older Americans Act Programs.

_____ _____
Signature of Service Recipient Date

GRIEVANCE NOTICE

Your Name:
Date of Occurrence:
Approximate Time of Occurrence:
Name of Service Provider:
Address of Service Provider:
Nature of Grievance:
Resolution:

Resolved by: _____ _____
Signature Date

_____ _____
Signature of Service Recipient Date

ASSURANCE OF COMPLIANCE

ASSURANCE OF COMPLIANCE WITH ALL APPLICABLE LAWS RELATING TO NONDISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS

_____
CONTRACTOR

HEREBY AGREES THAT it will comply with Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, the Food Stamp Act of 1977-Section 272.6, The Americans with Disabilities Act of 1990, Government Code (GC) Section 11135 and California Code of Regulations (CCR) Title 22 Section 98000-98413, Title 24 of the California Code of Regulations, Section 3105A(e) and other applicable federal and state laws, as well as their implementing regulations (including 45 CFR, Parts 80, 84, and 91, 7 CFR Part 15, and 28 CFR Part 42), by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall because of race, color, national origin, political affiliation, religion, marital status, sex, age or disability be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state assistance; and HEREBY GIVES ASSURANCE THAT, it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal and state assistance; and THE AGENCY HEREBY GIVES ASSURANCE THAT administrative methods/procedures which have the effect of subjecting individuals to discrimination will be prohibited.

BY ACCEPTING THIS ASSURANCE, the agency agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of the aforementioned laws and regulations and permit authorized County, state and/or federal government personnel, during normal working hours, to review such records, books and accounts as needed to ascertain compliance. If there are any violations of this assurance, County shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code Section 10605, or Government Code Section 11135-39, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this assurance.

THIS ASSURANCE is binding on the agency directly or through contract, license, or other provider services, as long as it receives federal or state assistance; and shall be submitted annually with the required Civil Rights Plan Update.

_____ _____
DATE SIGNATURE

_____
ORGANIZATION

_____
ADDRESS

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change

For Material Change Only:
year_____quarter_____
date of last report_____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee

Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(*if individual, last name, first name, MI*):

b. Individuals Performing Services (including address if different from No. 10a)
(*last name, first name, MI*)

(*attach Continuation Sheet(s) SF-LLLA, if necessary*)

11. Amount of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned

12. Form of Payment (*check all that apply*):
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment (*check all that apply*):
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify:_____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(*attach Continuation Sheet(s) SF-LLLA, if necessary*)

15. Continuation Sheet(s) SF-LLLA attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.

Signature:_____
Print Name:_____
Title:_____
Telephone No.: _____ Date:_____

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF STANDARD FORM-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the Information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

INFORMATION SHEET *(one Information Sheet per Vendor)*

CONTRACTOR SHALL COMPLETE SECTION I OF THIS FORM AND RETURN TO:

SAN BERNARDINO COUNTY
Department of Aging and Adult Services
Attn: CONTRACTS

SECTION I: CONTRACTOR INFORMATION		
Contractor Name:		
Address *(including City, State and Zip Code)*:		Phone:
Web Site:	Email:	Fax:
Site Name for Services *(if Different from Contractor)*:		
Address *(including City, State and Zip Code)*:		Phone:
Web Site:	Email:	Fax:
Clinic Contact:	Title:	

Contract Signature Authority:			
Name:		Name:	
Title:		Title:	
Signature:		Signature:	
Phone #: ( )	E-Mail:	Phone #: ( )	E-Mail:

Claim Signature Authority:			
Name:		Name:	
Title:		Title:	
Signature:		Signature:	
Phone #: ( )	E-Mail:	Phone #: ( )	E-Mail:

SECTION II: DAAS INFORMATION	
Contract Mailing Address:	**Contracts Unit:**
San Bernardino County Department of Aging and Adult Services Contracts Unit 686 E. Mill Street San Bernardino, CA 92415-0920	***Unit Fax #: 909-891-9150***

COMMUNITY FOCAL POINTS LIST

CCR Title 22, Article 3, Section 7302(a)(14), 45 CFR Section 1321.53(c), OAA 2006 306(a)

Name	Address		Phone
Adelanto Senior Club	11565 Cortez Avenue	Adelanto, CA 92301	(760) 246-7736
Apple Valley Senior Club	13188 Central Road	Apple Valley, CA 92308	(760) 247-3155
Barstow Senior Citizens Club	555 Melissa Avenue	Barstow, CA 92311-3031	(760) 256-5023
Big Bear Valley Senior Center	42651 Big Bear Blvd.	Big Bear Lake, CA 92315	(909) 584-0323
Bloomington Senior Center	18317 Valley Blvd.	Bloomington, CA 92316	(909) 877-4310
Bonnie Baker Senior Citizens Club	149350 Ukiah Trail	Big River, CA 92242	(760) 665-2667
Chino Senior Center	13170 Central Avenue	Chino, CA 91710	(909) 591-9836
Crest Forest Senior Citizens Club	24658 San Moritz Drive	Crestline, CA 92325	(909) 338-5036
Delmann Heights Senior Center	2969 N. Flores St.	San Bernardino, CA 92407	(909) 887-2115
Dino Papavero Senior Center	16707 Marygold Avenue	Fontana, CA 92335	(909) 350-0575
El Mirage Senior Club	1488 Milton	El Mirage, CA 92301	(760) 388-4429
Fontana Community Senior Center	16710 Ceres Avenue	Fontana, CA 92335	(909) 854-5151
Ft. Mohave Tribal Senior Nutrition Program	700 Harrison Street	Needles, CA 92363	(760) 629-2371
George M. Gibson Senior Center	250 N. Third Avenue	Upland, CA 91786	(909) 981-4501
George White Senior Center	8565 Nuevo Avenue/8572 Sierra Ave.(Main Ofc)	Fontana, CA 92335	(909) 822-4493
Grand Terrace Senior Center	22627 Grand Terrace Road	Grand Terrace, CA 92313	(909) 824-1491
Havasu Lake Senior Center	12198 Sunbonnet	Havasu Lake, CA 92363	(760) 858-4336
Helendale Senior Outreach	27083 Bible Church	Helendale, CA 92342	(760) 243-4396
Hesperia Leisure League	9122 Third Avenue	Hesperia, CA 92345	(760) 244-3223
Hesperia Senior Center	9333 "E" Avenue/PO Box 104055	Hesperia, CA 92340	(760) 244-5488
Hi-Desert Meals-on-Wheels	15075 Hesperia Road	Victorville, CA 92395	(760) 245-7047
Highland Senior Center	3102 E. Highland Avenue	Patton, CA 92369	(909) 862-8104
Hinkley Senior Citizens Club	35997 Mountain View Road	Hinkley, CA 92347	(760) 253-4677
Home of Neighborly Service	839 N. Mt. Vernon Avenue	San Bernardino, CA 92411	(909) 885-3491
Hutton Senior Center	660 Colton Avenue	Colton, CA 92324	(909) 370-6168
James L. Brulte Senior Center	11200 Baseline Road	Rancho Cucamonga, CA 91701	(909) 477-2780
Joshua Tree Community Center	6171 Sunburst	Joshua Tree, CA 92252	(760) 366-2471
Joslyn Senior Center	21 Grant Street	Redlands, CA 92373	(909) 798-7550
Loma Linda Senior Center	25571 Barton Road	Loma Linda, CA 92354	(909) 799-2820
Lucerne Valley Senior Club	10431 Allen Way	Lucerne Valley, CA 92356	(760) 248-2248
Luque Senior Center	292 East "O" Street	Colton, CA 92324	(909) 370-5087
Lytle Creek Senior Center	P.O. Box 182/14082 Center Road	Lytle Creek, CA 92358	(909) 880-8659

Mentone Senior Center	1331 Opal Avenue	Mentone, CA 92359	(909) 794-5280
Montclair Senior Center	5111 Benito Street	Montclair, CA 91763	(909) 625-9483
Morongo Basin Senior Support Center	57121 Sunnyslope Drive	Yucca Valley, CA 92284	(760) 365-9661
Morongo Valley Senior Center	11165 Vale	Morongo Valley, CA 92256	(760) 363-6547
Mountain Communities Senior Center	675 Grandview Road	Twin Peaks, CA 92391	(909) 337-1824
Needles Senior Center	1699 Bailey Avenue	Needles, CA 92363	(760) 326-4789
Newberry Springs Senior Center	33383 Newberry Road	Newberry Springs, CA 92365	(760) 257-3284
Ontario Senior Center	225 East "B" Street	Ontario, CA 91764	(909) 395-2021
Perris Hill Senior Center	780 E. 21st Street	San Bernardino, CA 92404	(909) 384-5436
Phelan Senior Club	4128 Warbler Rd. #A	Phelan, CA 92371	(760) 868-8067
Pinon Hills Senior Club	10433 Mountain Road	Pinon Hills, CA 92372	(760) 868-8637
Red Mountain Senior Center	7550 East Adobe Street	Red Mountain, CA 92374	(760) 374-2201
Redlands Community Senior Center	111 W. Lugonia	Redlands, CA 92373	(909) 798-7579
Rialto Senior Center	1411 S. Riverside Avenue	Rialto, CA 92376	(909) 877-9706
San Bernardino 5th St Senior Center	600 W 5th Street	San Bernardino, CA 92410	(909)-384-5430
San Moritz Lodge	24658 San Moritz Dr	Crestline, CA 92325	(909)-338-5036
Trona Community Senior Center	13187 Market Street	Trona, CA 93562	(760) 372-5889
Twenty Nine Palms Senior Center	6539 Adobe Road	Twenty Nine Palms, CA 92277	(760) 367-3891
Victorville Senior Center	14874 Mojave Road	Victorville, CA 92392	(760) 245-5018
Wrightwood Seniors Community Center	1543 Barbara Street	Wrightwood, CA 92397	(760) 249-3084
Yucaipa Senior Center	12202 First Street	Yucaipa, CA 92399	(909) 797-1177
Yucca Valley Senior Center	57088 29 Palms Highway	Yucca Valley, CA 92284	(760) 228-5453

Following are the addresses of the Department of Aging and Adult Services offices.

City	Address	Zip	Phone
Barstow	536 East Virginia Way	92311	(760) 256-5544
Needles	1300 Bailey Avenue	92363	(760) 326-9328
Rancho Cucamonga	9445 Fairway View Place	91730	(909) 948-6200
San Bernardino	686 E. Mill Street	92415	(909) 891-3900
Victorville	17270 Bear Valley Road, Suite 108	92395	(760) 843-5100
Yucca Valley	56357 Pima Trail	92284	(760) 228-5390

Payments, Budgets, Closeout, and Audits

I. Funds

A. Expenditure of Funds

1. Contractor shall expend all funds received hereunder in accordance with this Agreement.

2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with California Department of Human Resources' rules and regulations. This is not to be construed as limiting Contractor from paying any differences in costs between the rates specified above and any rates the Contractor is obligated to pay under other contractual agreements from funds other than those provided pursuant to this Agreement.

3. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from County.

4. Contractor agrees to include these requirements in all contracts it enters into with subcontractors or vendors to provide services pursuant to this Agreement.

5. County reserves the right to refuse payment to Contractor or disallow costs for any expenditure, when determined by the County to be out of compliance with this Agreement, unrelated or inappropriate to the contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.

B. Accountability for Funds

1. Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by Contractor, and shall be maintained in accordance with Generally Acceptable Accounting Principles and Procedures, and the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

2. Contractor shall promptly forward payroll taxes, insurances and contributions, including State disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies.

3. Adequate source documentation of each transaction shall be maintained relative to the allow ability of expenditures reimbursed by DAAS under this Contract. If the allow ability of expenditures cannot be determined because records or documentation of Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures may be disallowed by DAAS.

4. Financial Management Systems

   a. Contractor shall meet the following standards for its financial management systems, as stipulated in 45 CFR Section 92.20 (governmental) or 45 CFR Section 74.21 (not for profit organizations):
   b. Financial Reporting
   c. Accounting Records
   d. Internal Control
   e. Budgetary Control
   f. Allowable Costs
   g. Source Documentation
   h. Cash Management

C. Unexpended Funds

Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the

Contractor shall return to County immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation or expiration of this Agreement or dissolution of the entity.

D. Availability of funds

1. It is understood by the parties that this Agreement may have been written before ascertaining the availability or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur of this Agreement were executed after that determination was made.

2. This Agreement is valid and enforceable only if sufficient funds are made available to the County by the United States Government or State of California for the fiscal years appropriate for the purpose of the services described herein.

3. Funding Reduction(s)

   a. If funding for any County fiscal year is reduced or deleted for the purposes of this program, the County shall have the option to either:
      1) Terminate the Agreement
      2) Amend the agreement to reflect the reduced funding that will be available.

   b. In the event that County elects to offer an amendment, it shall be mutually understood by both parties that 1) County reserves the right to determine which contracts, if any under this program shall be reduced; 2) some contracts may be reduced by a greater amount than others; 3) the County shall determine in its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

E. Program Income

1. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated.

2. Program Income must be used to pay for current allowable costs of the program in the same fiscal year that the income was earned (except as noted below).

3. Program Income must be spent before contract funds and may reduce the amount of contract funds payable to Contractor.

4. If Program Income is earned in excess of the amount reported by County in the Contractor's approved budget, the excess amount may be deferred for use in the first quarter of the following contract period, which is the last quarter of the federal fiscal year, if approved by County.

5. If Program Income is deferred for use it must be used by the last day of the federal fiscal year and reported when used.

6. Program Income may not be used to meet any requirements for matching contributions specified in this Agreement.

7. Program Income must be used to expand baseline services.

F. One Time Only (OTO) Funds

1. OTO funds shall be only be used for the following purposes:

2. The purchase of equipment that enhances the delivery of services to the eligible service population.

3. Home and community-based projects that are approved by County in advance.

4. Innovative pilot projects that are approved in advance by County, and are designed for the development of a comprehensive and coordinated system of care as defined in [45 CFR 1321.53(a) & (b).

OTO funds may be used to maintain or increase baseline services; however it is understood by the parties that such use of OTO funds creates no expectation of service delivery beyond the current contract period.

5. Nutrition Services Incentive Program (NSIP) OTO funds shall be used only to purchase food to be used by Contractor in Contractor's Elderly Nutrition Program.

G. Matching Contributions

1. Cash and/or in-kind contributions may be counted as match if such contributions are used to meet program requirements.
2. Matching contributions (cash or in-kind) must be verifiable from the records of the Contractor or its subcontractors.
3. Only allowable costs as established by Office of Management and Budget (OMB) cost principles may be reported as matching contributions.
4. Services of volunteers or other costs reported as "in-kind" matching contributions shall be valued at rates consistent with those of similar work or services paid by Contractor. If Contractor does not offer similar work or purchase similar services, rates shall be consistent with those in local market area.

H. Budget and Budget Revision

1. Contractor shall be compensated for expenses only as itemized in the approved budget that is incorporated by reference into this Agreement. The Contractor shall not be entitled to payment for expenses related to this Agreement until the budget has been reviewed and approved by County.
2. No budget revision may result in an increase of the maximum dollar amount stated in Section V, Paragraph A. The written request must specify the line item or Service Category changes requested, and must include justification for the request changes.

   For the purpose of this section,

   a. "Service Category" shall be defined as that classification of activities defined in the Older Americans Act (OAA) that is specific to each OAA funded grant program; and
   b. "Service" shall be defined as the activities that are defined within a Service Category.

   Examples of Service Categories include Supportive Services, Congregate and Home-delivered Nutrition Services, Disease Prevention/Health Promotion Services, and Family Caregiver or Grandparent Support Services. Examples of Services include nutrition education, transportation, information assistance, senior center staffing, respite care, access assistance, and supplemental services.
   County shall notify the Contractor in writing of the status of the budget revision request within fourteen (14) calendar days of receipt of the Contractor's written request. The County reserves the right to deny the Contractor's invoice for expenditures in excess of the approved budgeted line item amount.

3. Contractor shall submit a budget revision to the County, in advance of expenditures when:
   a. Changes to line item expenditures are expected to exceed the amount of the approved budgeted line item by more than ten (10%) of the amount specified in Section V, Paragraph A.
   b. New budget line items are to be added.
   c. When the changes being requested involved the transfer of funds between Service Category.
   d. When the changes being requested involve the transfer of funds amount Services within a Service Category
   e. When otherwise requested by County

   .

4. Contractor shall maintain a written record of all budget changes including line item or service category changes. This record shall be available to the Department upon request and shall be maintained in the same manner as all other financial records.

5. The final date to submit to a budget revision is March 30th of the contract period unless otherwise specified by County.

I. Indirect Costs

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.

2. Examples of indirect cost may include: depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting

3. The maximum reimbursement amount allowable for indirect costs is eight (8) percent of Contractor's direct costs, excluding in-kind contributions and non-expendable equipment. Indirect costs exceeding the eight (8) percent maximum may be budgeted as in-kind and be used to meet the minimum matching contribution requirements.

4. Contractor agrees to include the above requirement in all contracts it enters into with subcontractors or vendors to provide services pursuant to this agreement.

5. Reimbursement for indirect costs shall be on the basis of an indirect cost rate plan documenting the methodology used to determine the indirect cost rate, which shall be submitted by Contractor to DAAS and be approved by DAAS.

J. Financial Closeout

1. Contractor shall submit a final statement of expenditures and income ("Financial Closeout") to County within thirty days of the end of contract period, unless otherwise specified by County.

2. Federal funds otherwise payable to Contractor by County may be reduced proportionately by County to maintain the required matching contributions ratio if amount of matching contributions reported by Contractor is less than minimum required matching contribution amount specified in Section V.A ("Fiscal Provisions") of this Contract .

K. Subcontracts or Vendor Agreements

1. Without the prior written consent of the Director of DAAS or his/her designee, this Contract is not assignable by Contractor either in whole or in part.

2. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Director of DAAS or his/her designee. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor.

3. Contractor shall include language in all subcontracts that require subcontractor to comply with all applicable State and federal laws.

4. Contractor shall have no authority to contract for, on behalf of, or incur obligations on behalf of County or State.

.

5. Copies of subcontracts, vendor agreements, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available to DAAS upon request Contractor shall monitor the insurance requirements of its subcontractors and/or vendors.

6. Contractor shall ensure that the subcontractor and/or vendor will complete all reporting and expenditure documents requested by DAAS. These reporting and expenditure documents shall be sent to Contractor in a timely manner and at intervals as determined by DAAS.

7. Contractor shall monitor the budget, expenditures, and performance of its subcontractors and/or vendors.

8. Contractor shall provide support and technical assistance to subcontractors and respond in writing to all written requests for direction, guidance, and interpretation of instructions to include client and service data.

L. Audits

1. Contractors that expend $750,000 or more in Federal awards shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1996, Public Law 104-156, and Office of Management and Budget [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133].

2. A copy of audit report shall be submitted to DAAS within 30 days after receipt of the auditor's report or nine months after the audit period, whichever occurs first, unless a longer period is agreed to in advance by the cognizant or oversight federal agency.

3. Contractor shall ensure that State-funded expenditures are displayed discretely along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under the appropriate Catalog of Federal Domestic Assistance (CFDA) number as referenced herein. In addition, should contractor's SEFA totals be reported on the basis of a fiscal year period other than County's fiscal year (July 1 through June 30), a supplemental schedule shall be provided that reconciles Contractor's reported expenditures to County fiscal year periods.

4. For state contracts that do not have CFDA numbers, Contractor shall ensure that State-funded expenditures are discretely identified in the SEFA by the appropriate program name, identifying grant/contract number and as passed through the California Department of Aging.

5. The following closely related programs identified by CFDA number are to be considered as an "Other Cluster" for purposes of determining major programs or whether a program specific audit may be elected. Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization's single audit as well to each of Contractor's subrecipients.

6. The Federal Grantor for the following programs is the U.S Department of Health and Human Services, Administration on Aging:

93.044	Special Programs for the Aging – Title III, Part B = Grants for Supportive Services and Senior Centers (Title III-B).
93.045	Special Programs for the Aging – Title III, Part C – Nutrition Services (Title III-C)
93.052	National Family Caregiver Support – Title III, Part E
93.053	Nutrition Services Incentive Program (NSIP)

7. The Federal Grantor for the following program is the U.S Centers for Medicare and Medicaid Services:

93.779	State Health Insurance Assistance Program (HICAP)
93.071	MIPPA: MSP, LIS & Prescription Drug Enrollment Assistance through the Aging Network, SHIP, and ADRCs
93.626	SHIP Options Counseling for Medicare/Medicaid (FA)

8. The Federal Grantor for the following program is the Administration for Community Living grants:

93.071	MIPPA: Priority Area 2 AAAs

9. Cluster of programs means a grouping of closely-related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA) and other clusters. “Other Clusters” are defined by the OMB in the Compliance Supplement or as designated by a State for federal awards provided to its subrecipients that meet the definition of cluster of programs. When designating an “other cluster”, a State shall identify the federal awards included in the cluster and advise the subrecepients of compliance requirements applicable to the cluster, consistent with S.400 (d) (1) and S.400 (d) (2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in S.520, and with the exception of R&D as described in S.200 (c), whether a program-specific audit may be elected. (Federal Office of Management and Budget, (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Corporations).

10. Contractor shall perform a reconciliation of its “Financial Closeout Report” to the audited financial statements. The reconciliation shall be maintained and be made available to DAAS for review.

11. Contractor shall ensure that subcontractor single audit reports for Contractor meet [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133] requirements, including but not limited to:
    a. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within 30 days after receipt of the auditor’s report or nine months after the end of the audit period, whichever occurs first.
    b. Properly procured – use procurement standards provided for in OMB Circular A-133 and provide maximum opportunities to small and minority audit firms.
    c. Performed in accordance with Generally Accepted Government Auditing Standards – shall be performed by an independent auditor and be organization-wide.
    d. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements; and the schedule of findings and questioned costs.
    e. Performed in accordance with provisions applicable to this program as identified in [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133 Compliance Supplement].

12. Requirements identified in the provision above shall be included by Contractor in all subcontracts.

13. Contractor shall include in its contract with the independent auditor that the auditor will comply with all applicable requirements/standards, that the County shall have access to all audit

14. Reports and supporting work papers, and that the County shall have the option to perform additional work if needed.

15. Unless prohibited by law, the cost of audits completed in accordance with provisions of the Single Audit Act Amendments of 1996 is allowable charges to Federal awards. Contractor may not charge to Federal awards the cost of any audit under the Single Audit Act Amendments of 1996 not conducted in accordance with the Act. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has Federal Awards expended of less than $500,000 per year, and is thereby exempted under OMB Circular A-133, Subsection __200(d).

16. Contractor shall cooperate with and participate in any additional audits which may be required by State or County.

ATTACHMENT H
PROGRAM BUDGET FOR FISCAL YEARS 2015-18

DEPARTMENT OF AGING AND ADULT SERVICES
Title IIIB Supportive Services

Note: Expenses related to grant funding only.

	Program/Service:	Program/Service:	Program/Service:	Program/Service:	Not To Exceed Total Cost
Staff Positions (list separately):					
Transportation Coordinator	$10,000				$10,000
subtotal - Personnel	10,000				10,000
Equipment*					
Operating Expenses					
Contracted Services					
Indirect Cost*					
<LESS> Program Income					
TOTALS	10,000/year				$10,000/year

Definitions:	
Equipment:	Tangible personal property with a useful life of more than one year and an acquisition cost of $5,000 or more per unit. All equipment purchases require prior approval of County.
Operating Expenses:	Travel, supplies, rent, insurance, vehicle costs, utilities, or other allowable costs required by Program.
Contracted Services:	Funds paid to an outside organization for the purpose of having that organization carry out a significant portion of the program. Subcontracts require prior written approval of DAAS.
Indirect Cost:	Costs incurred for a common or joint purpose that are not directly related to contracted services. Requires Indirect Cost Rate Plan approved by DAAS. Claimed amount may not exceed 8% of direct costs.
Program Income:	Revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is: 1. Voluntary contributions received from a participant or responsible party as a result of services. 2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement. 3. Royalties received on patents and copyrights from contract-supported activities. 4. Proceeds from sale of items fabricated under a contract agreement.

ATTACHMENT H
BUDGET SUMMARY FOR FISCAL YEARS 2015-18

DEPARTMENT OF AGING AND ADULT SERVICES
Title IIIB Supportive Services

Original [X]	Revised [ ]	Fiscal Year: 2015 - 2018
Agency: City of Montclair	Contact: Marcia Richter	Date: 7/1/2015

Budget Information					
Service Program	**Grant Funding $**	**Program Income $**	**Matching Funds**		**Total $**
			Matching Cash $	**In-Kind $**	
1. Senior Center Activities	$10,000		$1,500		$11,500/year
3					
4					
5					
6					
7					

FOR DAAS USE ONLY:
Approved by:

signature: date:

ATTACHMENT H
MATCHING FUNDS FOR FISCAL YEARS 2015-18

DEPARTMENT OF AGING AND ADULT SERVICES
Title IIIB Supportive Services

Note: Include expenses related to grant funding only.

	Program/Service: Senior Center Activities		Program/Service: Repairs/Modifications		Program/Service:		Program/Service:		
	Cash Match	In-Kind Match	Cash Match	In-Kind Match		Cash Match	In-Kind Match	Cash Match	Totals
Staff Positions (list separately):									
		$1,500							$1,500
subtotal - Personnel		$1,500							$1,500
Equipment*									
Operating Expenses									
Contracted Services									
Indirect Cost*									
<LESS> Program Income									
TOTALS		$1,500/year							$1,500/year

Definitions:	
Equipment:	Tangible personal property with a useful life of more than one year and an acquisition cost of $5,000 or more per unit. All equipment purchases require prior approval of County.
Operating Expenses:	Travel, supplies, rent, insurance, vehicle costs, utilities, or other allowable costs required by Program.
Contracted Services:	Funds paid to an outside organization for the purpose of having that organization carry out a significant portion of the program. Subcontracts require prior written approval of DAAS.
Indirect Cost:	Costs incurred for a common or joint purpose that are not directly related to contracted services. Requires Indirect Cost Rate Plan approved by DAAS. Claimed amount may not exceed 8% of direct costs.
Program Income:	Revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is: 1. Voluntary contributions received from a participant or responsible party as a result of services. 2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement. 3. Royalties received on patents and copyrights from contract-supported activities. 4. Proceeds from sale of items fabricated under a contract agreement.

INVOICE

COUNTY OF SAN BERNARDINO

FY2015/16

DEPARTMENT OF AGING AND ADULT SERVICES

(Invoice Due By 5th County Business Day of the Following Month)

Purchase Order Number: _____

Title III - B					
Total Cash Expenditures:	**Cost to Provider**	**Cost to Provider**	**Cost to Provider**	**Cost to Provider**	**Total**
Direct Cost, Including Cash Match, Non-Cash Match & In-Kind					
Indirect Cost, Including Cash Match, Non-Cash Match & In-Kind					
Total Program Cost:					
Deductions:					
1. Program Income					
2. Cash Match					
3. Non-Match Cash					
4. In-kind Contributions					
Total Deductions:					
Request for Reimbursement					

Comments:	Signature of Preparer:	Telephone #	Date:
	Authorized Agency Signature:	Telephone #	Date:

III-B INVOICE INSTRUCTIONS

1. Fill out your name and address, month of billing, and Purchase Order Number.
2. Fill in the categories you provide in each column of the report. If you provide just one service, just use the first column.
3. Organize your expenses for each type of service. Total up all expenses including Direct Cost, Cash Match, Non Cash Match and In-Kind Match. Enter the total in the Direct Cost cell.
4. Add up the indirect expenses for your program. Please see definitions - note that only 8% of the total cost can be for in-directs.
5. Fill in the Program Income, if any.
6. Fill in the Cash Match, Non-Match Cash and In-Kind Contributions.
7. The spreadsheet should subtract the deductions automatically and give you your net reimbursement number.
8. Make copies of the documentation for all your expenses: Direct Cost, Indirect Cost, Cash Match and In-Kind Contributions. Because you are not claiming Non-Match Cash and Program Income, you need not send documentation for these amounts.
9. Be sure to send your invoice to DAAS so it arrives by the 5th business day of the following month.

EXPLANATION OF TERMS

Direct Cost:	Costs that can be identified specifically with the services provided under this Agreement (e.g., employee compensation; utilities; rent; equipment; travel expenses; volunteer value hours; materials acquired, consumed, or expended; etc.)
Indirect Cost:	Costs incurred for a common or joint purpose that are not directly related to contracted services. The maximum reimbursement amount allowable for indirect costs is 8 percent of Contractor's direct costs, excluding in-kind contributions and nonexpendable equipment. Indirect costs exceeding the 8 percent maximum may be budgeted as in-kind and may be used to meet minimum matching requirements, if any.
Cash Match:	Cash, other than program income, contributed to the project from local or State funds. With the exception of Community Development Block Grant (CDBG) funds, Federal funds cannot be used as cash match. Costs borne by the Contractor and cash contributions from any and all third-parties such as company/private donations, or payments made by from the contractor's general fund can be considered cash match. Funds received by the contractor as Program Income cannot be counted cash match.
Non-Match Cash:	Federal funds other than Community Development Block Grant (CDBG) funds contributed to the project Funds received by the contractor as Program Income cannot be counted cash match.
In-Kind Contribtions:	Contributions other than cash made to the program by third-parties; e.g. volunteered time or the use of facilities to hold meetings.
Request for Reimbursement:	Requested Reimbursement for this month.

SAN BERNARDINO COUNTY
DEPARTMENT OF AGING AND ADULT SERVICES

REQUEST TO PURCHASE PROPERTY/EQUIPMENT

This form is to be completed whenever a contractor is requesting to purchase property or equipment under a California Department of Aging (CDA) grant. Contractor must obtain a minimum of three (3) bids and attach a Property/Equipment Bid Form for each item requested.

Date: _____ FY: _____

Contractor Name:		
Address:	Contact:	Phone No:

Item(s) Requested (attach additional sheet if required:

QTY	DESCRIPTION	AMOUNT	FUNDING SOURCE

Explain how requested item(s) will be used to carry out the objectives related to the funding to be received (attach additional sheet if required): _____
_____
_____
_____
_____
_____

Administrative Use Only:

Approved Denied Value over $500/unit: Yes No
Inventory: Yes No

Program Review by: Name _____ Title _____ Date _____

Director Approval: _____ Date _____

SAN BERNARDINO COUNTY
DEPARTMENT OF AGING AND ADULT SERVICES

PROPERTY/EQUIPMENT BID FORM

Fund Source:

Contractor Name: Contact:
Address: Phone:

Item Description:

Date of Bid:	Date of Bid:	Date of Bid:
Vendor: _____ _____ _____	Vendor: _____ _____ _____	Vendor: _____ _____ _____
Contact:	Contact:	Contact:
Phone:	Phone:	Phone:
Cost per unit: Number of units: Total Cost:	Cost per unit: Number of units: Total Cost:	Cost per unit: Number of units: Total Cost:
Comments:	Comments:	Comments:

Senior Service Programs

Funding for services provided by the Older Americans Act* does not cover the costs to provide senior services for all those in need. We welcome your donation for any amount; however, if you are not financially able to contribute you will not be denied services.

Voluntary contributions are accepted and will be used to expand services for which the contribution is given.

No eligible individual shall be denied participation because of failure or inability to contribute.

*Older Americans Act funding has been provided by the San Bernardino County Department of Aging and Adult Services through a grant award from the California Department of Aging.

County of San Bernardino
Department of Aging and Adult Services
Contact: 1-800-510-2020

Senior Service Programs

Funding for services provided by the Older Americans Act* does not cover the costs to provide senior services for all those in need. We welcome your donation for any amount; however, if you are not financially able to contribute you will not be denied services.

Voluntary contributions are accepted and will be used to expand services for which the contribution is given.

No eligible individual shall be denied participation because of failure or inability to contribute.

*Older Americans Act funding has been provided by the San Bernardino County Department of Aging and Adult Services through a grant award from the California Department of Aging.

County of San Bernardino
Department of Aging and Adult Services
Contact: 1-800-510-2020

Programas de Servicio para Personas de la Tercera Edad

Los fondos para servicios proveídos por la ley federal para personas mayores de edad (Older Americans Act*) no alcanzan pagar los gastos para proporcionar servicios a todas personas necesitadas. Agradecemos su contribución de cualquier cantidad para ayudar con los gastos. Sin embargo, a usted no se le negarán los servicios si usted no puede contribuir por razones financieras.

Se aceptan las contribuciones y se usarán para expandir los servicios para cuales se dan.

A ningún individuo elegible se le negará participar en los servicios por no contribuir.

*Fondos de la ley federal para personas mayores de edad se han proveído por el Departamento de Servicios para Ancianos y Adultos del Condado de San Bernardino por una subvención del Departamento de la Tercera Edad de California.
Condado de San Bernardino
Departamento de Servicios para Ancianos y Adultos
Llame al: 1-800-510-2020

Programas de Servicio para Personas de la Tercera Edad

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Condado de San Bernardino
Departamento de Servicios para Ancianos y Adultos
Llame al: 1-800-510-2020

DEPARTMENT OF AGING
CONTRACTOR/VENDOR CONFIDENTIALITY STATEMENT
CDA 1024 (REV 1/07)

CERTIFICATION	
I hereby certify that I have reviewed this Confidentiality Statement and will comply with the following Statements.	
CONTRACTOR/VENDOR NAME:	**CONTRACT NUMBER:**
AUTHORIZED SIGNATURE:	**PRINTED NAME AND TITLE OF PERSON SIGNING:**

In compliance with Government Code 11019.9, Civil Code 1798 Et. Seq., Management Memo 06-12 and Budget Letter 06-34 the California Department of Aging (CDA) hereby requires the Contractor/Vendor to certify that:

- confidential information shall be protected from disclosure in accordance with all applicable laws, regulations and policies.
- all access codes which allow access to confidential information will be properly safeguarded.
- activities by any individual or entity that is suspected of compromising confidential information will be reported to CDA by completing a Security Incident Report, CDA 1025.
- any wrongful access, inspection, use, or disclosure of confidential information is a crime and is prohibited under State and federal laws, including but not limited to California Penal Code Section 502; California Government Code Section 15619, California Civil Code Section 1798.53 and 1798.55, and Health Insurance Portability and Accountability Act.
- any wrongful access, inspection, use, disclosure, or modification of confidential information may result in termination of this Contract/Agreement.
- obligations to protect confidential information obtained under this Contract/Agreement will continue after termination of the Contract/Agreement with CDA.
- all employees/subcontractors of the Contractor/Vendor will complete the required Security Awareness Training module located at www.aging.ca.gov, within 30 days of the start date of this Contract/Agreement or within 30 days of the start date of any new employee or subcontractor. Contractor/Vendor may substitute CDA's Security Awareness Training program with its Security Training provided such training meets or exceeds CDA's training requirement.
- all employees/subcontractors of the Contractor/Vendor will be notified of CDA's confidentiality and data security requirements.
- CDA or its designee will be granted access by the Contractor or Vendor to any computer-based confidential information within the scope of the Contract.
- I agree to protect the following types of confidential information which include but not limited to:
  - Social Security number
  - Medical information
  - Claimant and employer information
  - Driver License information
  - Information about individuals that relate to their personal life or identifies or describes an individual
  - Other agencies' confidential and proprietary information
  - Criteria used for initiating audit selection
  - Methods agencies use to safeguard their information (computer systems, networks, server configurations, etc.)
  - Any other information that is considered proprietary, a copyright or otherwise protected by law or contract.
- I agree to protect confidential information by:
  - Accessing, inspecting, using, disclosing or modifying information only for the purpose of performing official duties
  - Never accessing, inspecting, using, disclosing, or modifying information for curiosity, personal gain, or any non-business related reason
  - Securing confidential information in approved locations
  - Never removing confidential information from the work site without authorization.

CALIFORNIA DEPARTMENT OF AGING (CDA)
SECURITY INCIDENT REPORT
CDA 1025 (New 07/07)

INCIDENT INFORMATION		
1. AGENCY/CONTRACTOR NAME:	2. AGENCY/CONTRACTOR INFORMATION SECURITY OFFICER'S NAME:	
3. AGENCY/CONTRACTOR ADDRESS:	4. AGENCY/CONTRACTOR TELEPHONE:	
5. DATE/TIME OF INCIDENT: ☐ UNKNOWN	6. DATE INCIDENT DETECTED: ☐ UNKNOWN	7. INCIDENT REPORTED TO: ☐ CALIFORNIA DEPARTMENT OF AGING ☐ DISTRICT ATTORNEY ☐ CA HWY PATROL ☐ ATTORNEY GENERAL ☐ OTHER:
8. INCIDENT LOCATION : *		
9. DESCRIPTION OF INCIDENT:		
10. MEDIA DEVICE TYPE, IF APPLICABLE:	11. WAS THE PORTABLE STORAGE DEVICE ENCRYPTED? ☐ YES ☐ NO ☐ UNKNOWN	
12. IF NO, EXPLAIN:		
13. DESCRIBE THE COSTS ASSOCIATED WITH RESOLVING THIS INCIDENT:	14. TOTAL ESTIMATED COST OF INCIDENT:$	
15. TYPE OF PERSONALLY IDENTIFIABLE INFORMATION (CHECK ALL THAT APPLY): ☐ NO PERSONAL INFORMATION ☐ SOCIAL SECURITY NUMBER ☐ HEALTH OR MEDICAL INFORMATION ☐ FINANCIAL ACCOUNT NUMBER ☐ NAME ☐ DRIVER'S LICENSE/STATE ID NUMBER ☐ OTHER (SPECIFY)		
16. IS A PRIVACY DISCLOSURE NOTICE REQUIRED? ☐ YES ☐ NO *IF A PRIVACY DISCLOSURE NOTICE IS REQUIRED, ATTACH A SAMPLE OF THE NOTIFICATION.	17. NUMBER OF INDIVIDUALS AFFECTED:	18. DATE NOTIFICATION(S) MADE TO THE INDIVIDUAL:
19. HAVE THOSE RESPONSIBLE FOR THE INCIDENT BEEN IDENTIFIED? ☐ YES ☐ NO COMMENT:		
20. CORRECTIVE ACTIONS TAKEN TO PREVENT FUTURE OCCURRENCES:		
21. ESTIMATED COST OF CORRECTIVE ACTIONS: $	22. DATE CORRECTIVE ACTIONS WILL BE FULLY IMPLEMENTED:	

SIGNATURES		
23. PRINT - AGENCY/CONTRACTOR INFORMATION SECURITY OFFICER:	SIGNATURE:	DATE:
24. PRINT - AGENCY/CONTRACTOR PRIVACY OFFICER:	SIGNATURE:	DATE:
25. PRINT - AUTHORIZED SIGNATURE/DIRECTOR:	SIGNATURE:	DATE:

DEPARTMENT OF AGING
SECURITY INCIDENT REPORT
INSTRUCTIONS

The following instructions will assist in completing the form. All questions must be completed, even when the response is a future action.

1. Agency/Contractor Name **- Provide your agency, contractor, vendor, department, board, bureau or commission's full name.**

2. Agency/Contractor Information Security Officer's Name **- Provide your agency's Information Security Officer's Name.**

3. Agency/Contractor Address **- Provide your agency/contractor's address.**

4. Telephone **- Provide your agency/contractor's telephone number.**

5. Date/Time of Incident **- Provide the date/time when the incident occurred. If unknown, select the "Unknown" checkbox.**

6. Date Incident Detected **- Provide the date the incident was discovered.**

7. Incident Reported To **- Select the appropriate checkbox. If applicable, select the** other **checkbox and describe to whom the incident was reported.**

8. Incident Location **- Provide the location where the incident occurred. For example, if a laptop was stolen from an employee's home, suggested content is "Employee's Home, Roseville, CA"; or if the incident occurred at the agency's headquarters office, suggested content is "Agency's Headquarters, 123 Any Street, Sacramento, CA."**

9. Description of Incident **- include the following in the description:**
   - **When the incident occurred and how it was discovered.**
   - **The effect of the incident on the business and infrastructure of your agency.**
   - **The number of people (inside your agency and outside your agency) affected by this incident.**
   - **The effects, if any, of this incident on people, businesses or services outside of your agency.**
   - **The details of any law enforcement investigation of this incident, such as which agency investigated it, when, and the report number.**
   - **Any personal, confidential, or sensitive information involved/disclosed.**

10. Media Device Type, If Applicable **- Provide the type of media or device involved in the incident, such as paper (fax, mail, etc.) or electronic (CD, floppy drive, laptop, PDA, email, etc.).**

11. Was the Portable Storage Device Encrypted? **- Check the appropriate box.**

12. If NO, Explain **- Describe why the storage device was not encrypted.**

13. Describe the Costs Associated with Resolving this Incident **- Provide a cost estimate of resolving the incident. Cost should include everything necessary to resolve the incident, including hardware, software, staff time, contracting services, and any other pertinent costs that were triggered due to the incident. The estimate should also include costs associated with a disclosure notification (such as preparation, postage, call center activation, etc.).**

14. Total Estimated Cost of Incident **- Provide the total cost associated with handling the incident as it relates only to information technology. For example, if a state vehicle was stolen with a state-issued laptop in it, do not include the cost of the state vehicle.**

15. Type of Personally Identifiable Information **- If applicable, check the appropriate type(s) of personally identifiable information that applies in this incident.**

16. Is a Privacy Disclosure Notice Required? **- Check appropriate box.** Sample **– If yes, attach a sample copy of the notification sent to the affected individuals. DO NOT provide a sample that includes personally identifiable information.**

17. Number of Individuals Affected **- Identify the number of individuals whose personally identifiable information was breached/disclosed.**

18. Date Notification(s) Made to the Individual **- Provide the date that the Notification was made to the affected individuals.**

19. Have Those Responsible for the Incident Been Identified? **- Check the appropriate box. If applicable, add comment.**

20. Corrective Actions Taken To Prevent Future Occurrences **- Provide a detailed description of the corrective actions taken by the agency to prevent future occurrences of a similar incident occurring again.**

21. Estimated Cost of Corrective Actions **- Provide cost estimations to implement the corrective actions. For example, hardware and/or software may need to be upgraded, installed or purchased; new policies may need to be developed; additional training may need to be given. Include all related costs, such as staff time, contracting services, and hardware or software purchases.**

22. Date Corrective Actions Will Be Fully Implemented **- Provide a date when the corrective actions were, or will be, fully implemented.**

23. Print – Agency/Contractor Information Security Officer

24. Print – Agency/Contractor Privacy Officer **- This is required only in those instances where personally identifiable information is involved. If personally identifiable information is involved and no disclosure notice is required, the Privacy Officer's signature is still required.**

25. Print – Authorized Signature/Director

AGENDA REPORT

SUBJECT:	CONSIDER ADOPTION OF RESOLUTION NO. 15-3078 AUTHORIZING THE PLACEMENT OF LIENS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH CHARGES	**DATE:**	June 1, 2015
		SECTION:	RESOLUTIONS
		ITEM NO.:	1
		FILE I.D.:	STB300-17
		DEPT.:	ADMIN. SVCS.

REASON FOR CONSIDERATION: Staff has identified 162 sewer and trash accounts in the even-numbered-month billing cycle that are more than three billing periods delinquent. Pursuant to Montclair Municipal Code Chapter 1.12, these properties are subject to lien.

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

The 162 liens presented for approval are for accounts that are at least 90 days delinquent.

FISCAL IMPACT: Recoverable amount is $44,489.69, plus $3,402.00 for release of lien fees, plus $8,100.00 in lien fees, for a total of $55,991.69.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 15-3078 authorizing placement of liens on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

Prepared by:	Cathy Graves	Fiscal Impact Finance Review:	Donald L. Parker
Proofed by:	Andrea M Phillips	Reviewed and Approved By:	Donald L. Parker

RESOLUTION NO. 15-3078

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

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

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

WHEREAS, it has been determined that there are 162 sewer and/or trash accounts on which there are delinquencies in excess of 90 days; and

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

WHEREAS, the owners of these properties were notified on May 7, 2015, that their delinquent accounts are subject to causing a lien to be placed on their properties for settlement of such delinquencies; and that such liens would be considered for approval by the Montclair City Council on Monday, June 1, 2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair approves the placement of liens on the properties and in the amounts specified in Exhibit A, entitled *Report of Delinquent Civil Debts - June 2015,* attached hereto.

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

APPROVED AND ADOPTED this XX day of XX, 2015.

_____
Mayor

ATTEST:

_____
Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 15-3078 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 to Resolution No. 15-3078
Report of Delinquent Civil Debts – June 2015

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
11171	Ada Avenue	Residential	$ 252.72	$ 21.00	$ 50.00	$ 323.72
11246	Ada Avenue	Residential	229.10	21.00	50.00	300.10
10495	Adobe Court	Residential	238.88	21.00	50.00	309.88
11142	Amherst Avenue	Residential	208.14	21.00	50.00	279.14
10360	Amherst Avenue	Multifamily	772.60	21.00	50.00	843.60
10431	Amherst Avenue	Multifamily	515.07	21.00	50.00	586.07
10421	Amherst Avenue	Multifamily	437.04	21.00	50.00	508.04
11151	Amherst Avenue	Residential	228.98	21.00	50.00	299.98
10207	Amherst Avenue	Residential	230.03	21.00	50.00	301.03
5490	Applegate Street	Residential	236.13	21.00	50.00	307.13
5578	Bandera Street	Residential	203.99	21.00	50.00	274.99
4624	Bandera Street	Multifamily	584.71	21.00	50.00	655.71
5075	Bandera Street	Residential	226.28	21.00	50.00	297.28
4667	Bandera Street	Residential	338.90	21.00	50.00	409.90
5243	Bandera Street	Residential	233.68	21.00	50.00	304.68
5231	Bandera Street	Residential	230.03	21.00	50.00	301.03
5235	Bandera Street	Residential	396.73	21.00	50.00	467.73
5221	Barrington Way	Residential	306.94	21.00	50.00	377.94
10145	Bel Air Avenue	Residential	228.98	21.00	50.00	299.98
10205	Bel Air Avenue	Residential	254.92	21.00	50.00	325.92
10148	Bel Air Avenue	Residential	200.35	21.00	50.00	271.35
10570	Belgian Place	Residential	227.09	21.00	50.00	298.09
5225	Belvedere Way	Residential	242.36	21.00	50.00	313.36
5223	Belvedere Way	Residential	252.43	21.00	50.00	323.43
10168	Benson Avenue	Residential	212.04	21.00	50.00	283.04
4534	Bodega Court	Residential	230.24	21.00	50.00	301.24
4533	Bodega Court	Residential	228.98	21.00	50.00	299.98
11339	Brunswick Lane	Residential	230.52	21.00	50.00	301.52
11419	Brunswick Lane	Residential	228.51	21.00	50.00	299.51
10978	Buckingham Way	Residential	228.98	21.00	50.00	299.98
11038	Buckingham Way	Residential	203.99	21.00	50.00	274.99
10437	Camarena Avenue	Residential	235.27	21.00	50.00	306.27
10203	Camulos Avenue	Residential	252.60	21.00	50.00	323.60
10234	Camulos Avenue	Residential	311.26	21.00	50.00	382.26
10259	Camulos Avenue	Residential	229.00	21.00	50.00	300.00
10233	Camulos Avenue	Residential	230.38	21.00	50.00	301.38
8935	Camulos Avenue	Residential	277.56	21.00	50.00	348.56
11409	Cannery Row	Residential	228.48	21.00	50.00	299.48
4949	Canoga Street	Residential	228.98	21.00	50.00	299.98
4830	Canoga Street	Multifamily	1,037.92	21.00	50.00	1,108.92
4830	Canoga Street	Multifamily	859.18	21.00	50.00	930.18
5014	Canoga Street	Residential	228.98	21.00	50.00	299.98
4912	Carlton Street	Residential	311.26	21.00	50.00	382.26

Exhibit A to Resolution No. 15-3078
Report of Delinquent Civil Debts – June 2015

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
11253	Carriage Avenue	Residential	$ 254.94	$ 21.00	$ 50.00	$ 325.94
11239	Carriage Avenue	Senior	206.49	21.00	50.00	277.49
11158	Carriage Avenue	Residential	228.98	21.00	50.00	299.98
11347	Chandler Lane	Residential	259.48	21.00	50.00	330.48
4337	Clair Street	Residential	357.94	21.00	50.00	428.94
5230	Clair Street	Residential	231.60	21.00	50.00	302.60
10231	Coalinga Avenue	Residential	228.98	21.00	50.00	299.98
5211	Coventry Way	Residential	252.49	21.00	50.00	323.49
11370	Cumberland Lane	Residential	230.37	21.00	50.00	301.37
11460	Cumberland Lane	Residential	236.14	21.00	50.00	307.14
11469	Cumberland Lane	Residential	230.39	21.00	50.00	301.39
11360	Dartmouth Lane	Residential	325.24	21.00	50.00	396.24
11440	Dartmouth Lane	Residential	229.57	21.00	50.00	300.57
10248	Del Mar Avenue	Residential	267.59	21.00	50.00	338.59
10148	Del Mar Avenue	Residential	259.94	21.00	50.00	330.94
10236	Del Mar Avenue	Residential	229.86	21.00	50.00	300.86
4506	Donner Court	Residential	226.78	21.00	50.00	297.78
11159	Essex Avenue	Residential	228.98	21.00	50.00	299.98
4628	Evart Stret	Residential	322.26	21.00	50.00	393.26
4665	Evart Street	Senior	227.76	21.00	50.00	298.76
4133	Evart Street	Residential	237.54	21.00	50.00	308.54
5185	Evart Street	Residential	207.17	21.00	50.00	278.17
4760	Evart Stret	Residential	228.98	21.00	50.00	299.98
4664	Evart Street	Residential	243.59	21.00	50.00	314.59
11366	Fairfax Lane	Residential	230.52	21.00	50.00	301.52
11460	Fairfax Lane	Residential	259.48	21.00	50.00	330.48
4703	Fauna Street	Residential	228.71	21.00	50.00	299.71
4932	Fauna Street	Residential	384.26	21.00	50.00	455.26
4738	Fauna Street	Residential	220.20	21.00	50.00	291.20
4456	Fauna Street	Residential	228.98	21.00	50.00	299.98
4219	Fauna Street	Residential	228.98	21.00	50.00	299.98
4244	Fauna Street	Residential	228.98	21.00	50.00	299.98
4291	Fauna Street	Residential	349.22	21.00	50.00	420.22
5440	Fauna Street	Residential	228.94	21.00	50.00	299.94
10232	Felipe Avenue	Residential	228.99	21.00	50.00	299.99
8919-21	Felipe Avenue	Multifamily	457.95	21.00	50.00	528.95
5051	Flora Street	Residential	242.36	21.00	50.00	313.36
4202	Flora Street	Residential	331.36	21.00	50.00	402.36
4220	Flora Street	Residential	251.46	21.00	50.00	322.46
4730	Flora Street	Residential	230.06	21.00	50.00	301.06
11118	Fremont Avenue	Residential	240.49	21.00	50.00	311.49
10287	Fremont Avenue	Residential	235.90	21.00	50.00	306.90
10149	Galena Avenue	Residential	228.98	21.00	50.00	299.98

Exhibit A to Resolution No. 15-3078
Report of Delinquent Civil Debts – June 2015

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
10161	Geneva Avenue	Residential	$ 228.98	$ 21.00	$ 50.00	$ 299.98
4125	Grand Avenue	Residential	228.32	21.00	50.00	299.32
10192	Greenwood Avenue	Residential	242.89	21.00	50.00	313.89
11335	Halifax Lane	Residential	232.87	21.00	50.00	303.87
11418	Hartford Lane	Residential	230.52	21.00	50.00	301.52
11432	Hickory Lane	Residential	259.48	21.00	50.00	330.48
11447	Hickory Lane	Residential	325.24	21.00	50.00	396.24
4103	Howard Street	Residential	228.98	21.00	50.00	299.98
4780	Howard Street	Residential	228.98	21.00	50.00	299.98
4910	Howard Street	Residential	255.21	21.00	50.00	326.21
4605	Howard Street	Residential	226.28	21.00	50.00	297.28
4341	Howard Street	Residential	230.38	21.00	50.00	301.38
4552	Humboldt Court	Residential	380.81	21.00	50.00	451.81
10244	Kimberly Avenue	Residential	241.50	21.00	50.00	312.50
10386	Kimberly Avenue	Multifamily	1,030.13	21.00	50.00	1,101.13
10236	Kimberly Avenue	Residential	228.98	21.00	50.00	299.98
5646	Kingsley Street	Residential	250.87	21.00	50.00	321.87
5476	Kingsley Street	Residential	226.28	21.00	50.00	297.28
5019	Kingsley Street	Residential	333.13	21.00	50.00	404.13
5198	Kingsley Street	Multifamily	407.99	21.00	50.00	478.99
4821-23	Kingsley Street	Multifamily	251.19	21.00	50.00	322.19
5242	Kingsley Street	Residential	228.98	21.00	50.00	299.98
4831-33	Kingsley Street	Multifamily	375.95	21.00	50.00	446.95
5003	Kingsley Street	Residential	228.98	21.00	50.00	299.98
4921	Kingsley Street	Residential	203.99	21.00	50.00	274.99
4909	Kingsley Street	Residential	229.26	21.00	50.00	300.26
11354	Kingston Lane	Residential	325.24	21.00	50.00	396.24
4839	Mane Street	Residential	252.81	21.00	50.00	323.81
4846	Mane Street	Residential	375.47	21.00	50.00	446.47
4427	Mane Street	Residential	234.04	21.00	50.00	305.04
4535	Mane Street	Residential	427.20	21.00	50.00	498.20
4855	Mane Street	Residential	247.32	21.00	50.00	318.32
3788	Millstone Lane	Residential	202.78	21.00	50.00	273.78
5239	Monte Verde Street	Residential	228.98	21.00	50.00	299.98
10290	Monte Vista Avenue	Senior	242.93	21.00	50.00	313.93
10332	Monte Vista Avenue	Residential	229.01	21.00	50.00	300.01
10557	Morgan Circle	Residential	228.98	21.00	50.00	299.98
10217	Oak Glen Avenue	Residential	254.96	21.00	50.00	325.96
10604	Oak Glen Avenue	Residential	336.97	21.00	50.00	407.97
4621	Oakdale Street	Residential	357.94	21.00	50.00	428.94
5035	Orchard Street	Residential	276.57	21.00	50.00	347.57
5609	Orchard Street	Residential	252.72	21.00	50.00	323.72
4843	Orchard Street	Residential	229.07	21.00	50.00	300.07

Exhibit A to Resolution No. 15-3078
Report of Delinquent Civil Debts – June 2015

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
5422	Orchard Street	Residential	$ 228.98	$ 21.00	$ 50.00	$ 299.98
3995	Peachwood Drive	Residential	259.48	21.00	50.00	330.48
10124	Poulsen Avenue	Residential	221.62	21.00	50.00	292.62
10154	Poulsen Avenue	Residential	228.98	21.00	50.00	299.98
10206	Pradera Avenue	Residential	228.98	21.00	50.00	299.98
4668	Rawhide Street	Residential	228.92	21.00	50.00	299.92
4842	Rawhide Street	Residential	203.99	21.00	50.00	274.99
4791	Rawhide Street	Residential	297.58	21.00	50.00	368.58
11442	Rockford Lane	Residential	230.52	21.00	50.00	301.52
5177	San Antonio Way	Residential	228.98	21.00	50.00	299.98
11052	San Juan Way	Residential	228.98	21.00	50.00	299.98
11014	San Miguel Way	Residential	228.98	21.00	50.00	299.98
11020	San Pasqual Avenue	Residential	228.98	21.00	50.00	299.98
11000	San Pasqual Avenue	Residential	204.73	21.00	50.00	275.73
10221	Santa Anita Avenue	Residential	228.98	21.00	50.00	299.98
10204	Santa Anita Avenue	Residential	238.88	21.00	50.00	309.88
10133	Santa Anita Avenue	Residential	228.98	21.00	50.00	299.98
10298	Santa Anita Avenue	Residential	221.53	21.00	50.00	292.53
10183	Santa Anita Avenue	Residential	226.28	21.00	50.00	297.28
10265	Saratoga Avenue	Residential	321.53	21.00	50.00	392.53
11011	Stallion Avenue	Residential	228.98	21.00	50.00	299.98
10289	Tudor Avenue	Residential	228.98	21.00	50.00	299.98
10115	Vernon Avenue	Residential	229.00	21.00	50.00	300.00
10431	Vernon Avenue	Residential	322.74	21.00	50.00	393.74
5533	Vernon Court	Residential	254.89	21.00	50.00	325.89
4230	Via Amore	Residential	229.01	21.00	50.00	300.01
4198	Via Dante	Residential	203.99	21.00	50.00	274.99
4198	Via Napoli	Residential	252.69	21.00	50.00	323.69
11053	Wesley Avenue	Residential	393.10	21.00	50.00	464.10
11178	Whitewater Avenue	Residential	228.98	21.00	50.00	299.98
4548	Yosemite Drive	Residential	245.12	21.00	50.00	316.12
4515	Yosemite Drive	Residential	228.98	21.00	50.00	299.98
TOTALS			**$ 44,489.69**	**$3,402.00**	**$8,100.00**	**$55,991.69**

MINUTES OF THE MEETING OF THE MONTCLAIR PERSONNEL COMMITTEE HELD ON MONDAY, MAY 4, 2015, AT 8:20 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 8:20 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 April 20, 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 April 20, 2015.

IV. PUBLIC COMMENT – None

V. CLOSED SESSION

At 8:21 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/ terminations, and evaluations of employee performance.

At 8:45 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Raft stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:45 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,

Edward C. Starr
City Manager