

**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 15, 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.

Page No.

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

II. INVOCATION

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

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

- A. "Getting 2 Zero" Program, President/Chief Executive Officer Bill Harford, Inland Valley Humane Society & SPCA
- B. Montclair Police Department Life Saving Award — Presented to Officer Nicholas Medina

VI. PUBLIC COMMENT

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

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

VII. PUBLIC HEARINGS

- A. First Reading – Consider Adoption of 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] 6
- B. First Reading – Consider Adoption of Ordinance No. 15-953 Amending Section 10.28.060 of the Montclair Municipal Code Regarding Fire Sprinkler Requirements [CC] 31
- C. First Reading – Consider Adoption of Ordinance No. 15-954 Replacing Section 8.32.010 of the Montclair Municipal Code Pertaining to Maximum Speed Limits in the City [CC] 35

VIII. CONSENT CALENDAR

- A. Approval of Minutes
 - 1. Minutes of the Regular Joint City Council/Successor Agency Board/MHC Board/MHA Commission Meeting of June 1, 2015 [CC/SA/MHC/MHA]
- B. Administrative Reports
 - 1. Consider Receiving and Filing of Treasurer's Report [CC] 40
 - 2. Consider Approval of Warrant Register and Payroll Documentation [CC] 41
 - 3. Consider Receiving and Filing of Treasurer's Report [SA] 42
 - 4. Consider Approval of Warrant Register [SA] 43
 - 5. Consider Receiving and Filing of Treasurer's Report [MHC] 44
 - 6. Consider Approval of Warrant Register [MHC] 45
 - 7. Consider Receiving and Filing of Treasurer's Report [MHA] 46
 - 8. Consider Approval of Warrant Register [MHA] 47
 - 9. Consider Setting a Public Hearing to Consider Ordinance No. 15-952 Adding Section 10.20.030 to Chapter 10.20 of the Montclair Municipal Code Related to the Review and Permitting Process for Small Residential Rooftop Solar Systems [CC] 48
 - 10. Consider Approval of the City of Montclair Capital Improvement Program for Fiscal Years 2015-2020 [CC]

Consider Appropriation of Funds as Indicated in the Attached Capital Improvement Program and in the Fiscal Impact Section of This Report [CC] 52
 - 11. Consider Approval of Lot Line Adjustment No. 2015-1 for Property Located at the Northwest Corner of Ramona Avenue and Holt Boulevard [CC] 62

12. Consider Approval of Tract Map No. 18986 Located on the West Side of Fremont Avenue South of Grand Avenue [CC]

Consider Authorizing Tract Map No. 18986 to be Recorded with the Office of the San Bernardino County Recorder [CC] 70
13. Consider Authorization of a \$47,998.90 Appropriation from the SB 509 Fund to Purchase and Install a Self-Contained Breathing Apparatus Fill Station at Fire Station No. 151 [CC] 72
14. Consider Authorizing the Reallocation and Expenditure of \$17,333 of Supplemental Law Enforcement Services Account Grant Funds for the Purchase of an LED Message Board Trailer and Five Samsung Galaxy Tablets [CC] 76
15. Consider Declaring a Free Standing Refrigerator/Freezer, a Free Standing Commercial Stove, and Two Free Standing Freezers as Surplus and Authorizing Their Disposal by Auction, Internet, or Scrap [CC] 78
16. Consider Authorization to Retain InterWest Consulting Group as an Interim Plan Check Vendor to Provide Specialized Plan Checking Services for Fire Protection Systems, Civil Improvement Plans, and Nonstructural Building Plans for Fire and Life Safety [CC] 79
17. Consider Authorizing Staff to Negotiate Exclusively with Ecogreen Solutions for LED Lighting Replacement at Various City Facilities [CC]

Consider Authorizing the City Manager to Execute an Agreement with Ecogreen Solutions Upon Presentation of Acceptable Proposal for LED Lighting Replacement [CC] 87

C. Agreements

1. Consider Approval of Agreement No. 15-42 with San Bernardino County Transportation Authority for Advancement and Reimbursement of Funds Related to Advanced Conceptual Engineering and Environmental Consulting Work and Oversight Work for that Portion of Phase 2B of the Metro Gold Line Foothill Extension Project from the Los Angeles-San Bernardino County Line to the Montclair Transcenter [CC]

Consider Authorizing the City Manager to Execute All Documents on Behalf of the City of Montclair in Relation to Agreement No. 15-42 [CC] 89
2. Consider Approval of Agreement No. 15-43 Amending Agreement No. 14-31 with LAE Associates, Inc., for Additional Project Management Services for the Monte Vista Avenue/Union Pacific Grade Separation Project [CC]

Consider an Additional Appropriation of \$5,000 from Measure I [CC] 103

3. Consider Approval of Agreement No. 15-44 with the Montclair Chamber of Commerce to Provide Services to Promote Local Economic Development [CC] 108
4. Consider Approval of Agreement No. 15-45 with Catering Systems, Inc., to Provide Meals for the Senior Citizen Nutrition Program [CC] 115
5. Consider Approval of Agreement No. 15-46 with Nutrition Ink to Provide Nutrition-Education Services for the Senior Citizen Nutrition Program [CC] 138
6. Consider Approval of Agreement No. 15-47 with the YWCA San Gabriel Valley and Inland Communities to Serve as a Resource Agency for the Human Services Department [CC] 142
7. Consider Approval of Tract Map No. 19943 Located on the East Side of Monte Vista Avenue South of Howard Street [CC]

Consider Approval of Agreement No. 15-49, a Subdivision Agreement with FH II, LLC, a California Limited Liability Company Doing Business as Frontier Communities [CC]

Consider Authorizing Tract Map No. 19943 to be Recorded with the Office of the San Bernardino County Recorder [CC] 150

D. Resolutions

1. Consider Adoption of Resolution No. 15-3076 Authorizing Approval of the Change in Population in San Bernardino County During 2014 for the Purpose of Calculating the Gann Spending Limit for Fiscal Year 2015-16 [CC] 162
2. Consider Adoption of Resolution No. 15-3077 Establishing an Appropriations Limit for Fiscal Year 2015-16 Pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code [CC] 164
3. Consider Adoption of Resolution No. 15-3079 Establishing the City's Commitment to the Goals and Objectives of the Inland Valley Humane Society & SPCA "Getting 2 Zero" Program to Eliminate the Euthanasia of Adoptable Animals [CC] 167
4. Consider Adoption of Resolution No. 15-3081 Adopting the City of Montclair Fiscal Year 2015-16 Annual Budget [CC] 171
5. Consider Montclair Housing Corporation Board of Directors' Adoption of Resolution No. 15-01 Adopting the Fiscal Year 2015-16 Budget for the Montclair Housing Corporation [MHC] 174

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

Cespedes v. Montclair

B. City Manager/Executive Director

C. Mayor/Chairman

1. Announcement of Planning Commission Appointment

D. Council/SA/MHC/MHA Board

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

1. Minutes of the Personnel Committee Meeting of June 1, 2015

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

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

XIII. CLOSED SESSION ANNOUNCEMENTS

XIV. 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, July 6, 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 June 11, 2015.

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF ORDINANCE
NO. 15-951 REPLACING CHAPTER 4.56
AND AMENDING CHAPTER 11.78 OF THE
MONTCLAIR MUNICIPAL CODE RELATED TO
MESSAGE ESTABLISHMENTS AND MESSAGE
TECHNICIANS

DATE: June 15, 2015

SECTION: PUBLIC HEARINGS

ITEM NO.: A

FILE I.D.: LDU050

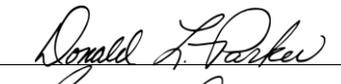
DEPT.: COMMUNITY DEV.

FIRST READING

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.

Since the approval of SB 731, many California cities, most notably San Gabriel, Huntington Beach and Thousand Oaks, have experienced a literal explosion in the number of massage businesses that have opened. Like many other cities, the majority of the establishments in Montclair are providing "services" other than traditional massage, up to and including various types of sex acts. This has been confirmed by multiple comments and reviews by patrons on websites that promote massage establishments offering these types of illegal services. Most of the massage businesses in Montclair are characterized by late business hours and storefront windows completely covered by drapes, blinds or other window coverings. Further, there have been multiple occasions when staff, in the course of performing site inspections for Zoning and Use Reviews, has encountered difficulty gaining access to certain establishments, observed alleged massage technicians dressed in less-than-professional attire, and in at least one case, an alleged massage technician bolting out the back door of a business when staff arrived to perform an inspection.

Prepared by:  Fiscal Impact
Finance Review: 

Proofed by:  Reviewed and
Approved By: 

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.

Unfortunately, it will take time to reverse the effects the thoughtlessly-crafted SB 731 has inflicted on California cities, including Montclair. While staff cannot immediately impose the CUP requirement retroactively to legally-established businesses, the operational standards *will* be imposed upon them within a reasonable timeframe as recommended by the City Attorney. For example, massage establishment operators and technicians will be required to comply with the following:

- The requirement to obtain a Certificate of Operation issued by the City's Finance Department, and an Operator Permit issued by the Police Department;
- All massage practitioners and therapists shall provide proof of a current license issued by the California Massage Therapy Council (CAMTC);
- Scaled floor plans of the massage businesses shall be required, showing the customer waiting area, all massage rooms, restrooms, and any ancillary areas;
- Operational standards, including, but not limited to, hours of operation, supervision, signage outlining services and the price for each service, permitted instruments and equipment, professional attire, and sanitation; and
- Unannounced inspections by authorized City staff.

The Ordinance does include a provision that amortizes all existing, legal nonconforming massage establishments over a two-year period. For establishments that are located in zoning or land use districts where they would be allowed with a CUP, that entitlement must be obtained within two years of adoption of the Ordinance. For massage establishments that are located in zoning or land use districts where such establishments are not allowed, those businesses will have two years to cease operation or relocate to a conditionally permitted location.

The proposed Ordinance has been reviewed by the Code Enforcement/Public Safety Committee and the Planning Commission and has been recommended for City Council approval.

FISCAL IMPACT: Implementation of Ordinance No. 15-951 would have no impact on the City's General Fund.

RECOMMENDATION: Staff recommends the City Council adopt the first reading of 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.

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 ORDAIN 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.
4.56.120	Notices.
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 is 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 MESSAGE ESTABLISHMENT AND THE MESSAGE 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 enjoinder 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 ADOPTION OF ORDINANCE
NO. 15-953 AMENDING SECTION 10.28.060
OF THE MONTCLAIR MUNICIPAL CODE
REGARDING FIRE SPRINKLER REQUIREMENTS

FIRST READING

DATE: June 15, 2015
SECTION: PUBLIC HEARINGS
ITEM NO.: B
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: There would be no fiscal impact related to the City Council's adoption of Ordinance No. 15-953.

RECOMMENDATION: Staff recommends the City Council consider adoption of the first reading of Ordinance No. 15-953 amending Section 10.28.060 of the Montclair Municipal Code regarding fire sprinkler requirements.

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.

ATTEST:

Mayor

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

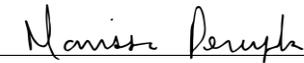
SUBJECT: CONSIDER ADOPTION OF ORDINANCE NO. 15-954 REPLACING SECTION 8.32.010 OF THE MONTCLAIR MUNICIPAL CODE PERTAINING TO MAXIMUM SPEED LIMITS IN THE CITY <u>FIRST READING</u>	DATE: June 15, 2015 SECTION: PUBLIC HEARINGS ITEM NO.: C FILE I.D.: TRC625 DEPT.: PUBLIC WORKS
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REASON 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 valid 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 miles per hour (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 MPH speed limit in business and residential districts; the 25 MPH speed limit in school zones when children are present; and the 15 MPH 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 of City Councils of local jurisdictions. 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: <u></u>	Fiscal Impact Finance Review:	<u></u>
Proofed by: <u></u>	Reviewed and Approved By:	<u></u>

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: There would be no fiscal impact associated with the City Council's adoption of Ordinance No. 15-954.

RECOMMENDATION: Staff recommends the City Council consider adoption of the first reading of 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 RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 15, 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 May 31, 2015, pursuant to state law.

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

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

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending May 31, 2015.

Prepared by:

Janet Kulbeck
Andrea M Phillips

Fiscal Impact
Finance Review:

Donald L Parker

Proofed by:

Reviewed and
Approved By:

Donald L Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION **DATE:** June 15, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 2
FILE I.D.: FIN540
DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated June 15, 2015, and the Payroll Documentation dated May 31, 2015, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated June 15, 2015, totals \$890,204.35. The Payroll Documentation dated May 31, 2015, totals \$549,725.79 gross, with \$405,069.19 net being the total cash disbursement.

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

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 15, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 3
FILE I.D.: FIN510
DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending May 31, 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 May 31, 2015.

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

RECOMMENDATION: Staff recommends the City Council acting as Successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending May 31, 2015.

Prepared by:	<u>Michael Piotrowski</u>	Fiscal Impact Finance Review:	<u>Donald L. Parker</u>
Proofed by:	<u>Andrea M. Phillips</u>	Reviewed and Approved By:	<u>Donald L. Parker</u>

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** June 15, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 4
FILE I.D.: FIN530
DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending May 31, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 05.01.15-05.31.15 in the amounts of \$9,661.96 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds; \$0.00 from the Tax Exempt Bond Proceeds; and \$0.00 from the Taxable Bond Proceeds and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending May 31, 2015.

Prepared by:	<u>Michael Piotrowski</u>	Fiscal Impact Finance Review:	<u>Donald L. Parker</u>
Proofed by:	<u>Andrea M Phillips</u>	Reviewed and Approved By:	<u>Donald L. Parker</u>

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 15, 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 May 31, 2015, pursuant to state law.

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

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

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2015.

Prepared by:

Michael Piotrowski
Andrea M Phillips

Fiscal Impact
Finance Review:

Donald L Parker
Donald L Parker

Proofed by:

Reviewed and
Approved By:

Donald L Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** June 15, 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 May 31, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 05.01.15-05.31.15 in the amount of \$20,705.13 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 May 31, 2015.

Prepared by:	<u>Michael Piotrowski</u>	Fiscal Impact Finance Review:	<u>Donald L. Parker</u>
Proofed by:	<u>Andrea M Phillips</u>	Reviewed and Approved By:	<u>Donald L. Parker</u>

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: June 15, 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 May 31, 2015, pursuant to state law.

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

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

RECOMMENDATION: Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2015.

Prepared by:

Michael Piotrowski

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 15, 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 May 31, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 05.01.15-05.31.15 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

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

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

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

AGENDA REPORT

SUBJECT:	CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 15-952 ADDING SECTION 10.20.030 TO CHAPTER 10.20 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO THE REVIEW AND PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS	DATE:	June 15, 2015
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	9
		FILE I.D.:	FLP030
		DEPT.:	COMMUNITY DEV.

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

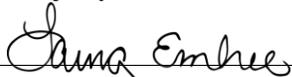
BACKGROUND: Section 65850.5(a) of the California Government Code provides that it is the policy of the State to promote and encourage the installation and use of solar energy systems under 10 kilowatts by creating an expedited permit process of such systems. In furtherance of that objective, Section 65850.5(g)(1) of the California Government Code requires that, on or before September 30, 2015, every city must adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems.

The City currently reviews each application in sequential order as they are submitted. Average plan review time is currently one week. The City also currently accepts such applications through carrier delivery. The City, however, needs to adopt the ordinance mandated by California Government Code Section 65850.5(g)(1). The attached Ordinance is intended to satisfy that requirement. The Ordinance codifies the requirements that include accepting and approving applications electronically, directing the City's Building Official to develop a checklist of all requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review, and authorizing the Building Official to administratively approve such applications.

A copy of proposed Ordinance No. 15-952 is attached to this report for reference.

FISCAL IMPACT: The cost to publish a Notice of Public Hearing in the *Inland Valley Daily Bulletin* related to Ordinance No. 15-952 should not exceed \$500.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, July 6, 2015, at 7:00 p.m. in the Council Chambers to consider Ordinance No. 15-952 adding Section 10.20.030 to Chapter 10.20 of the Montclair Municipal Code related to the review and permitting process for small residential rooftop solar systems.

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

ORDINANCE NO. 15-952

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADDING SECTION 10.20.030 TO CHAPTER 10.20 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO THE REVIEW AND PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

WHEREAS, Subsection (a) of Section 65850.5 of the California Government Code provides that it is the policy of the State to promote and encourage the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems; and

WHEREAS, Subdivision (g)(1) of Section 65850.5 of the California Government Code provides that, on or before September 30, 2015, every city, county, or city and county shall adopt an ordinance, consistent with the goals and intent of subdivision (a) of Section 65850.5, that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

WHEREAS, in developing said expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review. The Building Official is hereby authorized and directed to develop and adopt such checklist; and

WHEREAS, said checklist shall be published on the jurisdiction's internet website. The applicant may submit the permit application and associated documentation to the City's Building Division in person, by mail, or electronically, together with any required permit processing and inspection fees. In the case of electronic submittal, the approved set shall have an official signature by the registered professional as the City does not possess the electronic capabilities of accepting an electronic signature at the time of this Ordinance adoption.

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

SECTION I. Amendment of Code.

Section 10.20.030 is hereby added to Chapter 10.20 to the Montclair Municipal Code to read as follows:

10.20.030 Small Residential Rooftop Solar Energy System Review Process.

A. The following words and phrases as used in this Section are defined as follows:

Building Official means the Building Official of the City of Montclair or his/her designee.

Electronic submittal means the utilization of one or more of the following:

1. E-mail,
2. The internet,

3. Facsimile transmission.

Small residential rooftop solar energy system means all of the following:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal; and

2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and paragraph (iii) of subdivision (c) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time; and

3. A solar energy system that is installed on a single or duplex family dwelling; and

4. A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

Solar energy system has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

B. Prior to submitting an application, the applicant shall:

1. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the small residential rooftop solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

2. At the applicant's cost, verify to the applicant's reasonable satisfaction using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new photovoltaic electrical loads.

C. For a small residential rooftop solar energy system eligible for expedited review, only one inspection shall be required, which shall be done in a timely manner and may include a consolidated inspection by the Building Official. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized; however, the subsequent inspection need not conform to the requirements of this subsection.

D. An application that satisfies the information requirements in the checklist, as determined by the Building Official, shall be deemed complete. Upon receipt of an incomplete application, the Building Official shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

E. Upon confirmation by the Building Official of the application and supporting documentation being complete and meeting the requirements of the checklist, the Building Official shall administratively approve the application and issue all required permits or authorizations.

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. 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. Streamlining the review process for small residential rooftop solar energy systems will not create any environmental impacts.

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:

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. 15-952 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 CITY OF MONTCLAIR CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEARS 2015-2020	DATE: June 15, 2015
CONSIDER APPROPRIATION OF FUNDS AS INDICATED IN THE ATTACHED CAPITAL IMPROVEMENT PROGRAM AND IN THE FISCAL IMPACT SECTION OF THIS REPORT	SECTION: ADMIN. REPORTS
	ITEM NO.: 10
	FILE I.D.: FIN285
	DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: The City Council is asked to consider approving the City of Montclair Capital Improvement Program for Fiscal Years 2015-16 through 2019-20 and funding for Fiscal Year 2015-16. Adopting a Capital Improvement Program provides assurance that long-range Capital project objectives will receive proper consideration and that financing will be available as authorized.

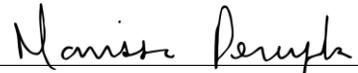
BACKGROUND: The Capital Improvement Program (CIP) is presented to the City Council on an annual basis with appropriations made for the first year of the program. On October 6, 2014, the City adopted a five-year CIP for Fiscal Years 2014-15 through 2018-19, and appropriated funds for projects identified for Fiscal Year 2014-15. The proposed CIP attached to this City Council report is for Fiscal Years 2015-16 through 2019-20 with funding for Fiscal Year 2015-16. It notes projects with previous funding, projects with additional funding for the current fiscal year, and projects for which funding is expected to be requested in future years.

The CIP has been reviewed by the Planning Commission for consistency with the General Plan, and by the Public Works Committee with a recommendation for approval.

The CIP worksheets are attached. Some projects are listed as unfunded. When funds become available for design and/or construction they may be added at some point during the year or be added to a future CIP. There are also several projects that are likely to be added by amendment during the year, which involve funding by lease revenue bonds or Successor Agency bonds. Staff members are currently evaluating the City's needs. A status summary of projects from prior years is also attached. In general, projects are listed as being complete or ongoing in various stages.

FISCAL IMPACT: The City Council's approval of the Capital Improvement Program for Fiscal Years 2015-16 through 2019-20 would have a minor impact on the General Fund, with a \$4,000 appropriation for one project. The CIP worksheets include project cost estimates and funding sources.

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

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

SUMMARY OF 2015/16 – 2019/20 CAPITAL IMPROVEMENT PROGRAM

<u>2015/16 Projects</u>	<u>Year</u>	<u>Cost</u>	<u>Fund</u>
Fire Department SCBA Fill Station	15/16	\$ 4,000	General
Central Montclair Pavement Rehab	15/16	\$500,000	Unfunded
Human Services Weight Room Rehab Remodel	15/16	\$410,000	CDBG
Benson Avenue Parkway Landscaping	15/16	\$ 25,000	Gas Tax
Streetlight Replacements–North Montclair	15/16	\$105,000	Successor Agency
Sidewalk Inlay Project*	15/16	\$ 50,000	Unfunded

<u>Future Years' Projects</u>			
MacArthur Park Improvements	16/17	\$172,500	Cell Tower Revenue
East Montclair Pavement Rehab	16/17	\$500,000	Successor Agency
Sunset Park Irrigation Replacement	17/18	\$ 92,500	Park Development
Huntington Drive Sewer Line	19/20	\$220,000	Sewer
Streetlight Replacements–North Montclair	Multiple	\$525,000	Successor Agency
Sidewalk Inlay Project*	Multiple	\$250,000	Unfunded

*The Sidewalk Inlay Project is a placeholder for projects that may develop during the course of any given year. Last year the City Council approved a proposal to use the Improvement Act of 1911 as a means by which property owners could petition for sidewalk improvements while agreeing to pay a portion of the costs. Two property owners have expressed interest in circulating petitions for this work. Should there be enough interest, staff will bring the petition to the City Council as a public hearing item along with a recommendation for a funding source.

STATUS OF PROJECTS FROM PRIOR YEARS' CAPITAL IMPROVEMENT PROGRAM

<u>Project</u>	<u>Cost</u>	<u>Status</u>
Benson Ave. Block Wall Closure	\$ 90,000	Under Construction
Central Ave./UPRR Grade Separation	\$ 17,221,600	Awaiting Design Auth.
Central Ave./Costco Signal Mods	\$ 15,100	Design Complete
Northeast Montclair Pavement Rehab–Phase 2	\$ 600,000	Project Complete
Monte Vista Ave./UPRR Grade Separation	\$ 29,888,000	In Design
Recreation Building Upgrades	\$ 390,808	Under Construction
Central Ave./San Bernardino Signal Mods	\$ 150,000	Design Complete
Central Ave. Undergrounding	\$ 370,000	In Design
Sunrise Park Block Wall	\$ 130,000	Project Complete

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

1. Approve the City of Montclair Capital Improvement Program for Fiscal Years 2015-2020.
2. Appropriate funds as indicated in the attached Capital Improvement Program and in the fiscal impact section of this report.

Infrastructure Fund Capital Project Funding Information

Project Name: Montclair Fire Department Self Contained Breathing Apparatus (SCBA) Fill Station Replacement Project

Project Details: The SCBA fill station at Fire Station No. 151 is in need of replacement. This unit is approximately 20 years old and has been modified several times, and overhauled to be functional as a frequently used piece of apparatus even though it is a very small unit that was not made for such high frequency use. The fill station is also out of compliance per OSHA 1910.134(i)(7) because it does not have a carbon monoxide alarm to monitor carbon monoxide levels. Currently, Upland Fire Department has a fill station at Fire Station No. 164, which is located on Campus Avenue, south of 19th Street. While this fill station will serve as a good back up system for Montclair Fire units, the location of Upland's fill station, which is in the north-east most region of Upland, would create increased response times for Montclair Fire units responding from that location to incidents in Montclair. It is not uncommon for Fire agencies in the West End to have two fill stations within their service area; an example of this is Rancho Cucamonga Fire, which has a similarly sized service area to Montclair/Upland Fire, and a similar number of fire stations. To install a new fill station at Fire Station No. 151, the electrical power at the station needs to be upgraded. The new fill station will require a three-phase power source. Construction associated with the new power source will include the installation of an electrical disconnect box with flexible conduit and proper wire run into an electrical control panel. The cost to purchase a new fill station is estimated to be \$67,000.00. The estimated cost to upgrade the electrical power source is \$4,000.00.

Preparation Date: March 17, 2015 **Department:** Fire Department
Project No. (Assigned by Finance): _____ **Contact/Ext.:** Dave Corbin 560

Phase	Fiscal Years					Total	Fund/Program
	Prior Years	2014/2015	2015/2016	2016/2017	2017/2018		
Environmental							
Design							
R/W Acquisition			4,000.00				4,000.00
Construction							4,000.00
Total	0.00	0.00	4,000.00	0.00	0.00	0.00	4,000.00
							General Fund

Approvals: _____ **By:** _____ **Date:** _____
Department: _____ **By:** _____ **Date:** _____
Finance **By:** _____ **Date:** _____
City Council Date: _____ **Total Project Cost:** \$4,000.00
Revision Number: _____

Infrastructure Fund Capital Project Funding Information

Project Name: Central Monclair Street Rehabilitation Project Zone 3

Project Details: This project will resurface residential streets within an area generally bound by San Bernardino Streets on the north, Monte Vista Ave. on the west, Orchard Street on the south and Central Avenue on the east. Scope of work includes PCC repairs and ADA pedestrian ramp upgrades.

Preparation Date: March 5, 2015 Department: Public Works / Engineering

Project No. (Assigned by Finance): _____ Contact/Ext.: M. Hudson X.411

Phase	Fiscal Years					Total	Fund/Program
	Prior Years	2015/2016	2016/2017	2017/2018	2018/2019		
Environmental							
Design							
RW Acquisition							
Construction		500,000.00				500,000.00	Un-Funded
Total	0.00	500,000.00	0.00	0.00	0.00	500,000.00	

Approvals: _____

Department: _____ By: _____ Date: _____

Finance By: _____ Date: _____

City Council Date: _____ Total Project Cost: \$500,000.00

Revision Number: _____

Infrastructure Fund Capital Project Funding Information

Project Name: Human Services/Recreation Building Improvement Project Phase 2

Project Details: This project is the second phase of construction of the Human Services/Recreation Building Improvement Project. Phase 2 will expand the size of the recreation weightroom through the hallway and eliminate the starlight patio stage.

Preparation Date: March 5, 2015 Department: Public Works / Engineering

Project No. (Assigned by Finance): _____ Contact/Ext.: M. Hudson X.441

Phase	Prior Years	Fiscal Years					Total	Fund/Program
		2015/2016	2016/2017	2017/2018	2018/2019	2019/2020		
Environmental								
Design		35,000.00				35,000.00	CDBG Funds	
R/W Acquisition								
Construction		375,000.00				375,000.00	CDBG Funds	
Total	0.00	410,000.00	0.00	0.00	0.00	410,000.00		

Approvals:

Department: _____ By: _____ Date: _____

Finance By: _____ Date: _____

City Council Date: _____

Revision Number: _____

Total Project Cost: \$410,000.00

Infrastructure Fund Capital Project Funding Information

Project Name: Street Light Replacement Project
 Project Details: Replace existing marblite pole and cobra head street lights with classic light fixture pole and light standards. 10 poles annually over 5 year period. Surrounding Areas of the North Montclair Downtown Specific Plan

Preparation Date: March 5, 2015 Department: Public Works / Engineering
 Project No. (Assigned by Finance): _____ Contact/Ext.: Hudson X. 441

Phase	Prior Years	Fiscal Years					Total	Fund/Program
		2015/2016	2016/2017	2017/2018	2018/2019	2019/2020		
Environmental								
Design		5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	25,000.00	Succ. Agency Bond Proceeds
RW Acquisition								
Construction		100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	500,000.00	Succ. Agency Bond Proceeds
Total	0.00	105,000.00	105,000.00	105,000.00	105,000.00	105,000.00	525,000.00	

Approvals: _____ By: _____ Date: _____
 Department: _____
 Finance By: _____ Date: _____
 City Council Date: _____
 Revision Number: _____

Total Project Cost: \$525,000.00

Infrastructure Fund Capital Project Funding Information

Project Name: Sidewalk Inlay Project
 Project Details: Sidewalk inlay throughout various locations under the 1911 Act. Locations are based on residential participation. Funding reimbursement based on resident participation and payment option of lump sum or payment plan option

Preparation Date: March 5, 2015 Department: Public Works / Engineering
 Project No. (Assigned by Finance): _____ Contact/Ext.: M. Hudson X.441

Phase	Fiscal Years							Fund/Program
	Prior Years	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	Total	
Environmental								
Design								
RW Acquisition								
Construction		50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	250,000.00
Total	0.00	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	250,000.00
								Un-Funded

Approvals: _____ Date: _____
 Department: _____ By: _____
 Finance By: _____ Date: _____
 City Council Date: _____
 Revision Number: _____

Total Project Cost: \$250,000.00

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	Fiscal Years				Total	Estimated Completion	Grant Billing Date	Fund/Program (Fund Name & Number)
	Prior Years	2014/2015	2015/2016	2016/2017				
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	5,000.00			305,000.00	Dec. 2015	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	2017	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	1,805,000.00	15,000,000.00	0.00	29,773,000.00	Dec. 2017		

Approvals:

Department: Public Works Department By:  Date: August 7, 2014

Finance By: _____ Date: _____

City Council Date: _____

Revision Number: #1-8/7/14 #2-6/1/15 #3-6/15/15

Total Project Cost: \$29,773,000.00

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF LOT LINE ADJUSTMENT NO. 2015-1 FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF RAMONA AVENUE AND HOLT BOULEVARD

DATE: June 15, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 11
FILE I.D.: LDU155
DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Lot line adjustments are permitted under the Subdivision Map Act and the Montclair Municipal Code, subject to the approval of the City Council.

BACKGROUND: The owners of properties located at the northwest corner of Ramona Avenue and Holt Boulevard have expressed their wish to adjust the lot lines for their properties in order to facilitate development. Such a lot line adjustment is permitted under both the Subdivision Map Act and the City's Municipal Code. A lot line adjustment application has been submitted and reviewed. Approval of the aforementioned lot line adjustment is recommended.

The properties in question are generally identified as 4480 Holt Boulevard. The properties are currently vacant. Previous development includes a landscape nursery. Proposed development includes a restaurant pad, a shoe store, a Dollar Tree, and some strip commercial usage.

FISCAL IMPACT: The lot line adjustment of these parcels would have an unknown but positive fiscal impact to the City, potentially through increased property values and sales taxes.

RECOMMENDATION: Staff recommends the City Council approve Lot Line Adjustment No. 2015-1 for property located at the northwest corner of Ramona Avenue and Holt Boulevard.

Prepared by:



Fiscal Impact
Finance Review:



Proofed by:



Reviewed and
Approved By:



RECORDING REQUESTED
BY AND MAIL TO:

CITY OF MONTCLAIR
ENGINEERING DIVISION
P. O. BOX 2308
MONTCLAIR, CA 91763

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ENGINEERING DIVISION
City of Montclair, County of San Bernardino, State of California
CERTIFICATE APPROVING LOT LINE ADJUSTMENT NO. 15 - 1
OWNERS' CERTIFICATE

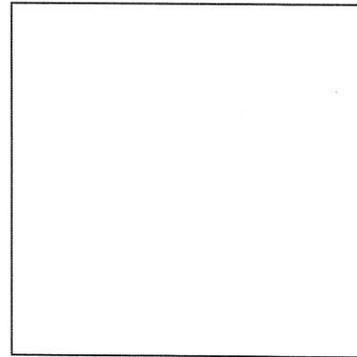
WE HEREBY CERTIFY that we are all and the only parties having any record title interest in the property as described in the attached drawing (Exhibit A) and attached description (Exhibit B) and we consent to the preparation and recordation of this certificate and the attached drawing and description.

By: [Signature]
4480 Holt Blvd. Montclair, LLC, a California Limited Liability Company
[Signature]
4480 Holt Investors, LLC a California Limited Liability Company
[Signature]
KZMB, LLC, a California Limited Liability Company

Pursuant to Section 66412 (d) of the Government Code of the State of California, the following described property has been reviewed for a lot line adjustment by the City of Montclair, and has been approved by the City of Montclair.

Dated: _____
City Engineer – Montclair, CA

(Engineer's Stamp)



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

State of CALIFORNIA

County of LOS ANGELES

On MARCH 25, 2015 before me, ALAN KABAKER, NOTARY PUBLIC
YEHEZKEL HEZI KASHANIAN, ROBIN HANASAB
personally appeared AND KOUROSH ZOGHI

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

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

WITNESS my hand and official seal.

[Signature]
Signature of Notary

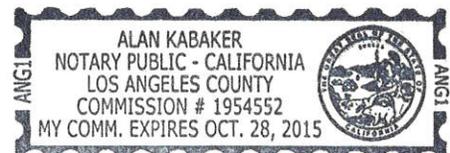
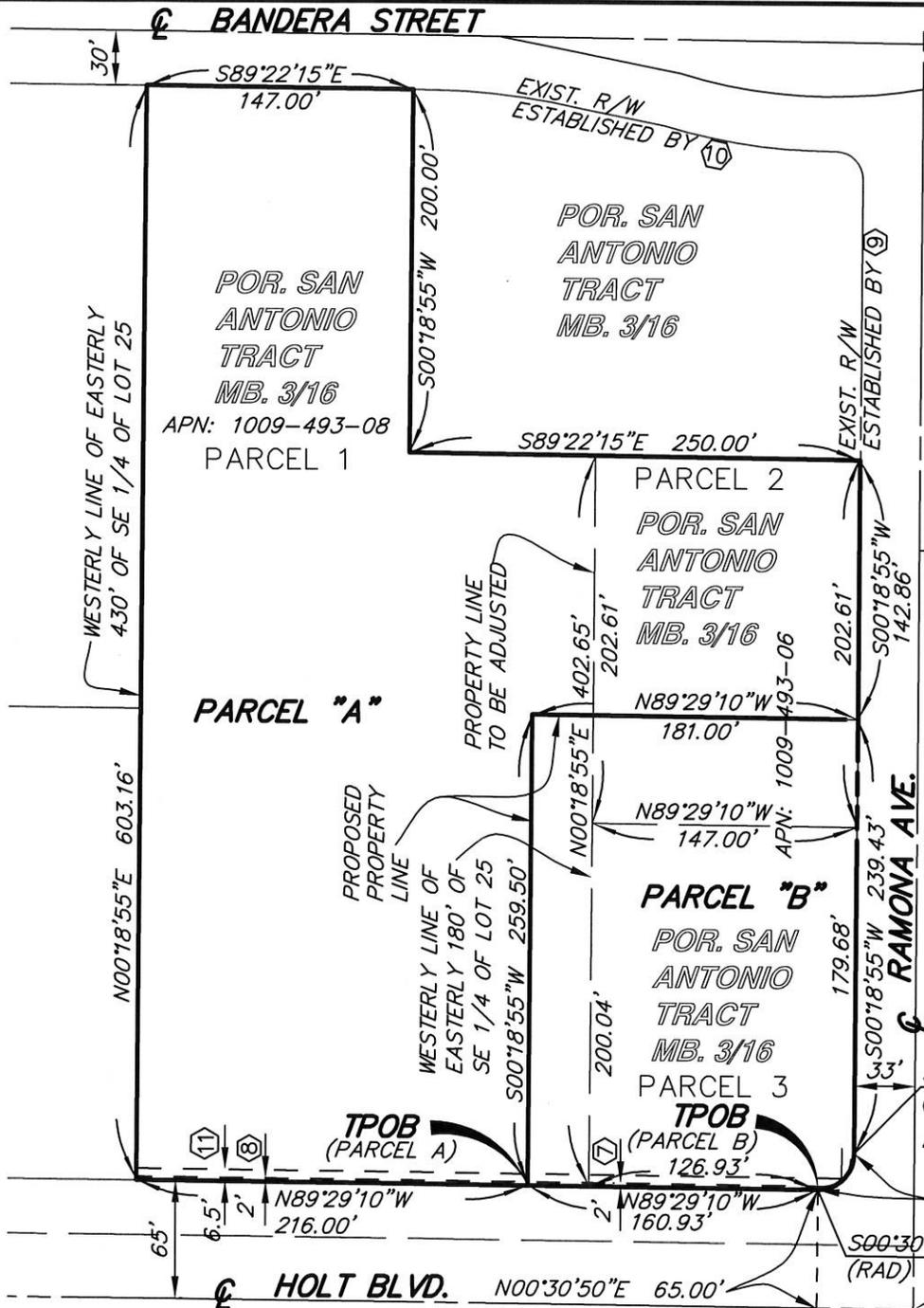


EXHIBIT "A"
LOT LINE ADJUSTMENT NO. 15-1



SCALE: 1"=100'

LEGEND:

- EXISTING PROPERTY LINE TO BE ADJUSTED
- PROPERTY LINE TO REMAIN
- EXIST. EASEMENTS SEE DESCRIPTION ON SHEET 2.

PREPARED UNDER THE SUPERVISION OF:

DENNIS C. FARNSWORTH
 RCE 31653, EXPIRES: 12/31/16



PARCEL INFORMATION:

- EXISTING PARCEL 1
AREA: 130,127 S.F.
(3.02 ACRES)
- EXISTING PARCEL 2
AREA: 29,763 S.F.
(0.68 ACRES)
- EXISTING PARCEL 3
AREA: 29,319 S.F.
(0.67 ACRES)
- PROPOSED PARCEL "A"
AREA: 142,326 S.F.
(3.27 ACRES)
- PROPOSED PARCEL "B"
AREA: 46,883 S.F.
(1.08 ACRES)

EXHIBIT "A"
LOT LINE ADJUSTMENT NO. 15-1

*(THE FOLLOW EASEMENTS AND AGREEMENTS REFERENCE THE ITEM NUMBERS SHOWN
IN THE TITLE REPORT DATES 04/23/2014, ORDER NO. 995-23046466-AW6,
PROVIDED BY FIDELITY NATIONAL TITLE COMPANY)*

- ① AN EASEMENT FOR WATER PIPE LINES AND AQUEDUCTS AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 54 OF DEEDS, PAGE 30. (ITEM #3 NOT PLOTTABLE FROM DESCRIPTION)
- ② AN EASEMENT FOR THE RIGHT TO CONSTRUCT DITCHES AND WATER PIPE LINES AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 117 OF DEEDS, PAGE 142. (ITEM #4 NOT PLOTTABLE FROM DESCRIPTION)
- ③ VARIOUS AGREEMENTS, CONDITIONS AND RESERVATIONS AS TO WATER AND RIGHTS OF WAY AND EASEMENTS IN THE DOCUMENT RECORDED IN BOOK 440 OF DEEDS, PAGE 353. (ITEM #5 NOT PLOTTABLE FROM DESCRIPTION)
- ④ AN EASEMENT FOR WATER PIPE LINES AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 799 OF DEEDS, PAGE 59. (ITEM #6 NOT PLOTTABLE FROM DESCRIPTION)
- ⑤ AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN THE SAN ANTONIO TRACT RECORDED IN BOOK 3 PAGE 16, OF MAPS (ITEM #7 NOT PLOTTABLE FROM DESCRIPTION)
- ⑥ AN EASEMENT FOR ELECTRIC LINES, TELEPHONE LINES, CABLES AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 1980 OFFICIAL RECORDS, PAGE 422. (ITEM #9 NOT PLOTTABLE FROM DESCRIPTION)
- ⑦ AN EASEMENT FOR SIDEWALK AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 4485 OFFICIAL RECORDS, PAGE 152. (ITEM #10)
- ⑧ AN EASEMENT FOR SIDEWALK AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 4485 OFFICIAL RECORDS, PAGE 154. (ITEM #11)
- ⑨ AN EASEMENT FOR PUBLIC ROAD AND HIGHWAY AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 5888 OFFICIAL RECORDS, PAGE 140. (ITEM #12 PLOTS AS RAMONA AVENUE R/W)
- ⑩ AN EASEMENT FOR PUBLIC ROAD AND HIGHWAY AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 6260 OFFICIAL RECORDS, PAGE 996. (ITEM #13 PLOTS AS BANDERA STREET R/W)
- ⑪ AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED IN BOOK 82-152814 OFFICIAL RECORDS. (ITEM #15)

PREPARED UNDER THE SUPERVISION OF:



DENNIS C. FARNSWORTH
RCE 51653, EXPIRES: 12/31/2016



**LOT LINE ADJUSTMENT NO. 15-1
EXHIBIT "B"**

EXISTING LEGAL DESCRIPTION

PARCEL 1: APN 1009-493-08

THE WEST 250 FEET OF THE EAST 430 FEET OF THE SOUTHEAST QUARTER OF LOT 25, SAN ANTONIO TRACT, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 3, PAGE 16, OF MAPS, RECORDS OF SAID COUNTY.

EXCEPT THE NORTH 200 FEET OF THE EAST 103 FEET OF THE WEST 250 FEET OF THE EAST 430 FEET OF THE SOUTHEAST 1/4, OF LOT 25, SAN ANTONIO TRACT, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 3, PAGE 16, OF MAPS, RECORDS OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA FOR HIGHWAY PURPOSES BY DEED DATED OCTOBER 27, 1933 AND RECORDED AUGUST 07, 1934, IN BOOK 984, PAGE 313, OF OFFICIAL RECORDS.

NOTE: AREAS AND DISTANCES OF THE PROPERTY DESCRIBED HEREIN ARE COMPUTED TO STREET CENTERS AS SHOWN ON THE RECORDED MAP OF SAID TRACT.

THE AREA OF THIS PARCEL CONTAINS S APPROXIMATELY 130,127 SQUARE FEET (3.02 ACRES).

PARCEL 2: POR. APN 1009-493-06

THAT PORTION OF THE SOUTHEAST QUARTER OF LOT 25, SAN ANTONIO TRACT, IN THE COUNTY OF SAN BERNARDINO, SLATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 3 PAGE 16, OF MAPS, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID LOT 25, 230 FEET NORTH OF THE INTERSECTION OF THE NORTH LINE OF HOLT AVENUE AS SHOWN ON SAID MAP, WITH THE EAST LINE OF SAID LOT 25;

THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID HOLT AVENUE, 180 FEET;

THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID LOT, 404 FEET TO THE NORTH LINE OF SAID SOUTHEAST QUARTER OF SAID LOT 25;

THENCE EAST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, 180 FEET TO THE EAST LINE OF SAID LOT; THENCE SOUTH 404 FEET TO THE **POINT OF BEGINNING**.

EXCEPT THE NORTH 200 FEET AND THE EAST 30 FEET THEREOF.

NOTE: AREAS AND DISTANCES OF THE PROPERTY DESCRIBED HEREIN ARE COMPUTED TO STREET CENTERS AS SHOWN ON THE RECORDED MAP OF SAID TRACT.

THE AREA OF THIS PARCEL CONTAINS S APPROXIMATELY 29,763 SQUARE FEET (0.68 ACRES).

PARCEL 3: POR. APN 1009-493-06

THAT PORTION OF THE SOUTH HALF OF THE EAST HALF OF LOT 25, SAN ANTONIO TRACT IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AS PER PLAT RECORDED IN BOOK 3, PAGE 16, OF MAPS, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF HOLT AVENUE WITH THE EAST LINE OF SAID LOT 25, AS SHOWN ON SAID MAP;

THENCE WEST ALONG THE NORTH LINE OF SAID HOLT AVENUE, 180 FEET;

THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID LOT, 230 FEET;

THENCE EAST, PARALLEL WITH THE SOUTH LINE OF SAID LOT, 180 FEET TO THE EAST LINE OF SAID LOT;

THENCE SOUTH, ALONG THE EAST LINE OF SAID LOT, 230 FEET TO THE **POINT OF BEGINNING**.

EXCEPT THE SOUTH 30 FEET AND THE EAST 30 FEET THEREOF.

ALSO EXCEPT THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED AUGUST 07, 1934 IN BOOK 984, PAGE 313, OF OFFICIAL RECORDS.

THE AREA OF THIS PARCEL CONTAINS S APPROXIMATELY 29,319 SQUARE FEET (0.67 ACRES).

**LOT LINE ADJUSTMENT NO. 15-1
EXHIBIT "B"**

PROPOSED LEGAL DESCRIPTION

PARCEL A:

THAT PORTION OF THE SOUTHEAST QUARTER OF LOT 25, SAN ANTONIO TRACT, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 3, PAGE 16, OF MAPS, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE CENTERLINE INTERSECTION OF HOLT BOULEVARD AND RAMONA AVENUE;

THENCE NORTH 89° 29' 10" WEST ALONG THE CENTERLINE OF HOLT BOULEVARD, 53.29 FEET;

THENCE NORTH 00° 30' 50" EAST TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HOLT BOULEVARD, DISTANT 65.00 FEET FROM THE CENTERLINE THEREOF;

THENCE NORTH 89° 29' 10" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 160.93 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 89° 29' 10" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 216.00 FEET TO A POINT ON THE WESTERLY LINE OF THE EASTERLY 430 FEET OF THE SOUTHEAST QUARTER OF LOT 25;

THENCE NORTH 00° 18' 55" EAST ALONG SAID WESTERLY LINE, 603.16 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BANDERA STREET, DISTANT 30.00 FEET FROM THE CENTERLINE THEREOF;

THENCE SOUTH 89° 22' 15" EAST ALONG SAID RIGHT-OF-WAY LINE, 147.00 FEET;

THENCE SOUTH 00° 18' 55" WEST, 200.00 FEET;

THENCE SOUTH 89° 22' 15" EAST, 250.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF RAMONA AVENUE, DISTANT 33.00 FEET FROM THE CENTERLINE THEREOF;

THENCE SOUTH 00° 18' 55" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, 142.86 FEET;

THENCE NORTH 89° 29' 10" WEST, 181.00 FEET;

THENCE SOUTH 00° 18' 55" WEST, 259.50 FEET TO THE **POINT OF TRUE BEGINNING**.

THE AREA OF THIS PARCEL CONTAINS APPROXIMATELY 142,326 SQUARE FEET (3.27 ACRES) MORE OR LESS.

PARCEL B:

THAT PORTION OF THE SOUTHEAST QUARTER OF LOT 25, SAN ANTONIO TRACT, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 3, PAGE 16, OF MAPS, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE CENTERLINE INTERSECTION OF HOLT BOULEVARD AND RAMONA AVENUE;

THENCE NORTH 89° 29' 10" WEST ALONG THE CENTERLINE OF HOLT BOULEVARD, 53.29 FEET;

THENCE NORTH 00° 30' 50" EAST TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HOLT BOULEVARD, DISTANT 65.00 FEET FROM THE CENTERLINE THEREOF, SAID POINT BEING THE **TRUE POINT OF BEGINNING**;

THENCE NORTH 89° 29' 10" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 160.93 FEET;

THENCE NORTH 00° 18' 55" EAST, 259.50 FEET;

THENCE SOUTH 89° 29' 10" EAST, 181.00 FEET TO A POINT OF THE WESTERLY RIGHT-OF-WAY LINE OF RAMONA AVENUE, DISTANT 33.00 FEET FROM THE CENTERLINE THEREOF;

THENCE SOUTH 00° 18' 55" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, 239.43 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 20.00 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 11' 55" AN ARC DISTANCE OF 31.49 FEET TO A POINT ON SAID NORTHERLY RIGHT OF WAY OF HOLT BOULEVARD AND THE **TRUE POINT OF BEGINNING**.

THE AREA OF THIS PARCEL CONTAINS APPROXIMATELY 46,883 SQUARE FEET (1.08 ACRES) MORE OR LESS.

ALL AS SHOWN ON EXHIBIT "A" ATTACHED HERE TO AND BY REFERENCE MADE A PART HEREOF

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION

BY: 
DENNIS C. FARNSWORTH
RCE 31653, EXP. 12/31/16

4/24/15
DATE



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF TRACT MAP
NO. 18986 LOCATED ON THE WEST SIDE
OF FREMONT AVENUE SOUTH OF GRAND
AVENUE

CONSIDER AUTHORIZING TRACT MAP
NO. 18986 TO BE RECORDED WITH THE
OFFICE OF THE SAN BERNARDINO COUNTY
RECORDER

DATE: June 15, 2015

SECTION: ADMIN. REPORTS

ITEM NO.: 12

FILE I.D.: LDU600

DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Land subdivisions, including parcel maps and tract maps, are allowed by the Subdivision Map Act, subject to City Council approval. Subdivision agreements require City Council approval.

BACKGROUND: The owners of a 0.79 acre tract of land located on the west side of Fremont Avenue south of Grand Avenue have submitted a request for a subdivision creating five residential lots. The lots range in size from 5,434 square feet to 10,234 square feet. Three of the lots will front on Fremont Avenue while the remaining two lots will front on the intersection of Grand Avenue and Deer Creek Avenue. The sizes of the lots are compatible with surrounding development. The proposed lots are shown on the attached plan.

The tentative map was approved by the Planning Commission on December 8, 2014 and by the City Council on February 2, 2015. No subdivision agreement was required for this project as the development does not require the construction of significant public works improvements. Work within the public right-of-way includes the construction of drive approaches, streetlights, and utility connections.

FISCAL IMPACT: Approval of Tract Map No. 18986 is likely to create an unknown but positive fiscal impact when the property is developed.

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

1. Approve Tract Map No. 18986 located on the west side of Fremont Avenue south of Grand Avenue.
2. Authorize Tract Map No. 18986 to be recorded with the Office of the San Bernardino County Recorder.

Prepared by:



Fiscal Impact
Finance Review:



Proofed by:



Reviewed and
Approved By:



SCALE: 1"=40'

TRACT NO. 18986

SHEET 2 OF 2 SHEETS

IN THE CITY OF MONTCLAR
 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
 CALCIVIC ENGINEERING, INC.

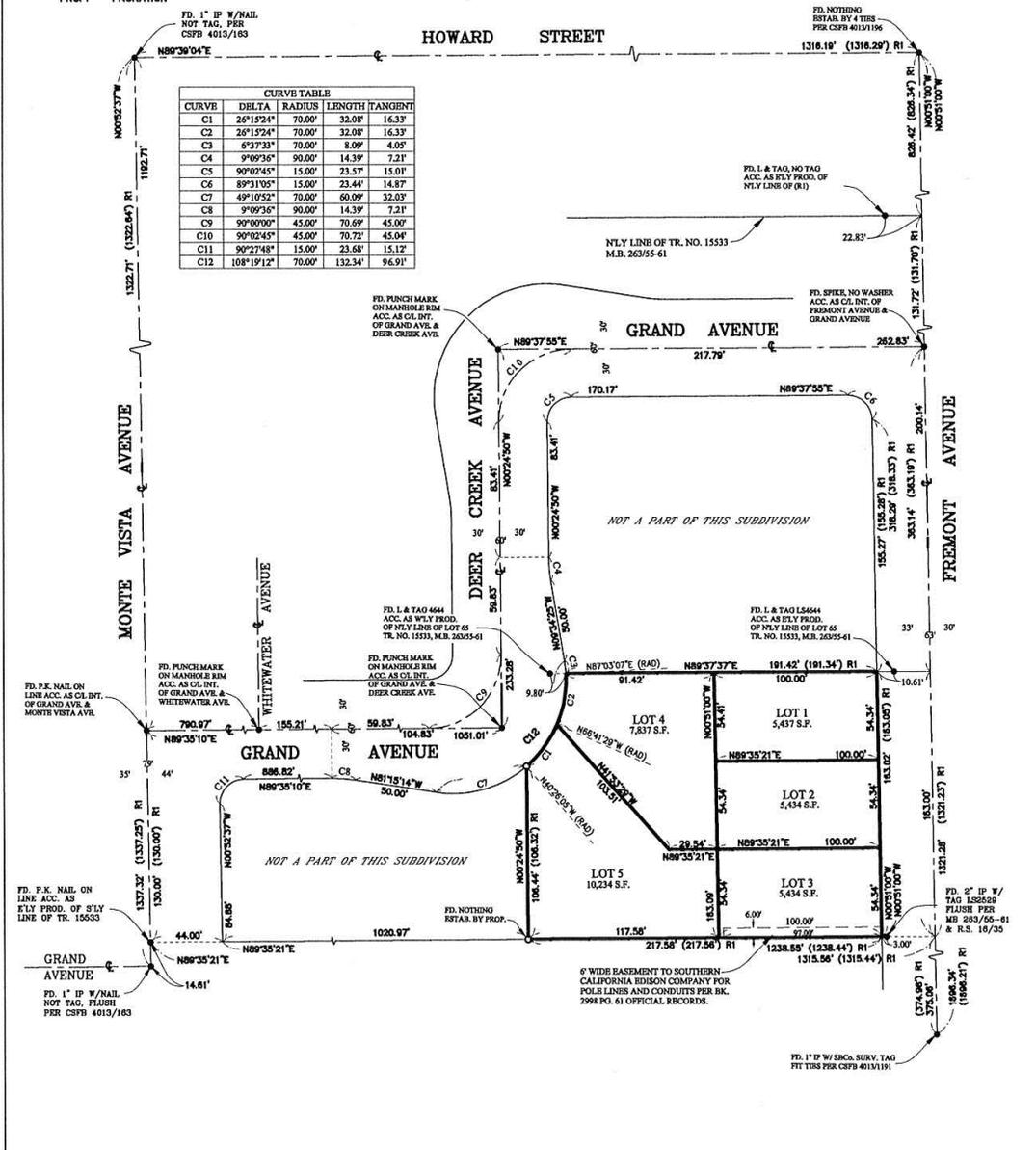
BASE OF BEARING.

THE BEARING OF N 00°51'00" W FOR THE CENTERLINE OF FREMONT AVENUE PER TRACT NO. 15533, M.B. 263, PAGES 55/61 WAS USED AS THE BASIS OF THE BEARINGS FOR THIS MAP.

NOTES.

- INDICATES THE BOUNDARY OF THE LAND BEING SUBDIVIDED BY THIS MAP
- INDICATES SET 1" I.P. W/TAG LS 6762, OR SPIKE & WASHER WITH TAG 6762 OR LEAD & TACK W/TAG 6762
- INDICATES MONUMENTS FOUND AS NOTED
- (R1) INDICATES RECORD PER TR. NO. 15533, M.B. 263/55-61
- ACC. ACCEPTED
- FD. FOUND
- INT. INTERSECTION
- ESTAB. ESTABLISHED
- C/L CENTERLINE
- RAD. RADIAL
- PROP. PRORATION

CURVE	DELTA	RADIUS	LENGTH	TANGENT
C1	26°15'24"	70.00'	32.08'	16.33'
C2	26°15'24"	70.00'	32.08'	16.33'
C3	6°37'33"	70.00'	8.09'	4.05'
C4	9°09'36"	90.00'	14.39'	7.21'
C5	90°02'45"	15.00'	23.57'	15.01'
C6	89°31'05"	15.00'	23.44'	14.87'
C7	49°10'52"	70.00'	60.99'	32.03'
C8	9°09'36"	90.00'	14.39'	7.21'
C9	90°00'00"	45.00'	70.69'	45.00'
C10	90°02'45"	45.00'	70.72'	45.04'
C11	90°27'48"	15.00'	23.68'	15.12'
C12	108°19'12"	70.00'	132.34'	96.91'



AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION OF A \$47,998.90 APPROPRIATION FROM THE SB 509 FUND TO PURCHASE AND INSTALL A SELF-CONTAINED BREATHING APPARATUS FILL STATION AT FIRE STATION NO. 151

DATE: June 15, 2015

SECTION: ADMIN. REPORTS

ITEM NO.: 13

FILE I.D.: EQS215-10

DEPT.: FIRE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing a \$47,998.90 appropriation from the SB 509 Fund to purchase and install a self-contained breathing apparatus (SCBA) fill station at Fire Station No. 151.

BACKGROUND: The Fire Departments of Montclair, Ontario, Rancho Cucamonga, and Upland pride themselves on providing industry-leading emergency response and, after careful consideration and prioritization, identified a need specifically related to improving their existing SCBA equipment. This will be accomplished with the purchase of National Fire Protection Administration (NFPA) 1981 (2013 edition) compliant SCBA equipment.

In December 2013, the Ontario Fire Department agreed to be the lead agency when applying for a regional FY2013 Assistance to Firefighter Grant (AFG) to purchase SCBA equipment for the above participating West End Fire Agencies. On August 1, 2014, the Ontario Fire Department received notification that the grant application was approved and included in the FY2013 AGF Program as Grant No. EMW-2013-FR-00269. This award amount includes the costs to purchase SCBA equipment (harnesses, face pieces, and cylinders) and applicable taxes.

While the grant award included the individual SCBA packs, a notable item that was deleted from Montclair's grant request was the SCBA fill station. The SCBA fill station at Fire Station No. 151 is in need of replacement. This unit is approximately 20 years old and has been modified several times, and overhauled to be functional as a frequently used piece of apparatus even though it is a very small unit that was not made for such high-frequency use. The fill station is also out of compliance per OSHA 1910.134(i)(7) because it does not have a carbon monoxide alarm to monitor carbon monoxide levels.

Currently, Upland Fire Department has a fill station at Fire Station No. 164, which is located on Campus Avenue, south of 19th Street. While this fill station will serve as a good backup system for Montclair Fire units, the location of Upland's fill station, which is in the northeast most region of Upland, would create increased response times for Montclair Fire units responding from that location to incidents in Montclair. It is not

Prepared by: <u> <i>Debi</i> </u>	Fiscal Impact Finance Review: <u> <i>Donald L. Parker</i> </u>
Proofed by: <u> <i>Angelic Bird</i> </u>	Reviewed and Approved By: <u> <i>Rob Taylor</i> </u>

uncommon for Fire Agencies in the West End to have two fill stations within their service area; an example of this is Rancho Cucamonga Fire Protection District, which has a similarly sized service area to Montclair/Upland Fire, and a similar number of fire stations.

Staff recommends that a fill station be purchased from Bauer Compressors in the amount of \$43,998.90. This fill station will be compatible with the SCBA packs that were purchased with funds from the FY2013 AFG. Bauer Compressors has become a reliable vendor for the Fire Department by providing its specialized services for many years. Based on this information, it is recommended that Bauer Compressors be identified as a sole source vendor for the purchase of a SCBA fill station.

To install a new fill station at Fire Station No. 151, the electrical power at the station would need to be upgraded. The new fill station will require a three-phase power source. Construction associated with the new power source will include the installation of an electrical disconnect box with flexible conduit and proper wire run into an electrical panel. Electrical costs associated with the installation of the fill station have been estimated by the Public Works Department to be approximately \$4,000. This item cannot be determined with complete certainty until the installation process commences.

FISCAL IMPACT: The cost to purchase and install a SCBA fill station is \$47,998.90. Should the City Council approve this item, costs for the purchase and installation of a SCBA fill station at Fire Station No. 151 would be charged to the SB 509 Public Safety Fund.

RECOMMENDATION: Staff recommends the City Council authorize an appropriation of \$47,998.90 from the SB 509 Fund to purchase and install a self-contained breathing apparatus fill station at Fire Station No. 151.



267 East Airway Blvd
 Livermore, CA 94551
 Phone: 925-449-7210
 Fax: 925-449-7201

To:
 Montclair Fire Dept
 Phone: 909-447-3542
 e-mail: abird@cityofmontclair.org

Date:6/3/2015

Quotation Valid for 60 Days.

ATTN: Angelic Bird

ITEM	QTY	DESCRIPTION	AMOUNT
1	1	Bauer Mini-Unicus 13H-E3 Compressor Working Pressure: 6000 psi Horsepower: 10 Three phase electric Charging Rate: 13 SCFM Purification: P2 Securus Two Position Containment Fill Station Air Storage: (2) 6000 psi ASME Cylinders Electronic CO Monitor w/ Calibration Kit Interstage Pressure Gauges	\$49,964.00
		Discount 20%	-\$9,992.80
		Subtotal	\$39,971.20
		Sales Tax 8%	\$3,197.70
		Freight FOB Norfolk VA	\$830.00
		Total	\$43,998.90

NOTE: Customer is responsible for off loading compressor and positioning in final location, as well as providing an electrical disconnect box with flexible conduit and proper wire run into compressor electrical control panel. Price does not include installation / labor.

Prices do not include shipping/handling charges or sales tax unless specified.

Quotation prices are valid for 60 days. Call 714-223-9300 if past expiration date.

Thank you for the opportunity to submit this quotation. If you have any questions please give us a call.

Sincerely,

Keith Hodak

17451 Bastanchury Road Suite 201 44B

Yorba Linda, CA 92886

Phone: 714-223-9300

Fax: 714-223-9301

keith.hodak@bauersf.com

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING THE REALLOCATION AND EXPENDITURE OF \$17,333 OF SUPPLEMENTAL LAW ENFORCEMENT SERVICES ACCOUNT GRANT FUNDS FOR THE PURCHASE OF AN LED MESSAGE BOARD TRAILER AND FIVE SAMSUNG GALAXY TABLETS

DATE: June 15, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 14
FILE I.D.: EQS225
DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider reallocating Fiscal Year 2013-14 Supplemental Law Enforcement Services Account (SLESA) grant funds in the Police Department's Fiscal Year 2014-15 Budget.

BACKGROUND: On October 6, 2014, the City Council approved the allocation of \$24,987 in unexpended Fiscal Year 2013-14 SLESA grant funds for the purchase of graphics, two television monitors, and miscellaneous articles of furniture to outfit the Mobile Command Trailer, as well as motorcycle equipment, supplies, and uniform apparel.

The above purchases have been completed, leaving unexpended Fiscal Year 2013-14 SLESA grant funds in the amount of \$17,333. Per grant requirements, Fiscal Year 2013-14 funding must be expended or encumbered by June 30, 2015. Staff proposes the utilization of unexpended grant funds to purchase a message board trailer and five Samsung Galaxy Tablets.

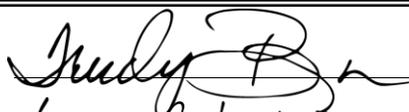
The message board trailer features long-lasting, energy-efficient L.E.D. text and/or graphics displays and tilt solar panels that charge on-board 6-volt batteries. The unit would be utilized during Police Department operations, as well as for other City purposes.

Cost quotations for the message trailer were received from the following vendors:

<i>Vendor</i>	<i>Bid Amount</i>
Hi-Way Safety Inc.	\$15,084
Stalker Radar Applied Concepts	\$16,521
Lightcast Public Safety	\$19,594

Hi-Way Safety Inc. is the selected vendor for this purchase. Not only did the company provide the lowest quote, but it is located in Chino where it manufactures and services its equipment. Also, the City has enjoyed a long-standing working relationship with Hi-Way Safety Inc.

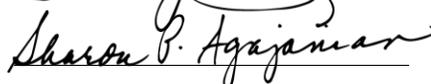
Prepared by:



Fiscal Impact
Finance Review:



Proofed by:



Reviewed and
Approved By:



Samsung Galaxy Tablets would be purchased for use by executive Police Department staff. Use of tablets was considered in past years to offer staff the convenience and flexibility of working off-site; however, lack of funding and connectivity prevented it. The Information Technology Division has assured staff that Wi-Fi would be available to the Department in the coming months. Availability of Wi-Fi, coupled with the purchase of tablets, would allow staff to take full advantage of available technology and work more effectively and efficiently.

Cost quotations for Samsung Galaxy Tablets were received from the following vendors:

<i>Vendor</i>	<i>Bid Amount</i>
Office Depot	\$2,652
Samsung	\$2,706
Best Buy	\$2,706

Because it offered the lowest price quotation, Office Depot is the selected vendor for this purchase.

FISCAL IMPACT: The total cost to purchase the message board trailer and five Samsung Galaxy Tablets is \$17,736. Should the City Council approve these purchases, \$17,333 would be paid from Fiscal Year 2013-14 SLESA grant funds. The remaining \$403 would be funded through the Police Department Fiscal Year 2014-15 Budget.

RECOMMENDATION: Staff recommends the City Council authorize the reallocation and expenditure of Supplemental Law Enforcement Services Account grant funds.

AGENDA REPORT

SUBJECT: CONSIDER DECLARING A FREE STANDING REFRIGERATOR/FREEZER, A FREE STANDING COMMERCIAL STOVE, AND TWO FREE STANDING FREEZERS AS SURPLUS AND AUTHORIZING THEIR DISPOSAL BY AUCTION, INTERNET, OR SCRAP	DATE: June 15, 2015
	SECTION: ADMIN. REPORTS
	ITEM NO.: 15
	FILE I.D.: CVC450
	DEPT.: PUBLIC WORKS

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

BACKGROUND: When the Senior Center was built, the San Bernardino County Department of Aging and Adult Services (DAAS) offered a grant for the purchase of kitchen equipment to be used in the Senior Center kitchen. One True refrigerator/freezer combination unit was purchased with DAAS grant funds.

A Viking stove was also purchased for the Senior Center, with funds from the City's General Fund. Prior to the Senior Center being built, the City of Montclair purchased two True freezers that were used in the Community Center for the Senior Nutrition Program. These two freezers were also purchased with funds from the General Fund. The previously mentioned equipment is no longer functioning and is suitable for disposal.

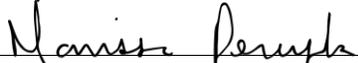
The City of Montclair has been authorized by DAAS to dispose of the equipment purchased with the DAAS grant, with any proceeds being returned to DAAS.

The two True freezers and the Viking Stove were purchased with funds from the City's General Fund and are therefore not subject to disposal approval from DAAS.

DAAS approved and funded replacements for all items mentioned above and replacement items were delivered on May 20, 2015.

FISCAL IMPACT: The City anticipates receiving less than \$500 from the disposal of the equipment purchased from the General Fund. Proceeds for the sale of this equipment will be returned to the General Fund. Proceeds, if any, collected at the time of disposal of the DAAS funded equipment must be returned to DAAS.

RECOMMENDATION: Staff recommends the City Council declare a free standing refrigerator/freezer, a free standing commercial stove, and two free standing freezers as surplus and authorize their disposal by auction, internet, or scrap.

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

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO RETAIN INTERWEST CONSULTING GROUP AS AN INTERIM PLAN CHECK VENDOR TO PROVIDE SPECIALIZED PLAN CHECKING SERVICES FOR FIRE PROTECTION SYSTEMS, CIVIL IMPROVEMENT PLANS, AND NONSTRUCTURAL BUILDING PLANS FOR FIRE AND LIFE SAFETY	DATE: June 15, 2015 SECTION: ADMIN. REPORTS ITEM NO.: 16 FILE I.D.: FRD075 DEPT.: FIRE
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REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the Fire Department to retain InterWest Consulting Group as an interim plan check vendor to provide specialized plan checking services for fire protection systems, civil improvement plans, and nonstructural building plans for fire and life safety, until a formal contract can be established and approved by the City Council.

BACKGROUND: The Montclair Fire Department has in the past maintained a contract with a private vendor that provides plan check services for certain types of plans submitted to the Fire Department for review. On April 27, 2015, the vendor notified the Fire Department that they were going out of business, and would no longer provide plan check services effective May 8, 2015.

The Fire Department has since gone out for an informal Request for Proposal (RFP) from three different vendors. Informal quotes for specialized fire plan checking services were received from the following vendors:

<i>Vendor</i>	<i>Service</i>	<i>Quoted Amount</i>
InterWest Consulting Group	Plan Review Engineer	\$125 per hour
	Fire Protection Manager	\$110 per hour
	Senior Fire Plans Examiner	\$95 per hour
	(No minimum hourly charge)	
Pacific Fire Engineering	Senior Fire Engineer	\$120 per hour
	Senior Consultant	\$95 per hour
	CAD Technician	\$65 per hour
	Administrative Assistant	\$50 per hour
	(No minimum hourly charge)	

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

<i>Vendor</i>	<i>Service</i>	<i>Quoted Amount</i>
John Charles Grow, Architect-AIA	Plan Review/Consultant (3.5 hours min. charge)	\$100-145 per hour
	Technical Assistant	\$85-115 per hour
	Administrative Support	\$35-55 per hour
	Research/CADD Service	\$75-120 per hour
	Consultant On-Call Service	\$185-235 per hour

Staff evaluated the quotes to determine which is most advantageous when considering the vendor's experience, qualifications, reputation, services provided, and the proposed price. Based on this evaluation, Staff determined the vendor that best meets the fire plan checking needs of the City is InterWest Consulting Group.

FISCAL IMPACT: The fiscal impact associated with using InterWest Consulting Group versus the previous vendor should be negligible because both companies have comparable fee structures. InterWest Consulting Group's fees will be based on their hourly rate calculated against time and materials for conducting the associated plan check service. These costs are recouped through fees charged back to the contractor who submitted the plans for review based on the Master Fee Schedule.

RECOMMENDATION: Staff recommends the City Council authorize the Fire Department to retain InterWest Consulting Group as an interim plan check vendor to provide specialized plan checking services for fire protection systems, civil improvement plans, and nonstructural building plans for fire and life safety, until a formal contract can be established and approved by the City Council.



May 27, 2015

Scott Sherwood
Deputy Fire Marshal
City of Montclair Fire Department
5111 Benito Street
Montclair, CA 91763

RE: Proposal to Provide Fire Plan Review Services

Thank you for contacting Interwest Consulting Group regarding Fire Plan Review Services. We are excited for the opportunity to serve the City of Montclair Fire Department.

For this assignment, we propose to provide as needed Fire Plan Review services as per the scope of work that follows. Mr. Vernon Brown, Manager of Fire Protection Services (resume attached) will serve as key contact for all plan review and field questions on project plans. The term of service is estimated to begin June 1, 2015 and continue until terminated by the City. We will invoice the City for plan review service at the approval of the plans.

We are very aware of the challenges and requirements for municipal governments since many of our staff have held senior and executive management positions within numerous California cities. Our staff includes former Fire Marshals, Building Officials, Public Works Directors, City Engineers, Capital Projects Managers and Construction Managers. This background and experience is important since serving in the capacity of the "owner", especially local agencies, requires a high level of sensitivity towards community and special interest group issues. Accordingly, our professional staff truly understands and values the importance of maintaining a focus on representing the interests of our public agency clients in a manner which reflects positively on the cities we serve. Each of the staff members proposed for this assignment has been selected based on our understanding of the needs of the City. **Tim D'Zmura, PE, CBO, ACIP**, will continue to serve as Principal-in-Charge and as the management contact to the City of Montclair. Mr. D'Zmura is an authorized representative of Interwest Consulting Group and has the authority to sign all necessary agreements. Services will be directed out of our Los Angeles office with contact information listed below.

Tim D'Zmura, PE, CBO, ACIP
Interwest Consulting Group
15061 Springdale Street
Huntington Beach, CA 92649
714.975.9048 Office
714-625-5840 Mobile
tdzmura@interwestgrp.com

Thanks again and we look forward to this assignment.
Sincerely,

A handwritten signature in blue ink, appearing to read "Tim D'Zmura", is written over a light blue circular stamp.

Tim D'Zmura, PE, CBO, ACIP
Director of Municipal Services

SCOPE OF SERVICES AND PROPOSED FEES

FIRE PLAN REVIEW SERVICES

Project Understanding:

It is our understanding that the City's Fire Department is seeking a higher level of fire prevention and plan review services for the Fire Department.

Scope of Work:

Interwest Consulting Group (ICG) will provide experienced fire prevention staff and engineers to perform third party plans review, and consulting services for the Fire Department. Based on our review of project documents, we will prepare written communications of our findings.

Scope of Services:

Our scope of services for this project will consist of the following:

- **Plan Review:** ICG will perform plan reviews to check plans for compliance with the California Building Laws as generally found in Title 24 Parts 2, and 9 including, fire/life safety, relative to the review of fire protection systems (fire sprinkler systems, fire alarm systems, fire suppression systems, fire pump installations), civil improvement plans and non-structural building plans for fire and life safety — as amended by Jurisdiction.
- **Comment Lists and Plans Delivery:** Plan reviews result in typed lists of comments which refer to specific details and drawings, and reference applicable code sections. ICG will transport plans and comments to Jurisdiction in person, e-mail, via FAX, and/or reliable overland carrier. Overnight delivery is available at no additional cost. Depending on the Jurisdiction's preferred process, ICG will provide plan check comments and perform rechecks directly with the (1) Jurisdiction, or (2) the applicant/designer, returning documents to the Jurisdiction after the plan review process is completed for approved.
- **Turn-Around Schedules:** Plan reviews will generally be completed / returned to Jurisdiction within approximately ten (10) working days of the date the plans are received by ICG. Other turnaround schedules will be accommodated at request of Jurisdiction. Large, unusually complex plan reviews may require up to a fifteen (15) working day turn-around.
- **Technical Support:** When mutually agreed between the Jurisdiction and ICG as vital to project success, ICG staff will attend pre-construction or pre-design meetings, field visits upon request, and provide support for field inspection personnel **on an as-needed basis**.
- **Plan Delivery and Pickup:** ICG will arrange for documents to be delivered on an as needed basis from Department at no cost.
- **Status Updates:** We will be available for weekly status updates on all projects in the plan check process. ICG will maintain and track an up-to-date Plan Review File for the length of this project. This file will include all jurisdiction local ordinances and amendments, department policies and plan review interpretation. Delivery of plan review comments and communication directly with assigned plan review engineer is available via email, or personal cell phone.
- **Conflict Resolution:** When disagreements occur between applicants and Interwest Consulting Group staff, the Department will be notified and consulted. After consultation, Interwest Consulting Group will issue a final recommendation for the Fire Chief to consider.

EXCLUSIONS:

The following services are specifically excluded from this proposal:

1. Printing of documents from electronic media.
2. Establishing financial responsibility for project change orders.
3. Cost-estimating services including verification of change order costs.
4. Pre-construction meeting(s) at additional cost.
5. Provide code analysis on existing building(s) at additional cost.
6. Inspections outside of normally scheduled occurrence at additional cost.
7. Creating electronic files of plans for client

COMPENSATION:

Personnel Charges – Plan Review and Inspection Services

Review of Fire Protection Plans will be at the hourly rates shown below.

<u>Personnel Description</u>	<u>Hourly Billing Rate</u>
Plan Review Engineer (FPE,ME – if required)	\$125
Fire Protection Manager	\$110
Senior Fire Plans Examiner	\$95

These rates are effective from through December 31, 2016.



**INTERWEST
CONSULTING
GROUP**

www.interwestgrp.com

E D U C A T I O N

BS, Business Administration
California State University
Sacramento, CA

AA, Fire Technology
American River College
Sacramento, CA

Certificate in Fire Protection Engineering
1996 | School of Engineering
University of California Davis

**R E G I S T R A T I O N S
C E R T I F I C A T I O N S**

ICC Certified Fire Code Inspector I & II,
0852032-65/67

ICC Certified Plans Examiner | 0852032

ICC Certified Fire Plans Examiner | 0852032

Certified Fire Officer CSFM
1985 | 000773

Certified Fire Prevention Officer I, II & III CSFM
|771028 |870011 |880002

State Certified Instructor |1986

Lifetime Teaching Credential | 270677

State Certified Firefighter I | 004454

State Certified Chief Officer |839239

**P R O F E S S I O N A L
A F F I L I A T I O N S**

Northern CA Fire Chiefs/Fire Prevention Officers
Section 1985-present

Operations Director, 1998-2001

Co-Chair Bldg Standards Committee, 1992-1998

Co-Chair CA Code of Regulations Committee,
1991-1992

Co-Chair Fire Protection Equipment Committee,
1983-1987

CA State Fire Marshals Office Curriculum

CA State Bldg Standards Commission Partner on
Code 2000 Partnership Committee

CA Bldg Officials Fire Advisory Committee, 2001

Sacramento County Bldg Board of Appeals,
1995-2002

Intl Conference of Bldg Officials, 1992-present

Intl Fire Code Institute, 1992- present

Natl Fire Protection Association, 1994- present

Office of Statewide Health Planning and
Development – Member of the Hospital Bldg
Safety Board – Fire Service Representative,

2001- 2010

Vernon Brown

ICC Certified Fire and Life Safety | Plans Examiner

Vernon brings over 40 years experience within municipal governmental agencies as a career member of the fire service. He has held the position of Assistant Fire Chief/Fire Marshal and has been responsible for community development and interaction with local County Board of Supervisors and local City Councils. He has managed and participated in a wide range of projects in code development, plan review, inspections, hazard analyses, fire investigation, fire suppression, personnel management, policy development, budget development, and curriculum development.

Vernon has instructed for over nineteen years for the California State Fire Marshals Office and American River Community College on the subjects of history of fire prevention; inspection practices; code enforcement practices; and flammable liquid storage practice.

Vernon holds a teaching credential for Community College courses, and a Certificate in Fire Protection from the School of Engineering at University of California at Davis. He is a Member of International Code Council (ICC), International Fire Code Institute (IFCI), National Fire Protection Association (NFPA), and Northern California Fire Chiefs-Fire Prevention Officers (NORCAL FPO). He also has served as Co-Chair for Building Standards Committee for California Fire Prevention Officers Association, and Member of Sacramento County Building Appeals Board. He is active on the CALBO Fire Advisory Committee, Code Development Committees for the California Building Code and the Uniform Building Code for NORCAL FPO and the Fire and Life Representative for the Hospital Building Safety Board for the Office of Statewide Health Planning and Development (OSHDP).

P R O J E C T S P E C I F I C E X P E R I E N C E

Fire and Life Safety Plans Examiner

2012 – Present Interwest Consulting Group
Performs plan reviews for building construction projects to ensure compliance with all applicable fire codes and ordinances.

2002 - 2012 Vernon Brown and Associates
Owned consulting firm that specialized in Fire and Life Safety services and served various jurisdictions.

2000 - 2002 Sacramento Metro Fire District

1994 - 2000 Sacramento County Fire District

1976 - 1994 Fair Oaks Fire District

1972 - 1974 Arden Fire District

Plan Check / Review Consulting Services - FEE PROPOSAL & SCHEDULE

March 15, 2015

HOURLY RATES

Plan Review / Consultant – Professional:	\$100 to 145 / hour
Technical Assistant – Professional:	\$85 to 115 / hour
Technical – Administrative Support:	\$35 to 55 / hour
Technical – Research / CADD Service:	\$75 to 120 / hour
Consultant On-call Service – Professional:	\$185 to 235.00 / hour

SERVICE / FEE ACTIVITY

1. 3 ½ hour minimum charge for professional service hourly charge per individual (project or task) Plan Check / Review service action / activity call.
2. 2 ½ minimum charge for Technical service hourly charge per individual Plan Check / Review service action, as applies.

REIMBURSABLE COST – actual paid / billable cost x 1.25 service charge (Courier, USPS, Postage / Mail, Reprographic / Copy Services, mileage / travel outside City of Upland, special study / report, etc.)

Utilize City of Upland Fire Department Plan Check / Review Check-list sheet format.

Plan Check / Review process turnaround (average / typical project) timeline: 5 to 10 Working days

All fees and services will be invoiced monthly, and payment received paid 30 days net. Consultant hourly rates and services to be reviewed annually.

Electronic Document Plan Check / Review available.

Submitted by,

John Charles Grow

John Charles Grow, Architect-AIA / Upland, CA

Approved / City of Upland:

dated:



4214 Floyd Drive, Corona, CA. 92883 Ph: 951-427-3781 Fax: 951-427-3655

Date: January 1, 2015

To: Our valued clients

Re: Pacific Fire Engineering's 2015 Hourly Rate Schedule

As of January 1st, 2015, the following are Pacific Fire Engineering's hourly rates. Should you have any questions regarding how this impacts your current project, please do not hesitate to contact us. Thank you for your business.

2015 HOURLY RATE SCHEDULE

Senior Fire Protection Engineer	\$120
Senior Consultant (Including plan review services)	\$95
CAD Technician	\$65
Administrative Assistant	\$50

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING STAFF TO NEGOTIATE EXCLUSIVELY WITH ECOGREEN SOLUTIONS FOR LED LIGHTING REPLACEMENT AT VARIOUS CITY FACILITIES

CONSIDER AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH ECOGREEN SOLUTIONS UPON PRESENTATION OF ACCEPTABLE PROPOSAL FOR LED LIGHTING REPLACEMENT

DATE: June 15, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 17
FILE I.D.: UTL160
DEPT.: PUBLIC WORKS

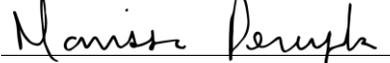
REASON FOR CONSIDERATION: Staff has met with various companies to discuss the replacement of lights at City facilities with more efficient light emitting diode (LED) lighting. Ecogreen Solutions has submitted a proposal that includes a financing option, for the City to consider. Ecogreen Solutions has also installed sample lighting in two locations to give staff an opportunity to evaluate the lighting.

BACKGROUND: Fluorescent, incandescent, and other forms of lighting are quickly being replaced with more cost effective lighting, measured in amount of light output vs. power input. Most lighting replacement today uses LED lighting. Southern California Edison offers incentives for replacing lighting that includes, among other programs, on bill financing (OBF).

OBF lets the City finance qualified energy efficiency projects interest free. The benefits include 0% interest loans, no fees or loan costs, and convenient loan repayment through the monthly bill. Along with OBF, the City can also receive incentives on qualified equipment, lower monthly energy usage, and long-term energy savings.

There are several factors that determine how the final loan term is calculated. The first factor is estimated bill neutrality. The monthly loan repayment amount is calculated to be equal to the estimated monthly reduction in the customer's SCE utility bill as a result of the energy efficiency project. In no case will the eligible loan term be greater than the bill neutrality calculation. The second factor is the loan amount limit. The loan amount for any one service account cannot exceed the established loan term limit of 10 years for municipal customers.

On the following page is a summary of various sites and the funding set aside by Southern California Edison. Staff is not prepared to recommend all locations at this time due to consideration of solar panel canopies in some parking areas. However, in locations where canopies will not be installed, consideration is being given to replace existing lights with LED lighting. The summary shows the maximum amount of funds set aside by Southern California Edison, the estimated number of hours the lights are in use per year, the expected lifespan of the lights, estimated years of life of the lights,

Prepared by: 
Proofed by: 

Fiscal Impact
Finance Review: 
Reviewed and
Approved By: 

project costs, number of years to pay off loans, monthly project cost, and monthly savings for each site.

Project Name	Funds Set Aside by SCE	Est. Usage Hours	Est. Mfr. Lifespan (Hours)	Est. Years of Life	Estimated Project Cost	ROI	Est. Project Cost (Per Month)	Est. Monthly Savings
Montclair City Yard	\$ 65,624.16	3,000	65,000	21.7	\$ 65,624.16	10.0	\$ 522.80	\$ 522.80
Montclair Sunset Park A (Cobra Heads)	\$ 6,389.80	4,100	100,000	24.4	\$ 6,389.80	7.6	\$ 59.04	\$ 59.04
Montclair Fire Station 1	\$ 31,920.56	3,875	65,000	16.8	\$ 31,920.56	10.0	\$ 250.74	\$ 250.74
Montclair Saratoga Park	\$112,856.40	2,900	65,000	22.4	\$112,856.40	6.5	\$ 921.78	\$ 921.78
Montclair Sunrise Park	\$ 9,175.75	4,100	68,000	16.6	\$ 9,175.75	6.9	\$ 77.86	\$ 77.86
Montclair Fire Station 2	\$ 15,614.22	3,875	50,000	12.9	\$ 15,614.22	10.0	\$ 123.16	\$ 123.16
Montclair City Hall Campus Multi Site	\$245,429.63	2,920	65,000	22.3	\$245,429.63	9.4	\$2,087.48	\$2,087.48
Montclair Police Dept.	\$295,719.09	6,738	75,000	11.1	\$295,719.09	8.0	\$2,540.20	\$2,540.22
<p>Ecogreen Solutions provides a 12 month warranty on parts and labor for any of the LED products that they install. The factory warranty beyond 12 months will vary by manufacturer but is typically 5 years for exterior lighting and 5-10 years for interior lighting depending on application.</p>								

FISCAL IMPACT: OBF applies the savings in energy costs of LED lighting over existing lighting towards the installation cost of the LED lighting. Depending on the location, the number of years to repay the loan ranges from 6.5 years to 10 years. After the loans have been paid, the energy savings are expected to yield a savings in excess of \$700,000 over the remaining life of the LEDs.

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

1. Authorize staff to negotiate exclusively with Ecogreen Solutions for LED lighting replacement at various City facilities.
2. Authorize City Manager to execute agreement with Ecogreen Solutions upon presentation of acceptable proposal for LED lighting replacement.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-42 WITH SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY FOR ADVANCEMENT AND REIMBURSEMENT OF FUNDS RELATED TO ADVANCED CONCEPTUAL ENGINEERING AND ENVIRONMENTAL CONSULTING WORK AND OVERSIGHT WORK FOR THAT PORTION OF PHASE 2B OF THE METRO GOLD LINE FOOTHILL EXTENSION PROJECT FROM THE LOS ANGELES-SAN BERNARDINO COUNTY LINE TO THE MONTCLAIR TRANSCENTER

DATE: June 15, 2015
SECTION: AGREEMENTS
ITEM NO.: 1
FILE I.D.: TRN256
DEPT.: CITY MGR.

CONSIDER AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS ON BEHALF OF THE CITY OF MONTCLAIR IN RELATION TO IMPLEMENTATION OF AGREEMENT NO. 15-42

REASON FOR CONSIDERATION: At its meeting of February 18, 2014, the City Council approved Agreement No. 14-17, a Memorandum of Understanding between the City of Montclair and the Metro Gold Line Foothill Extension Construction Authority (Construction Authority), where the City agreed to participate in funding the San Bernardino County Transportation Authority's share of costs (approx. \$2.16 million) for advanced conceptual engineering and environmental clearance work for that portion of Phase 2B of the Metro Gold Line light rail extension from the Los Angeles-San Bernardino County line to the Montclair Transcenter (the Montclair Segment).

In order to seek reimbursement for costs associated with Agreement No. 14-17, the City Council is asked to consider approval of proposed Agreement No. 15-42 between the City of Montclair and San Bernardino County Transportation Authority (Transportation Authority) for advancement and reimbursement of funds related to advanced conceptual engineering and environmental consulting work and project oversight for the Montclair Segment.

A copy of proposed Agreement No. 15-42 is attached for the City Council's review and consideration.

BACKGROUND: On November 22, 2013, the Construction Authority informed the Transportation Authority of its intent to begin advanced conceptual engineering and environmental consulting work for extension of the Metro Gold Line light-rail system from Azusa to the Montclair Transcenter (Phase 2B).

In order to include the Montclair Segment in Phase 2B advanced conceptual engineering and environmental consulting work, the Construction Authority required a commit-

Prepared by: 

Fiscal Impact
Finance Review: 

Proofed by: 

Reviewed and
Approved By: 

ment from the Transportation Authority to pay the funding component (approximately \$2.16 million) for the Montclair Segment of Phase 2B advanced conceptual engineering and environmental consulting work.

On January 16, 2014, the San Bernardino Associated Governments (SanBAG) Commuter Rail and Transit Committee (CRTC) voted to establish funding priorities for public transit projects. As approved, the order of the top three funding priorities from top down were (1) the Redlands Passenger Rail Project; (2) Metrolink Double-Tracking Projects; and (3) the portion of Phase 2B of the Metro Gold Line Extension from Azusa to Montclair. At its meeting of February 5, 2014, the SanBAG Board of Directors remanded back to the CRTC the transit funding priorities list, with direction to equally prioritize each of the three transit priorities.

In establishing funding priorities, the CRTC failed to act on providing funding for work related to advanced conceptual engineering and environmental clearance consulting for the Montclair Segment of Phase 2B of the Metro Gold Line Extension. It was anticipated that failure of SanBAG to participate in advanced engineering and environmental consulting work for the Montclair Segment of Phase 2B would bring the terminus of the Metro Gold Line Extension to Claremont, rather than to Montclair. This failure would have effectively ended the opportunity for the Metro Gold Line's entry into San Bernardino County and ultimately to Los Angeles/Ontario International Airport (ONT). Entry of Metro Gold Line light-rail service into San Bernardino County is viewed by many in the region as an integral component to advancing the Inland Empire's social, cultural, environmental and economic position in Southern California.

In its discussion of funding issues, the CRTC agenda report indicated that SANBAG did not have the required "\$2 million" in funding for the advanced conceptual engineering and environmental clearance work nor an estimated \$3 million annually for operation and maintenance (O&M). The agenda report also appeared noncommittal on developing \$55 million for construction of the Montclair Segment. Over the past year, SanBAG revised the construction estimate to \$72 million to \$76 million; although, no documentation has been provided to support revised estimates, and the Construction Authority continues to maintain the actual cost of construction remains closer to the \$55 million estimate. SanBAG has also revised its earlier, annual O&M cost, bringing it in line with the Construction Authority's estimate of approximately \$1.8 million to \$2 million per mile of track.

Montclair, in recognizing the lack of a firm SanBAG commitment to participate in construction of the Montclair Segment, as indicated by its decision to not fund the Transportation Authority's share of costs for advanced engineering and environmental work, determined to take the initiative in bringing Gold Line light rail service to Montclair and San Bernardino County.

On January 29, 2014, Montclair hosted a meeting with representatives from SanBAG, the Construction Authority, and the City of Ontario to discuss the Metro Gold Line Extension to Montclair. Montclair stressed the vital importance of the Gold Line to the region, and the need to ultimately build transit to ONT as a means to provide convenient airport access and to return and maintain ONT as a major international airport. At the conclusion of the meeting, an offer was made by Montclair's Mayor and City Manager to ask the City Council to approve advancing the cost (\$2.16 million) of SanBAG's participation in the advanced conceptual engineering and environmental clearance work. SanBAG representatives agreed to the proposal upon modification as a no-interest loan to be forgiven if Metro Gold Line and Construction Authority failed to

secure funding for the Metro Gold Line Extension from Azusa to Montclair prior to the end of 2040. SanBAG also required that Montclair advance up to \$840,000 for oversight costs related to the Project.

Over the past 18 months, Montclair has also taken the initiative to secure federal and state funding for construction of the Montclair Segment. The City has been working with state legislators to secure cap and trade funding as a local match to federal transit dollars. SanBAG has indicated that if the Montclair Segment can be constructed with federal and state funding, the Transportation Authority would secure necessary funding for O&M.

In mutually working to address the reimbursement issue during the past year, the City and SanBAG have submitted to each other various forms of a reimbursement agreement. Agreement No. 15-42 represents the final product of that effort. Salient provisions in Agreement No. 15-42 include the following:

- **Reimbursement Conditions.** Reimbursement shall occur when (1) Phase 2B construction secures funding; and (2) the Montclair Segment advanced conceptual engineering work is approved by the Transportation Authority. The Transportation Authority shall reimburse to the City all expenditures on the consulting work, up to \$2.16 million, or six percent of the project cost, whichever is less. The Transportation Authority shall also reimburse all oversight costs advanced by the City, such costs and reimbursement not to exceed \$840,000. The City shall be reimbursed for eligible project expenditures and oversight costs upon the occurrence of the reimbursement conditions.
- **Secures Funding.** The Construction Authority will be deemed to have secured funding for Phase 2B when (1) the Los Angeles County Registrar of Voters certifies passage of a tax measure identifying eligible funding and the Los Angeles County Metropolitan Authority commits funding for construction of Phase 2B; or (2) alternative funding for construction of Phase 2B in Los Angeles County is identified.
- **Interest Rate.** The interest rate shall be the average annual yield by investments in the State's Local Agency Investment Fund for the year preceding the date upon which interest commences to accrue. Interest shall accrue on reimbursable expenditures on the ninetieth day after reimbursement conditions are satisfied, with no interest accruing prior to that date.
- **Work Cooperatively.** The Construction Authority and Transportation Authority shall work cooperatively in designing the Montclair Segment for the purpose of obtaining Transportation Authority's approval of the advanced conceptual engineering impacting SanBAG rail property.

FISCAL IMPACT: The shared costs for the participation of the Transportation Authority for the advanced conceptual engineering and environmental clearance work is estimated to be \$2.16 million and oversight costs are estimated to be \$840,000.

Pursuant to Agreement No. 14-17 between the City and Construction Authority, the City Council approved the allocation and expenditure of \$2.16 million, payable in monthly installments to the Construction Authority for consulting work related to advanced engineering and environmental clearance work for the Montclair Segment of Phase 2B—to date, the City has not been invoiced for Construction Authority consulting work. The \$2.16 million has been allocated from the City’s Economic Development Fund. The City Council approved the \$2.16 million as an advancement on behalf of the Transportation Authority due to funding constraints of the Transportation Authority.

The Transportation Authority intends to contribute to the cost of the Montclair Segment of Phase 2B advanced conceptual engineering and environmental consulting work and oversight costs at such time when construction of Phase 2B to the Los Angeles County–San Bernardino County secures funding, and the Montclair Segment of Phase 2B advanced conceptual engineering is approved by the Transportation Authority.

Pursuant to proposed Agreement No. 15-42, the securing of funds is defined as either:

1. The date the Los Angeles County Registrar of Voters certifies passage of a tax measure that identifies as an eligible expenditure and the Los Angeles County Metropolitan Transportation Authority Board commits to fully fund construction of Phase 2B to the Los Angeles–San Bernardino County line; or
2. Alternative funding sources are identified and committed to construction of Phase 2B to the Los Angeles–San Bernardino County line.

The City will continue to use its own funds to participate with the Construction Authority in the implementation of the Montclair Segment of Phase 2B in advance of the Transportation Authority’s allocation of a reimbursement to the City. Pursuant to Proposed Agreement No. 15-42, Measure I funds would be used to reimburse the City for costs associated with Agreement No. 14-17.

The Transportation Authority is responsible for administration of the Measure I 2010–2040 Expenditure Plan and has determined that the project and oversight costs of the Montclair Segment of Phase 2B work are eligible to receive Measure I 2010–2040 Metrolink–Rail Program funds.

Approval of proposed Agreement No. 15-42 would allow the City of Montclair and the Transportation Authority to enter into a reimbursement agreement for the Transportation Authority’s share of project (\$2.16 million) and oversight (\$840,000) costs for the Montclair Segment of Phase 2B advanced conceptual engineering and environmental consulting work.

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

1. Approve Agreement No. 15-42 between the City of Montclair and San Bernardino County Transportation Authority for Advancement and Reimbursement of funds related to advanced conceptual engineering and environmental consulting work and oversight for that portion of Phase 2B of the Metro Gold Line Foothill Extensions Project from the Los Angeles–San Bernardino County line to the Montclair Transcenter.
2. Authorize the City Manager to execute all documents on behalf of the City of Montclair in relation to implementation of Agreement No. 15-42.

AGREEMENT NO. 15-1001309

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF MONTCLAIR

FOR

**ADVANCEMENT AND REIMBURSEMENT OF FUNDS RELATED TO
ADVANCED CONCEPTUAL ENGINEERING AND ENVIRONMENTAL
CONSULTING WORK AND OVERSIGHT WORK FOR THAT PORTION OF
PHASE 2B OF THE METRO GOLD LINE FOOTHILL EXTENSION PROJECT
FROM THE LOS ANGELES-SAN BERNARDINO COUNTY LINE TO THE
MONTCLAIR TRANSCENTER**

This Reimbursement Agreement is made and entered into by and between the San Bernardino County Transportation Authority (TRANSPORTATION AUTHORITY) and the City of Montclair (CITY) and is nominally dated _____, 2015.

ARTICLE ONE

RECITALS

A. On November 22, 2013, the Gold Line Foothill Extension Construction Authority (CONSTRUCTION AUTHORITY) notified TRANSPORTATION AUTHORITY of its intent to begin advanced conceptual engineering and environmental consulting work (PROJECT) for extension of the Metro Gold Line light-rail system from Azusa to the Montclair Transcenter (PHASE 2B); and

B. The CONSTRUCTION AUTHORITY did subsequently enter into an agreement with AECOM of Los Angeles on April 23, 2014, for PHASE 2B PROJECT work; and

C. The CONSTRUCTION AUTHORITY estimates the portion of PHASE 2B within San Bernardino County represents six (6) percent, or two million one hundred sixty thousand dollars (\$2.16 million) of the total estimated PROJECT cost of thirty-six million dollars (\$36 million); and

D. In order to include the MONTCLAIR SEGMENT in the PROJECT, CONSTRUCTION AUTHORITY requires a commitment of TRANSPORTATION AUTHORITY PROJECT SHARE funding for the MONTCLAIR SEGMENT PROJECT work; and

E. Due to funding constraints TRANSPORTATION AUTHORITY is unable to commit to funding the MONTCLAIR SEGMENT PROJECT work and to expend staff and consultant resources for oversight of the PROJECT and participation in the PROJECT development team until there is certainty that PHASE 2B will be constructed; and

F. TRANSPORTATION AUTHORITY intends to contribute to the PROJECT cost of the MONTCLAIR SEGMENT at such time when construction of PHASE 2B to the Los Angeles County/San Bernardino County line SECURES FUNDING and when TRANSPORTATION AUTHORITY's Board approves the advanced conceptual engineering of the MONTCLAIR SEGMENT; and

G. TRANSPORTATION AUTHORITY estimates its OVERSIGHT COSTS for the MONTCLAIR SEGMENT PROJECT work will not exceed \$840,000; and

H. TRANSPORTATION AUTHORITY is responsible for administration of the Measure I 2010-2040 Expenditure Plan and has determined that the PROJECT cost of the MONTCLAIR SEGMENT and the OVERSIGHT COSTS for the MONTCLAIR SEGMENT PROJECT work are eligible to receive Measure I 2010-2040 Metrolink-Rail Program funds; and

I. In order to ensure the MONTCLAIR SEGMENT is part of the PROJECT work, CITY is willing to fund 100% of TRANSPORTATION AUTHORITY's PROJECT SHARE and 100% of TRANSPORTATION AUTHORITY's OVERSIGHT COSTS subject to TRANSPORTATION AUTHORITY's obligation to reimburse CITY upon the occurrence of the REIMBURSEMENT CONDITIONS and under the terms of this AGREEMENT.

NOW, THEREFORE, TRANSPORTATION AUTHORITY and CITY agree to the following:

ARTICLE TWO

DEFINITIONS

The following terms used in this AGREEMENT shall have the meanings set out below and these definitions shall be applicable to both the singular and plural forms of the defined terms:

AGREEMENT means this Reimbursement Agreement entered into between TRANSPORTATION AUTHORITY and CITY, as it may be amended from time to time.

CITY means the City of Montclair, a California municipal corporation.

COMMISSION means San Bernardino County Transportation Commission.

CONSTRUCTION AUTHORITY means the Metro Gold Line Foothill Extension Construction Authority.

EFFECTIVE DATE means the date this AGREEMENT is fully executed by both CITY and TRANSPORTATION AUTHORITY.

ELIGIBLE PROJECT EXPENDITURES means those PROJECT expenses related to the MONTCLAIR SEGMENT incurred by CONSTRUCTION AUTHORITY and paid by CITY to CONSTRUCTION AUTHORITY, that are consistent with the Measure I 2010-2040 Strategic Plan, and supported by invoices and such documentation as reasonably required by TRANSPORTATION AUTHORITY.

INTEREST RATE means the average annual yield by investments in the State of California Local Agency Investment Fund for the fiscal year immediately preceding the date upon which interest commences to accrue.

MEASURE I means the one-half of one percent retail transactions and use tax statutorily dedicated to transportation planning, design, construction, operation and maintenance only, in San Bernardino County as authorized by the San Bernardino County voters' passage of TRANSPORTATION AUTHORITY's Ordinance 04-01 in 2004, and as may be extended by the San Bernardino County voters.

MONTCLAIR SEGMENT means the portion of PHASE 2B from the Los Angeles/San Bernardino County Line to the MONTCLAIR TRANSCENTER.

MONTCLAIR TRANSCENTER means the multimodal transportation hub located at 5091 Richton Street in the City of Montclair and served by Metrolink, Omnitrans, Foothill Transit, and Riverside Transit Agency. The Metro Gold Line is proposed for extension to, and termination at, the Montclair Transcenter.

NEW MEASURE means a retail transactions and use tax statutorily dedicated to transportation planning, design, construction, operation and maintenance only, in San Bernardino County and eligible for use to pay TRANSPORTATION AUTHORITY's PROJECT SHARE and TRANSPORTATION AUTHORITY's OVERSIGHT COSTS, as may be authorized by the San Bernardino County voters and effective prior to the expiration of MEASURE I.

PHASE 2B means the extension of the Metro Gold Line from Azusa to the MONTCLAIR TRANSCENTER.

PROJECT means the advanced conceptual engineering and environmental studies work for PHASE 2B.

REIMBURSEMENT CONDITIONS means (1) PHASE 2B construction to the Los Angeles/San Bernardino County line SECURES FUNDING; and (2) the MONTCLAIR SEGMENT advanced conceptual engineering is approved by the TRANSPORTATION AUTHORITY as determined in its sole discretion.

SANBAG means San Bernardino Associated Governments.

SANBAG RAIL PROPERTY means the TRANSPORTATION AUTHORITY's, SANBAG's and COMMISSION's railroad right-of-way and associated property at the MONTCLAIR TRANSCENTER site, Metrolink platforms in San Bernardino County, and related operational and safety facilities and equipment.

SECURES FUNDING means either:

- (1) the date the Los Angeles County Registrar of Voters certifies passage of a tax measure that identifies as an eligible expenditure and the Los Angeles County Metropolitan Transportation Authority Board commits to fully fund construction of PHASE 2B to the Los Angeles/San Bernardino County line; or
- (2) Alternative funding sources are identified and committed to construction of PHASE 2B to the Los Angeles/San Bernardino County line.

TRANSPORTATION AUTHORITY means the San Bernardino County Transportation Authority.

TRANSPORTATION AUTHORITY's OVERSIGHT COSTS means up to \$840,000 for the TRANSPORTATION AUTHORITY's incurred direct staff and consultant costs for review of and comments on the PROJECT and participation in the Project Development Team.

TRANSPORTATION AUTHORITY's PROJECT SHARE means the lesser of \$2.16 million or six percent (6%) of the PROJECT cost.

ARTICLE THREE

TRANSPORTATION AUTHORITY AGREES:

1. Upon the occurrence of the REIMBURSEMENT CONDITIONS, to reimburse CITY for ELIGIBLE PROJECT EXPENDITURES incurred and expended by CITY in an amount not-to-exceed TRANSPORTATION AUTHORITY's PROJECT SHARE, and for TRANSPORTATION AUTHORITY's OVERSIGHT COSTS previously paid by CITY to TRANSPORTATION AUTHORITY in an amount not-to-exceed \$840,000, as governed by the Measure I 2010-2040 Strategic Plan.
2. To pay interest to CITY, only as provided in Article FIVE, Section 7.
3. To submit to CITY an original and an electronic copy of signed invoices for TRANSPORTATION AUTHORITY's OVERSIGHT COSTS as they are incurred and paid by TRANSPORTATION AUTHORITY, no more frequently than monthly with supporting documentation reasonably required by CITY.
4. Except as provided below in Article FOUR Section 10, when conducting an audit of the costs claimed under the provisions of this AGREEMENT, to rely to

the maximum extent possible on any prior audit of CITY performed pursuant to the provisions of state and federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to TRANSPORTATION AUTHORITY when planning and conducting additional audits.

5. To repay to CITY any funds advanced by CITY for TRANSPORTATION AUTHORITY's OVERSIGHT COSTS that are determined by subsequent audit to be unallowable within ninety (90) days of TRANSPORTATION AUTHORITY receiving notice of audit findings, which time shall include an opportunity for TRANSPORTATION AUTHORITY to respond to and/or resolve the finding. Should the findings not be otherwise resolved and TRANSPORTATION AUTHORITY fails to reimburse moneys due CITY within ninety (90) days of audit findings, or within such other period as may be agreed between both parties hereto, the CITY reserves the right to withhold future payments due TRANSPORTATION AUTHORITY from any source under CITY's control.
6. To assign a qualified TRANSPORTATION AUTHORITY staff person or consultant to serve on and attend meetings of the PROJECT Development Team with the CONSTRUCTION AUTHORITY.
7. To timely review, submit comments and communicate approval to CONSTRUCTION AUTHORITY regarding the PROJECT and advanced conceptual engineering of PHASE 2B impacting SANBAG RAIL PROPERTY.
8. To review on a monthly basis invoices that CITY will pay to CONSTRUCTION AUTHORITY and verify that backup documentation adequately justifies the payments that CITY will request from TRANSPORTATION AUTHORITY in accordance with Article FOUR Section 3 below and Article THREE Section 5 above.

ARTICLE FOUR

CITY AGREES:

1. That only ELIGIBLE PROJECT EXPENDITURES and TRANSPORTATION AUTHORITY's OVERSIGHT COSTS paid by CITY will be reimbursable by TRANSPORTATION AUTHORITY in accordance with this AGREEMENT.
2. To pay invoices received from TRANSPORTATION AUTHORITY for TRANSPORTATION AUTHORITY's OVERSIGHT COSTS not later than thirty days after receipt of such invoices and supporting documentation reasonably required by CITY.
3. To submit to TRANSPORTATION AUTHORITY an original and an electronic copy of signed invoices for ELIGIBLE PROJECT EXPENDITURES as they are

incurred and paid by CITY, and supporting documentation reasonably required by TRANSPORTATION AUTHORITY.

4. To submit a Final Report of Expenditures stating that the PROJECT funds were used in conformance with this AGREEMENT and for the PROJECT.
5. To repay to TRANSPORTATION AUTHORITY any reimbursement by TRANSPORTATION AUTHORITY for PROJECT costs that are determined by subsequent audit to be unallowable within ninety (90) days of CITY receiving notice of audit findings, which time shall include an opportunity for CITY to respond to and/or resolve the findings. Should the findings not be otherwise resolved and CITY fails to reimburse moneys due TRANSPORTATION AUTHORITY within ninety (90) days of audit findings, or within such other period as may be agreed between both parties hereto, TRANSPORTATION AUTHORITY reserves the right to withhold future payments due CITY from any source under TRANSPORTATION AUTHORITY's control.
6. To make best efforts to enter into an agreement with CONSTRUCTION AUTHORITY to enable CITY to fulfill its obligations to TRANSPORTATION AUTHORITY under this AGREEMENT, including but not limited to the following:
 - 6.1 CONSTRUCTION AUTHORITY must create a Project Development Team, including TRANSPORTATION AUTHORITY staff or consultant as a member, which Project Development Team shall meet regularly, sharing information about the PROJECT and receiving comments on the PROJECT from team members.
 - 6.2 CONSTRUCTION AUTHORITY shall work cooperatively with TRANSPORTATION AUTHORITY in order to design the MONTCLAIR SEGMENT to TRANSPORTATION AUTHORITY's satisfaction and to obtain TRANSPORTATION AUTHORITY's approval of the advanced conceptual engineering of PHASE 2B impacting SANBAG RAIL PROPERTY.
 - 6.3 CONSTRUCTION AUTHORITY shall submit invoices and supporting documentation to CITY with copies to TRANSPORTATION AUTHORITY for work performed and costs incurred on the PROJECT.
 - 6.4 CONSTRUCTION AUTHORITY's obligations to comply with Article FOUR, Sections 8, 9, 10 and 11.
7. Within thirty (30) days after execution of such agreements, to provide to TRANSPORTATION AUTHORITY a copy of any agreement entered into between the CITY and the CONSTRUCTION AUTHORITY that is related to this AGREEMENT, or that addresses any proposed uses of SANBAG RAIL PROPERTY, for purposes of documentation and future reference.

8. To maintain all copies of all consultant/contractor invoices, source documents, books and records connected with performance under this AGREEMENT for a minimum of five (5) years from the date of the termination of this AGREEMENT or until audit resolution is achieved, whichever is later.
9. To establish and maintain an accounting system and internal controls conforming to Generally Accepted Accounting Principles (GAAP) to support CITY's request for reimbursement, payment vouchers and invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by CITY.
10. To allow for the preparation of a PROJECT audit to be completed by CITY or by TRANSPORTATION AUTHORITY, at TRANSPORTATION AUTHORITY's option and expense, and to cooperate in the audit as described in Article THREE Section 4 upon completion of the PROJECT. The audit must find that all funds expended on the PROJECT were used in conformance with this AGREEMENT.
11. To comply with all safety requirements as prescribed by 49 CFR Parts 200 – 299, and TRANSPORTATION AUTHORITY's and Southern California Regional Rail Authority's requirements for use and access of SANBAG RAIL PROPERTY.

ARTICLE FIVE

IT IS MUTUALLY AGREED:

1. This AGREEMENT is to be carried out in accordance with the policies in the Measure I 2010-2040 Strategic Plan as adopted by TRANSPORTATION AUTHORITY.
2. To abide by all applicable federal, state and local laws and regulations pertaining to the PROJECT, including policies in the applicable program in the Measure I 2010-2040 Strategic Plan, as amended, as of the Effective Date of this AGREEMENT.
3. TRANSPORTATION AUTHORITY's obligation to reimburse CITY for the TRANSPORTATION AUTHORITY's PROJECT SHARE and TRANSPORTATION AUTHORITY's OVERSIGHT COSTS and any interest thereon, shall be limited to actual, reimbursable costs related thereto, subject to approval by the TRANSPORTATION AUTHORITY Board, with approval of such reimbursement not to be unreasonably withheld.
4. This AGREEMENT can be amended only by a writing duly authorized and executed by CITY and TRANSPORTATION AUTHORITY.

5. CITY will use its own funds to participate with CONSTRUCTION AUTHORITY to implement the MONTCLAIR SEGMENT of the PROJECT in advance of TRANSPORTATION AUTHORITY's allocation of and reimbursement of CITY with Measure I funds after the occurrence of the REIMBURSEMENT CONDITIONS in accordance with this AGREEMENT.
6. Eligible PROJECT reimbursements shall include only those costs incurred by CITY for PROJECT activities that are described in this AGREEMENT plus any interest as provided for in this AGREEMENT, and shall not include PROJECT costs in excess of the TRANSPORTATION AUTHORITY PROJECT SHARE except for any interest due to CITY.
7. Interest on ELIGIBLE PROJECT EXPENDITURES and TRANSPORTATION AUTHORITY's OVERSIGHT COSTS paid by CITY shall commence to accrue at the INTEREST RATE on the ninetieth day after the REIMBURSEMENT CONDITIONS are satisfied, with no interest accruing prior to that date.
8. CITY shall defend, indemnify, and hold harmless TRANSPORTATION AUTHORITY, its officers and employees, from and against any and all actions, claims, injuries, damages, liabilities, demands, losses, judgments, penalties, expenses and costs including attorney's fees for staff attorneys and outside counsel (collectively "Liabilities") arising out of or in any way connected with anything done or omitted to be done by CITY, its officers, employees, agents, contractors, consultants, subcontractors and subconsultants of any level, in connection with the PROJECT or under or in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT. CITY's obligations under this Article apply to TRANSPORTATION AUTHORITY's "passive" and "active" negligence, but do not apply to TRANSPORTATION AUTHORITY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.
9. TRANSPORTATION AUTHORITY shall defend, indemnify, and hold harmless CITY, its officers and employees, from and against any and all actions, claims, injuries, damages, liabilities, demands, losses, judgments, penalties, expenses and costs including attorney's fees for staff attorneys and outside counsel (collectively "Liabilities") arising out of or in any way connected with anything done or omitted to be done by TRANSPORTATION AUTHORITY, its officers, employees, agents, contractors, consultants, subcontractors and subconsultants of any level, in connection with the PROJECT or under or in connection with any work, authority or jurisdiction delegated to TRANSPORTATION AUTHORITY under this AGREEMENT. TRANSPORTATION AUTHORITY's obligations under this Article apply to CITY's "passive" and "active" negligence, but do not apply to CITY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

10. CITY is an authorized self-insured public entity for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrants that through its programs of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT.
11. TRANSPORTATION AUTHORITY carries policies of insurance for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrants that through its insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT
12. This AGREEMENT is expressly subordinate to any bonds, notes, certificates or other evidences of indebtedness involved in bond financings as are now outstanding or as may hereafter be issued by TRANSPORTATION AUTHORITY.
13. This AGREEMENT will be considered terminated upon the earlier to occur of: (1) full reimbursement of CITY by TRANSPORTATION AUTHORITY of monies advanced and any interest thereon in compliance with the terms of this AGREEMENT; or (2) upon the later to expire of Measure I 2010-2040 or a NEW MEASURE, if any. Provided, however, the following sections shall survive termination of the AGREEMENT: Article Three Section 5, Article Four Section 5, 8 and 10, and Article Five Sections 8 and 9.
14. Notice given under or regarding this AGREEMENT shall be deemed given (a) upon actual delivery, if delivery is personally made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier including overnight delivery services. Notice shall be sent to the respective Party at the address indicated below or to any other address as a Party may designate from time to time by a notice given in accordance with this paragraph.

If to TRANSPORTATION AUTHORITY:

Raymond Wolfe, Executive Director
1170 West 3rd Street, Second Floor
San Bernardino, CA 92410-1715
(909) 885-4407

If to CITY:

Edward C. Starr, City Manager
5111 Benito Street
Montclair, CA 91763
(909) 625-9405

15. The Recitals stated above are true and correct and are incorporated by this reference into the AGREEMENT.

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT below.

**San Bernardino County
Transportation Authority**

City of Montclair

By: _____
L. Dennis Michael, President
Board of Directors

By: _____
Paul M. Eaton
Mayor, City of Montclair

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM AND
PROCEDURE:

By: _____
Eileen Monaghan Teichert
AUTHORITY General Counsel

By: _____
Diane Robbins
City Attorney

Date: _____

Date: _____

ATTEST:

By: _____
Andrea M. Phillips
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-43 AMENDING AGREEMENT NO. 14-31 WITH LAE ASSOCIATES, INC., FOR ADDITIONAL PROJECT MANAGEMENT SERVICES FOR THE MONTE VISTA AVENUE/ UNION PACIFIC GRADE SEPARATION PROJECT	DATE: June 15, 2015
CONSIDER AN ADDITIONAL APPROPRIATION OF \$5,000 FROM MEASURE I	SECTION: AGREEMENTS
	ITEM NO.: 2
	FILE I.D.: STA110
	DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Agreement No. 14-31 with LAE Associates, Inc., for project management services for the Monte Vista Avenue/Union Pacific Grade Separation Project was previously approved by the City Council. Additional services and compensation above those established in Agreement No. 14-31 require an amendment to the existing agreement. City Agreements require City Council Approval.

BACKGROUND: At the May 1, 2015 City Council meeting, Agreement No. 14-31 between the City and LAE Associates, Inc., was approved for project management services for the Monte Vista Avenue/Union Pacific Grade Separation Project. The agreement was for an amount not to exceed \$21,300.

LAE Associates, Inc., assisted the City in submitting a Request for Authorization (RFA) to Caltrans for the Monte Vista Avenue/Union Pacific Grade Separation Project in July 2014. However, due to procedural changes within Caltrans, the authorization was not approved by Caltrans until May 18, 2015. As a result, additional project management services from LAE Associates, Inc., were necessary to attain project approval. LAE Associates, Inc., will also provide further services not listed in original Agreement No. 14-31. Additional services are listed in Attachment A-1 of Agreement No. 15-43.

FISCAL IMPACT: Approval of Agreement No. 15-43 will expand the scope of services with LAE Associates, Inc., and add an additional \$8,160 in compensation to the Agreement, bringing the total to an amount not to exceed \$29,460.

With the original approval of Agreement No. 14-31, the City Council appropriated \$25,000 from Measure I. The amendment to this agreement will require an additional appropriation from Measure I of \$5,000.

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

1. Approve Agreement No. 15-43 amending Agreement No. 14-31 with LAE Associates, Inc., for additional project management services for the Monte Vista Avenue/Union Pacific Grade Separation Project.
2. Approve an additional appropriation of \$5,000 from Measure I.

Prepared by: <u> <i>M. J. H.</i> </u>	Fiscal Impact Finance Review: <u> <i>Donald L. Parker</i> </u>
Proofed by: <u> <i>Monica Perry</i> </u>	Reviewed and Approved By: <u> <i>M. J. H.</i> </u>

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	Fiscal Years				Total	Estimated Completion	Grant Billing Date	Fund/Program (Fund Name & Number)
	Prior Years	2014/2015	2015/2016	2016/2017				
Environmental	250,000.00 300,000.00				250,000.00 300,000.00	Completed Completed	Billed previously N/A	TCRP Measure I
Design	2,110,000.00 300,000.00	5,000.00 1,439,839.50 360,160.50			2,110,000.00 305,000.00 1,439,839.50	Dec. 2015 Dec. 2015	N/A	TCRP Measure I Fed HPP Measure I
R/W Acquisition	8,458,000.00 1,250,000.00				8,458,000.00 1,250,000.00	Completed Completed		TCRP RDA
Construction	300,000.00				300,000.00	2017	N/A	Measure I
Total	12,968,000.00	1,805,000.00	15,000,000.00	0.00	29,773,000.00	Dec. 2017		Fed PNRS CPUC

Approvals:

Department: Public Works Department By:  Date: August 7, 2014

Finance By: _____ Date: _____

City Council Date: _____

Revision Number: #1-8/7/14 #2-6/1/15 #3-6/15/15

Total Project Cost: \$29,773,000.00

**AMENDMENT NO. 1 TO AGREEMENT NO. 14-31
WITH
LAE ASSOCIATES, INC.,
FOR
MONTE VISTA AVENUE/UNION PACIFIC GRADE SEPARATION PROJECT
PROJECT MANAGEMENT SERVICES**

This Agreement is entered into and made effective on July 1, 2015.

RECITALS:

WHEREAS, on May 1, 2014, the City of Montclair, a municipal corporation, ("City") and LAE Associates, Inc., ("Consultant"), hereinafter referred to collectively as "Parties," entered into Agreement No. 14-31; and

WHEREAS, said agreement provided for various tasks as described in Exhibit A to be performed by Consultant; and

WHEREAS, said agreement provided for compensation to be paid by City to Consultant, as described in Exhibit B; and

WHEREAS, Parties mutually desire to modify both tasks and compensation by amending Agreement No. 14-31.

NOW THEREFORE BE IT AGREED TO AMEND AGREEMENT NO. 14-31 BY CHANGING THE FOLLOWING SECTIONS:

2. SERVICES

In addition to the services to be provided under Exhibit A of Agreement No. 14-31, Consultant shall also perform the tasks described and set forth under Exhibit A-1, attached hereto and incorporated herein as though set forth in full.

5. PAYMENT

(a) The City agrees to increase the total compensation under Agreement No. 14-31 from \$21,300 as provided for in Exhibit B to a total not to exceed \$29,460, an increase of \$8,160 as described in Exhibit A-1. This amount shall not exceed \$29,460 for the total term of the Agreement unless additional payment is approved as provided in Agreement No. 14-31.

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

CITY OF MONTCLAIR, CALIFORNIA

LAE Associates, Inc.

By: _____
Paul M. Eaton, Mayor

By: _____
President

Attest: _____
Andrea M. Phillips, Deputy City Clerk

Date: _____

Date: _____

Approved as to form:

Diane Robbins, City Attorney

EXHIBIT A-1

- Provide additional coordination with the City and Caltrans staff
- Prepare a breakdown of design sub-consulting services for the Disadvantaged Business Enterprise (DBE) consultant
- Coordinate with the DBE consultant, City, and Caltrans staff
- Participate in conference calls with the City, Caltrans, and San Bernardino Associated Governments
- Prepare and/or review project history and DBE goal preparation process
- Revise the Request for Authorization to Award Contract exhibits per Caltrans comments
- Prepare an Independent Cost Estimate for design services
- Attend a project scoping meeting with the City and top ranked consultant/sub-consultants
- Prepare a consulting checklist to comply with new consultant selection procedures
- Attend meetings with the City to review consultant selection documentation
- Review City's consultant agreement for conformance with Caltrans requirements
- Update the City's Quality Assurance Plan
- Attend a meeting with the City to review consultant selection checklist and organize the files
- Attend the project design kick-off meeting
- Attend up to two project development meetings
- Provide assistance to the utility relocation subconsultant (proper documentation)
- Assist the utility relocation subconsultant with the preparation of right of way certification
- Prepare Caltrans "Risk Based Invoicing" (new Caltrans requirement as of October 2014)

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 15-44 WITH THE MONTCLAIR CHAMBER
OF COMMERCE TO PROVIDE SERVICES TO
PROMOTE LOCAL ECONOMIC DEVELOPMENT

DATE: June 15, 2015
SECTION: AGREEMENTS
ITEM NO.: 3
FILE I.D.: COC050
DEPT.: ECON. DEV.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15- 44 with the Montclair Chamber of Commerce to provide services to strengthen and enhance local economic development activities.

BACKGROUND: The Montclair Chamber of Commerce was organized in 1958 and has offered its services to the local business community since that time. The Montclair Chamber of Commerce promotes business growth and a business-friendly climate in the Montclair community.

The term of Agreement No. 15-44 is July 1, 2015 through June 30, 2016. The agreement would provide funding to the Montclair Chamber of Commerce, a partner agency, for the following services to support economic development in the City of Montclair:

- Monitor and aid in the retention, expansion, and development of existing businesses.
- Promote Montclair as an attractive and prime location for business operations.
- Provide for the support and nurturing of businesses and the development of an entrepreneurial environment through cooperation with other local, county, state, and federal economic development organizations.
- Endeavor to represent all business interests wherever located in the City of Montclair and to conduct its affairs in such a way as to benefit all businesses and areas of the City.

FISCAL IMPACT: If approved by the City Council, the Montclair Chamber of Commerce would receive \$15,000 annually payable in equal quarterly payments of \$3,740. This amount was included in the City Budget in the Economic Development Fund for Fiscal Year 2015-16.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-44 with the Montclair Chamber of Commerce to provide services to promote local economic development.

Prepared by:




Fiscal Impact
Finance Review:




Proofed by:

Reviewed and
Approved By:

Agreement No. 15-44

**CITY OF MONTCLAIR
5111 BENITO STREET
MONTCLAIR, CALIFORNIA 91763**

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this 1st day of July, 2015, by the City of Montclair, hereinafter referred to as the "**CITY**," and the Montclair Chamber of Commerce, hereinafter referred to as the "**CHAMBER**."

1. Recitals

a. The parties hereto agree that it is the best interest of the **CITY** and the **CHAMBER** to strengthen and enhance economic development activities within the **CITY** and the **CHAMBER** through an Agreement renewed annually by the close of each current fiscal year.

b. The parties hereto agree that all funding provided by the **CITY** for this venture will be expended to fulfill a public purpose, that is economic development, and that periodic auditing will be performed in order to assure that the funds provided by the **CITY** will be utilized only for public purposes as set forth herein.

2. Agreement

a. NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties here to agree as follows:

ARTICLE 1 - RECITALS

The parties acknowledge and agree that above state recitals are true and correct and incorporated herein by reference.

ARTICLE 2 - SERVICES

The **CHAMBER** desires to engage in economic development efforts for the **CITY** area which shall include, but not limited to, the following:

- a. Employ a President/CEO who is an economic development professional with the requisite knowledge, skills, expertise necessary to lead the economic development efforts.
- b. Advise private business concerns located within the **CITY**, existing business and the business community of the available opportunities within the **CITY** and within its utilities service area of which they may take advantage and counsel them regarding their suitability to participate in

available county, state, and federal economic development programs and grants.

- c. Monitor and aid in the retention, expansion and development of existing businesses.
- d. Advise and counsel private business concerns about the development of infrastructure plans for the expansion of business districts and the creation of business and industrial parks.
- e. Advise and counsel private business concerns of strategies designed to foster the best possible pro-business environment within the **CITY**.
- f. Promote the **CITY** as a location for business operations, clean manufacturing, and research and development companies.
- g. Serve as an information source for those interested in economic development and provide relevant referrals to all requests for economic development information, including up-to-date trade area demographics and inventories of available property (retail, industrial, office, etc.).
- h. Provide a **CHAMBER** web page to be linked to the **CITY's** web site. The web page shall be updated continuously to provide the most current information concerning economic development in the **CITY** and surrounding trade area for the purpose of furthering the mission of the **CHAMBER**.
- i. Provide for the support and nurturing of businesses and the development of an entrepreneurial environment through cooperation with other local, county, state, and federal economic development organizations.
- j. Endeavor to represent all business interests wherever located in the **CITY** and to conduct its affairs in such a way as to benefit all businesses and areas of the **CITY**.
- k. Host the annual State of the City address in collaboration with the **CITY's** Economic Development Coordinator, **CITY** staff, and the **CITY** Council.

ARTICLE 3 – PLACE OF WORK

It is understood that the **CHAMBER** will administer services largely at 8880 Benson Avenue, Suite 110, Montclair, California 91763; although the **CHAMBER** will, on request, come to City Hall or such other places as designated by the **CITY** to meet with **CITY's** representatives.

ARTICLE 4 – PAYMENT

The **CITY** will pay the **CHAMBER** the total sum of \$15,000 annually payable in equal quarterly payments of \$3,750 on or before the 30th day of the beginning of each quarter.

ARTICLE 5 – REPORTING

- a. The **CHAMBER** will submit and present to the **CITY** annually a receipt and expenditure report on the use of **CITY** funds.

ARTICLE 6 – RELATIONSHIP OF PARTIES

- a. The **CHAMBER** is an independent entity and not a department, agency or subdivision of the **CITY**. The **CITY** and the **CHAMBER** are two separate and autonomous entities.
- b. **CHAMBER** 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 **CHAMBER** shall at all times be under **CHAMBER'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 **CHAMBER** or any of **CHAMBER's** officers, employees, or agents, except as set forth in this Agreement. **CHAMBER** 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**. **CHAMBER** shall not incur or have the power to incur any debt, obligation, or liability whatever against **CITY**, or bind **CITY** in any manner. No employee benefits shall be available to **CHAMBER** in connection with the performance of this Agreement. Except for the fees paid to **CHAMBER** as provided in the Agreement **CITY** shall not pay salaries, wages, or other compensation to **CHAMBER** for performing services hereunder for **CITY**. **CITY** shall not be liable for compensation or indemnification to **CHAMBER** for injury or sickness arising out of performing services hereunder.
- c. The **CITY** and the **CHAMBER** acknowledge that this Agreement is not a delegation of any public function of the **CITY** and that neither party will play an integral part in either party's decision-making process by reason of this Agreement.

ARTICLE 7 – DURATION

- a. The initial term of this Agreement shall be for a period of one (1) year commencing July 1, 2015, and continuing through June 30, 2016; this **AGREEMENT** may be renewed annually.
- b. Either party may terminate this Agreement upon ninety (90) days written notice to the other party.
- c. Any notice required or allowed hereunder shall be in writing and sent by certified mail, return receipt requested, or in person with proof of delivery, to the address first listed above, or such other addresses as either party shall have specified by written notice to the other party delivered in accordance herewith.

ARTICLE 8 – NONDISCRIMINATION

- a. The **CHAMBER** shall not discriminate against any employee or person served under this Agreement on account of race, color, sex, age, religion, ancestry, national origin, handicap, or marital status or as otherwise prohibited by applicable law.

ARTICLE 9 – MISCELLANEOUS

- a. The **CHAMBER** acknowledges that the **CITY**, during any fiscal year, shall not expend money, incur any liability, or enter into any agreement which, by its terms, involves the expenditure of money in excess of the amounts budgeted or the reduction of revenues for those budgeted agreements that may be available for expenditure during such fiscal year. Any agreement, verbal or written, made in violation of this subsection is null and void; and no money may be paid on such agreement. Nothing herein contained shall prevent the making of agreement for a period of exceeding one year, but any agreement so made shall be executed only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the **CITY's** performance and obligation to pay under this Agreement is contingent upon annual appropriation.
- b. The **CHAMBER** shall obtain and possess throughout the term of this Agreement all licenses and permits applicable to its operations under federal, state, and local laws.
- c. The **CHAMBER** shall at all times maintain its status as a private not-for-profit corporation, organized and created under the laws of the State of California.
- d. This Agreement may be modified or amended by mutual written agreement of the parties, duly executed by both parties.
- e. This Agreement contains all the terms and conditions agreed upon by the parties.
- f. This Agreement shall be governed and construed in accordance with the laws of the State of California. The venue of any legal action to enforce or interpret this Agreement shall be in San Bernardino County, California.
- g. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
- h. In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- i. If any party seeks to enforce or interpret this Agreement through litigation, each party shall bear its own attorney's fees and costs incurred.

- j. 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.
- k. The **CHAMBER** 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 **CHAMBER** 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 **CHAMBER** to comply with this Section.
- l. 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 economic development activities during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or subagreement, or the proceeds thereof, for work to be performed in connection with the activities performed under this Agreement.
- m. **CHAMBER** agrees to defend, indemnify, and hold harmless the **CITY**, its officers, employees, agents, and volunteers from any and all liabilities for injury to persons and damage to property arising out of any act or omission of **CHAMBER**, its officers, employees, agents, or volunteers in connection with **CHAMBER's** performance of its obligations under this Agreement.

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

"CITY"

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

"CHAMBER"

8880 Benson Avenue, Suite 110
Montclair, CA 91763
(909) 985-5104

By: _____
Paul M. Eaton
Mayor

By: _____
Darleen Curley
President/CEO

Date: _____

Date: _____

ATTEST:

Andrea M. Phillips
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-45 WITH CATERING SYSTEMS, INC., TO PROVIDE MEALS FOR THE SENIOR CITIZEN NUTRITION PROGRAM	DATE: June 15, 2015 SECTION: AGREEMENTS ITEM NO.: 4 FILE I.D.: HSV105 DEPT.: HUMAN SVCS.
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REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-45 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition program for a term of one year beginning July 1, 2015.

BACKGROUND: The City of Montclair is currently contracting with the San Bernardino County Department of Aging and Adult Services (DAAS) to operate a Senior Citizen Nutrition Program at the Montclair Senior Center. The Human Services Department is managing and operating the nutrition program with grant funds awarded by DAAS.

The Human Services Department would like to continue subcontracting with Catering Systems, Inc., for nutrition program meal service. The company has been providing meals for the program since December 1999. Program participants and staff have been pleased with the catering service's performance. Catering Systems, Inc., continues to provide an enhanced menu at a reasonable cost. Catering Systems, Inc., is one of the few approved vendors qualified to provide nutritious meals funded under the Older Americans Act that delivers to San Bernardino County DAAS programs.

Should the Council approve Agreement No. 15-45, Catering Systems, Inc., would continue to deliver prepared meals every weekday. Catering Systems, Inc., would keep the meal cost at \$4.05 per meal, just a 15 cent increase from the per meal cost in Fiscal Years 2013-14 and 2014-2015. All of these costs will be covered by DAAS grant funding. The following chart shows the suggested donation for meals in surrounding cities. The cities of Claremont and Pomona receive grant funding from the Los Angeles County Area Agency on Aging.

<i>City</i>	<i>Donation</i>	<i>Provider</i>
Chino	\$2.50	Family Services Assoc
Claremont	\$2.00	Morrison's
La Verne	\$2.00	YWCA Intervale
Ontario	\$2.50	Family Services Assoc
Rancho Cucamonga	\$2.50	Family Services Assoc
San Dimas	\$2.00	YWCA Intervale
Upland	\$2.50	Family Services Assoc

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

Montclair's current suggested donation is \$2.00 per meal, which is one of the lowest in the surrounding communities. The funding for the meal cost would be paid through participant donations and funding from Agreement No. 15-36 with the San Bernardino County Department of Aging and Adult Services that was approved by the City Council on June 1, 2015.

The term of proposed Agreement No. 15-45 is July 1, 2015, through June 30, 2016.

FISCAL IMPACT: There would be no cost to the General Fund as a result of this agreement to provide the Senior Nutrition meals. All of these costs will be 100% grant funded under Agreement No. 15-36 with DAAS.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-45 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program.

FOOD SERVICE AGREEMENT

THIS AGREEMENT, executed in Montclair, California, is made by and between the City of Montclair, a California Municipal Corporation, hereinafter referred to as the "Contractor," and Catering Systems, Inc., hereinafter referred to as the "Subcontractor."

WHEREAS, the Contractor and the County of San Bernardino Department of Aging and Adult Services, hereinafter referred to as "County," have entered into an Agreement which authorizes the Contractor to provide certain services, said City Agreement being No. 15-45 dated June 15, 2015; and

WHEREAS, the aforesaid Agreement provides that the Contractor may subcontract for certain professional services subject to prior County approval; and

WHEREAS, the Contractor desires to engage the Subcontractor to provide professional services as detailed elsewhere in this Agreement; and

WHEREAS, the Subcontractor desires to perform and provide such services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Contractor and the Subcontractor agree as follows:

AGREEMENT

Section 1. Statement of Work and Schedule

The Subcontractor shall perform and provide the services set forth in the Food Service Specifications, which is attached hereto as "Attachment 1" and by this reference incorporated herein. The rights and obligations of the parties to this Agreement shall be subject to and governed by said Food Service Specifications as well as by the general provisions herein.

Section 2. Representatives of the Parties and Service of Notice

The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands, and communications shall be given are as follows:

- A. The representative of the Contractor shall be, unless otherwise stated in the Agreement:

Marcia Richter, Director of Human Services
City of Montclair
5111 Benito Street
Montclair, California 91763
(909) 625-9453

- B. The representative of the Subcontractor shall be:

Lordwin Dsouza
Catering Systems, Inc.
2512 East Fender Avenue, Suite E
Fullerton, California 92831
(714) 278-9294

Section 3. Compensation to the Subcontractor

The Contractor shall pay to the Subcontractor an amount not to exceed \$4.05 per meal for approximately 60 meals per day for complete and satisfactory performance of the terms of this Agreement. The Subcontractor shall be paid for providing services set forth in this Agreement. Payment shall be made on a bimonthly basis.

Section 4. Time of Performance

The term of this Agreement shall commence July 1, 2015, and terminate June 30, 2016, provided that said term is subject to the provisions of Section 14, "Indemnity, Liability, and Insurance Requirements," and Section 18, "Termination," and the availability of Federal funds through the County.

There are 249 serving days during Fiscal Year 2015-16 including the following holidays and special occasions:

Independence Day - July 4, 2015
Labor Day - September 7, 2015
Veterans Day - November 11, 2015
Thanksgiving (two days) - November 26 and 27, 2015
Christmas Eve and Day - December 24 and 25, 2015
New Year's Eve and Day - December 31, 2015 and January 1, 2016
Martin Luther King's Birthday - January 19, 2016
Presidents Day - February 15, 2016
Memorial Day - May 30, 2016

Section 5. Notices, Demands, and Communications

- A. Formal notices, demands, and communications to be given hereunder by either party shall be made in writing and may be affected by personal delivery or by registered or certified mail, return receipt requested, and shall be deemed effective as the date of mailing.

- B. Such notices, demands, or communications shall be addressed as set forth below:

1. For the Contractor:

Marcia Richter, Director of Human Services
City of Montclair
5111 Benito Street
Montclair, California 91763
(909) 625-9453

2. For the Subcontractor:

Lordwin Dsouza
Catering Systems, Inc.
2512 East Fender Avenue, Suite E
Fullerton, California 92831
(310) 619-1218

- C. If the name of the person designated to receive the notices, demands, or communications or the address of such person is changed, written notice shall be given, in accord with this Section, within five (5) working days of said change.

Section 6. Audit Records and Bonding

- A. The Subcontractor shall maintain financial records and reports related to funds received under this Agreement.
- B. The Subcontractor shall maintain books, records, documents, and other accounting procedures and practices, which reflect all costs of any nature, including cost of raw food and labor costs, expended in the performance of this Agreement.
- C. These records shall be subject to audit or inspection by duly authorized County, State, or Federal personnel.
- D. The Subcontractor shall maintain all books, records, and other documents relative to this Agreement for three (3) years after final payment or audit by the United States Department of Health and Human Services, the California Department of Aging, and County for five years if no audit occurred.
- E. The Subcontractor shall provide to the Contractor, on an annual fiscal year basis, a statement that all persons handling funds received or disbursed by this Agreement are covered by Fidelity Insurance.
- F. The Subcontractor shall provide, on an annual basis, an official copy of the Certified Public Accountant audit, which shall be conducted following generally accepted audit practices, to determine that there has been a proper accounting for and use of contract funds. All records of the Subcontractor bearing upon food purchases, storage, and food preparation directly related to said program under this Agreement shall be made available to the Contractor upon request.
- G. The Subcontractor shall furnish reports as required by the Contractor, County, California Department of Aging, and the U.S. Administration on Aging.
- H. Subcontractors shall use standardized recipes which meet Hazard Analysis requirements and which shall be available to Contractor and County.
- I. The Subcontractor shall supply raw food and labor costs to the Contractor as needed.
- J. The Subcontractor shall permit periodic monitoring of contracted activities by Contractor, Centralized Dietary Services, County, State, or Federal personnel.

Section 7. Amendments to Agreement

Any changes in the terms of this Agreement, including changes in the scope of services to be performed by the Subcontractor and any increase or decrease in amount of compensation which are agreed to by the Contractor and the Subcontractor, shall be incorporated into this Agreement by a written amendment properly executed by both parties. Prior written approval shall be received from County.

Section 8. Permit and Licenses

The Subcontractor shall hold valid permits, license, certificates, and other documents as are required by the State, County, City, or other governmental or regulatory bodies to legally engage in and perform the services to be provided under this Agreement, such as public health license, Orange County Inspection Reports, annual Fire Inspection Certificates, and other documents attached for County's approval. The Subcontractor shall notify the Contractor immediately of any suspension, termination, lapses, non-renewals, or restrictions of required licenses, certificates, or other documents that may be cause for termination of this Agreement.

Section 9. Conflict of Interest

- A. The Subcontractor, during the period to be covered by this Agreement, shall have no interest, direct or indirect, with respect to the Contractor that could create a conflict of interest.
- B. No member, officer, or employee of the Contractor and no official, officer, or employee of the County who exercises any responsibilities or functions with respect to the Contractor during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- C. The Subcontractor warrants that no person has been employed to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Contractor the right to terminate this contract or, at the discretion of the Contractor, to deduct from the Subcontractor's fees the amount of such commission, percentage, brokerage, or contingent fees.

Section 10. Independent Contractor Status of the Subcontractor

The parties agree that the performance of the Subcontractor's services hereunder shall be in the capacity of an Independent Contractor and that no employees of the Subcontractor have been, are, or shall be employees of the Contractor or County by virtue of this Agreement, and the Subcontractor shall so inform each employee organization and each employee who is hired or retained under this Agreement.

Section 11. Assignment or Transfer of Interest

The Subcontractor shall not assign or transfer any interest in this Agreement, except that claims for moneys due or to become due from the Contractor under this Agreement may be assigned to a bank, trust company, or other financial institution.

Section 12. Applicable Sections of Agreement between County and the Contractor

The Contractor and the Subcontractor agree that all conditions set forth in the Agreement between the County and the Contractor, as applicable in the performance of this Agreement, are hereby included herein by reference as though set forth herein in full. Referenced sections are available at the Contractor and County for review during normal business hours.

Section 13. Discrimination Prohibited

- A. The Subcontractor shall not discriminate against any employee or person served on account of race, color, sex, religious background, ancestry, national origin, or disability in its performance of this contract and hereby agrees to comply with all Federal, State, and County laws or regulations pertaining hereto including the Americans With Disabilities Act and applicable Civil Rights Acts.
- B. It is expressly understood that upon receipt of evidence of such discrimination, the Contractor shall have the right to terminate said contract.
- C. Affirmative Action: A written affirmative action plan, embodying both (1) goals and timetables of minority manpower utilization; and (2) specific affirmative action steps directed at increasing minority utilization by means of applying good faith efforts to carry out such steps, is to be included.

Section 14. Indemnity, Liability, and Insurance Requirements

- A. The Subcontractor agrees to defend, indemnify, and hold harmless the Contractor and the County, their officers, employees, and assigns, against any and all claims arising from acts, omissions, or negligence of the Subcontractor, its officers, or employees in the performance of this Agreement. The Subcontractor shall defend any suit against the Contractor and County alleging personal injury, sickness, or disease arising out of meals served at the project sites (or home delivered) provided food is served one hour after delivery (or eaten immediately after home delivery).
- B. The Contractor shall promptly notify the Subcontractor in writing of any claims against the Contractor or Subcontractor and, in the event of a suit being filed, the Contractor shall promptly forward to the Subcontractor all papers in connection therewith. The Contractor shall not incur any expenses or make any settlement without the Subcontractor's consent. However, if Subcontractor refuses or neglects to defend any such suit, the Contractor may defend, adjust, or settle any such claim, and the cost of such defense, adjustment, or settlement, including reasonable attorney's fees, shall be charged to the Subcontractor.
- C. The Subcontractor shall furnish proof in the form of a hand-signed certificate of insurance that he/she carries insurance in the minimum amounts listed below prior to commencement of performance under this Agreement. Such coverage shall be maintained currently effective until receipt of final payment under the terms of this Agreement.

- 1. Comprehensive General \$1,000,000 combined Single Liability [including (CSL) minimum Product Liability]
 - 2. Professional Liability \$1,000,000 per occurrence
- D. Comprehensive Auto Liability (owned and non-owned)
- 1. Bodily Injury
 - \$ 100,000 each person
 - \$ 300,000 each accident
 - \$ 300,000 aggregate products
 - 2. Property Damage
 - \$ 50,000 each accident
 - \$ 250,000 aggregate operations
 - \$ 250,000 aggregate protection
 - \$ 250,000 aggregate products
 - \$ 250,000 aggregate contractual
- E. Worker's Compensation. The statutory limit shall be in accordance with Sections 3700 and 3800 of the Labor Code of the State of California.
- F. Additional Insured. The City of Montclair and County of San Bernardino shall be named as additional insured on all policies or certificates.
- G. Cancellation Notice. A 30-day Notice of Cancellation shall be mailed to the Contractor and County, 686 East Mill Street, San Bernardino, California 92415.
- H. In the event any new or additional meal locations are started, the insurance carrier shall name all new or additional sites as insured under the policy.
- I. Failure on the part of the Subcontractor to procure or maintain required insurance shall constitute a material breach of Agreement and Contractor may immediately terminate or suspend this Agreement.

Section 15. Compliance with Statutes and Regulations

- A. In the performance of this Agreement, the Subcontractor shall obey all laws of the United States, the State of California, and the ordinances, regulations, policies, codes, and provisions of County.
- B. The Subcontractor shall conform to the nutrition requirements under Title III-C of the Older Americans Act of 1965, as amended, including providing the minimum Title III-C requirement per person of one third of the Recommended Daily Dietary Allowance (RDA).
- C. The Subcontractor shall comply with the California Uniform Retail Food Facilities Law (CURFFL). The Hazard Analysis (HACCP) requirements and San Bernardino County Department of Aging and Adult Services Policy and Procedures for Senior Nutrition Sites.

Section 16. Federal, State and Local Taxes

Federal, State, and local taxes shall be the responsibility of the Subcontractor as an independent contractor and not as a Contractor employee.

Section 17. Renewal Options

This Agreement is for one year only. It is optional on the part of the Contractor to renew the Agreement if desired. However, all agreements must be put out to bid during the County RFP period. Contractors must publicly bid on subsequent project year food contract. Bids will be awarded based on cost, capacity to provide service, proven competency and quality of product, proximity of meal locations, or other justifiable reasons.

Section 18. Termination

The Contractor may terminate this Agreement at any time within the period of its duration upon not less than thirty (30) days' written notice by the Contractor to the Subcontractor or immediately for cause. The Subcontractor may terminate this contract upon not less than thirty (30) days' written notice to the Contractor. Notice shall be provided as in Section 5 herein.

In addition, the contract may be terminated because of lack of funds, repeated citations by County, and failure to make corrective actions required by County. In the event funds to finance this contract, or part of this contract, become unavailable, the obligations of each party hereunder may be terminated upon no less than ten days' written notice to the other party. Said notice shall be delivered by certified mail, telegram, or in person. County shall be the final authority as to the availability of Federal or State funds. Waivers of breach of any provision of the contract shall not be construed to be a modification of the terms of the contract.

Section 19. Negotiation of Disputes

Any disputes of law or fact between the Contractor and the Subcontractor shall be settled between the parties concerned in such a manner that they will not delay or adversely affect the performance of the Contractor. Should any questions remain unresolved, the dispute would be submitted to the Director of the Area Agency on Aging or his designee to render a decision. Said decision will be binding upon the Contractor and the Subcontractor.

Section 20. Prior Approval of Subcontracts

The Subcontractor shall not enter into any subcontracts, for all or part of the services contemplated under this Agreement, without obtaining prior written approval of the Contractor and the Area Agency on Aging, which shall then be made a part of the original Agreement. No subcontracts shall be approved which would incur an obligation higher than the original agreed-upon price.

Section 21. Fair Labor Standards Compliance

Subcontractor agrees to indemnify, defend, and hold harmless the County of San Bernardino and the Contractor, its agents, officers, and employees from any and all

liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorney's fees arising under any wage and hour law including, but not limited to, the Federal Fair Labor Standards Act for services performed by the Subcontractor's employees for which the Contractor or the County of San Bernardino may be found jointly or solely liable.

Section 22. Citizenship Laws

Subcontractor and Contractor warrant their full compliance with all laws regarding employment of aliens and others and that all their employees performing services hereunder meet the citizenship or alien status requirements contained in Federal Immigration Reform and Control Act of 1986. Subcontractor and Contractor shall obtain from all covered employees services hereunder all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Subcontractor and Contractor shall retain such documentation for all covered employees for the period prescribed by law. Subcontractor and Contractor shall indemnify, defend, and hold harmless the County, its officers, and employees from employer sanctions and any other liability which may be assessed against Subcontractor and Contractor of County or both in connection with any alleged violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this contract.

Section 23. Subcontractor Staffing Requirements

To assure that meals are prepared in a safe, sanitary environment in compliance with the California Health and Safety Code, the San Bernardino County Department of Aging and Adult Services Policies and Procedures, and Contracts Management Manual, the Subcontractor shall comply with the following requirements:

The Subcontractor shall hire a part-time Registered Dietitian (minimum 20 hours a week) who possesses a Bachelor's degree and/or Master's degree in Nutrition/Dietetics with an institutional food service management emphasis from an accredited college or university for supervision of the food services operation within the catering company and/or central kitchen. The Dietitian shall be both qualified as specified in sections 2585 and 2586, Business and Professions Code, and registered by the Commission on Dietetic Registration.

Or

The Subcontractor shall hire a qualified Food Service Manager who possesses a Bachelor of Science degree in Food and Nutrition with emphasis on food service management or restaurant management from an accredited college or university, plus two (2) years' professional experience as a food service supervisor; no less than six (6) years of experience in the food service industry at a supervising level can be substituted for the four-year degree requirements. The Subcontractor must submit to the Contractor the registration identification number and expiration date of Registered Dietitian along with complete verifiable résumés of the Registered Dietitian or Food Service Manager for County's approval.

The County may, at its sole discretion, waive this requirement or, for repeated deficiencies of noncompliance, require the Subcontractor to fill both positions and/or to expand the required positions to full-time positions.

Section 24. Date of Execution

The parties hereto agree that the first party to execute this Agreement shall enter the date executed in the blank provided herein on both duplicate originals, which date shall be the date this Agreement is made provided, however, the term shall be for the period set forth in Section 4 herein.

Section 25. Complete Agreement

This Agreement, Appendices, if applicable, and Attachment 1 contain the full and complete Agreement between the two parties. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

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

Subcontractor:

CATERING SYSTEMS, INC.

City:

CITY OF MONTCLAIR

Lorwin Dsouza

Paul M. Eaton
Mayor

Date

Date

ATTEST:

Andrea M. Phillips
Deputy City Clerk

Date

ADDENDUM

OTHER REQUIREMENTS (Contractor's Option)

"Penalties for discrimination in employment - Any contractor who shall be found in violation of the nondiscrimination provisions of the State of California Fair Employment Practice Act or similar provisions of federal law or executive order in the performance of any contract with the City, thereby shall be found in material breach of such contract and thereupon the City shall have power to cancel or suspend the contract, in whole or in part, or to deduct from the amount payable to such contractor the sum of \$25 for each person for each calendar day during which such person was discriminated against, as damages for said breach of contract, both. Only a finding of the State of California Fair Employment Practices Commission or the equivalent federal agency or officer shall constitute evidence of a violation of contract under this section."

"Penalties for violation of affirmative action provisions - Any contractor who shall be found in violation of the agreement to pursue an affirmative course of action, or in violation of any provision of the affirmative action guidelines pertaining to the contract, shall be found in material breach of such contract and thereupon the City shall have power to cancel or suspend the contract, in whole or in part, or to deduct from the amount payable to such contractor the sum of \$250 for each calendar day during which the contractor is found to have been in noncompliance, damages for said breach of contract, or both."

**FOOD SERVICE SPECIFICATIONS
BETWEEN THE CITY OF MONTCLAIR
AND CATERING SYSTEMS INC.**

STATEMENT OF WORK AND SCHEDULE

During the time of performance as set forth herein, the Subcontractor shall furnish all food, labor, and equipment necessary to prepare and deliver individual meals and/or bulk food for persons 60 years of age and older in compliance with the Title III Congregate and Home-Delivered Nutrition standards as described in Federal, State, and County regulatory statutes and the California Health and Safety Codes, more specifically, the California Uniform Retail Food Facilities Law (CURFFL) as amended January 1, 1996, the Older Americans Act (OAA), Amendment of 1992, and the San Bernardino County Department of Aging and Adult Services (County).

To assure that meals are prepared in a safe, sanitary environment, in compliance with the California Health and Safety Code, the DAAS Policies and Procedures and Contracts Management Manual, the Subcontractor shall comply with the following requirements:

The Subcontractor shall hire a part-time Registered Dietitian (minimum 20 hours a week) who possesses a Bachelor's degree and/or Master's Degree in Nutrition/Dietetic with an institutional food service management emphasis from an accredited college or university, for supervision of the food services operation within the catering company and/or central kitchen.

The Subcontractor shall hire a qualified Food Service Manager who possess a BS degree in Food and Nutrition with emphasis on food service management or restaurant management from an accredited college or university, plus two (2) years professional experience as a food service supervisor; no less than six (6) years of experience in the food service industry at a supervising level can be substituted for the 4 year degree requirements.

The Subcontractor must submit, to the Contractor, the registration identification number and expiration date of the Registered Dietitian along with complete verifiable resumes of the Registered Dietitian or Food Service Manager for the County's DAAS approval.

The County may, at its sole discretion, waive this requirement or for repeated deficiencies of non-compliance, require the Subcontractor to fill both positions, and/or to expand the required positions to full time positions.

A. Number of Meals

The estimated number of meals required per day is between 60 and 90, Monday through Friday. The maximum requirement is outlined below.

	<i>Total Maximum Annual Meals</i>	<i>Catered Cost of Meal</i>
Monday through Friday	90	\$4.05
Saturday	N/A	
Sunday	N/A	
Box lunches	N/A	
Breakfast	N/A	
Frozen meals	N/A	
Other food items	N/A	
Total Max Annual Meals	22,217	\$89,978.85

B. Delivery

1. The meals shall be delivered as follows:

<i>Meal Location</i>	<i>Approx. Number of Meals</i>	<i>Time Food Preparation Completed</i>	<i>Time Food Leaves Kitchen</i>	<i>Time Food Arrives at Site</i>
Montclair Senior Center 5111 Benito Street Montclair, California	60-90	10:00 a.m.	10:30 a.m.	11:00 a.m.

2. The Contractor reserves the right to add or delete meal sites or designate alternate meal locations, as appropriate, subject to approval by County.
3. The Contractor may change the days and time of delivery and service by giving the Subcontractor seven (7) days notice.
4. The Contractor may change the number of meals to be delivered to any of the meal locations by notifying the Subcontractor by 10:00 a.m. the day prior to delivery.
5. The Subcontractor shall deliver the meals no more than 60 minutes prior to or 30 minutes after the agreed upon serving time.
6. Box lunch delivery time may be as early as 9:00 a.m. as long as appropriate holding facilities are available for perishable food items and

meals are transported under appropriate packing, heating and cooling temperature requirements.

7. The Contractor reserves the right to require Subcontractor to deliver food on all holidays that food service is needed.
8. The contractor shall serve foods for congregate meals; within two (2) hours after food preparation has been completed.

C. Delivery Service Specifications

1. Meals are to be delivered in (bulk/individual) prepackaged servings.
2. The Subcontractor shall supply the following food service items.

<i>Item</i>	<i>Specifications</i>
Rectangular disposable plates	Five compartment
Disposable bowls	Eight-ounce soup bowls
Disposable flatware	Bulk or pre-packaged, good quality
Napkins	Good quality
Table coverings	Paper placemats
Disposable cups	Eight-ounce cups for bulk milk
Other	Straws, plastic gloves, boxes, or bags as needed for box lunches

3. The Subcontractor shall provide all serving trays and utensils, warming, refrigerating and freezing equipment, where necessary, for the maintenance of proper temperatures as specified herein, and shall provide servicing of the equipment and/or replacement (depending on needs of Project).
4. All food must be packaged and transported under conditions that will ensure temperature control to prevent bacterial contamination, spillage, and/or infestation. All hot foods should be packaged individually or in bulk containers to ensure a minimum delivery temperature of 145° F. All cold foods must be packaged to ensure a maximum delivery temperature of 40° F. All foods intended to be delivered frozen shall be packaged to maintain a hard frozen state until such food reaches point of delivery.

Temperature of bulk and home-delivered meals must be taken daily at the end of production/packaging and on delivery at the nutrition site by the Subcontractor and Contractor. Hot and cold foods must be placed immediately into insulated hot and cold transport equipment upon completion of packing.

Daily written documentation of temperature logging/monitoring must be kept by Subcontractor and will be subject to audit by the centralized dietary services and the County nutritionist.

The sites shall be assumed correct on shortages unless the caterer proves them wrong. All calls regarding shortages and food replacement will be communicated by the Contractors office.

5. Meals must be delivered in refrigerated trucks and/or approved for bulk-insulated containers for hot pack and cold pack. Delivery standards shall comply with applicable local health department regulations.
6. Food and supplies must be packed and handled in a sanitary manner to assure absence of contamination and spillage.
7. The program may require replacement of any cold food that is received on site at above 45 F and any hot food that falls below 140 F.
8. Food shortages and/or spoiled foods that are reported to the caterer by agree time of delivery must be replaced or the enclosed deduction schedule will be utilized.
9. Packing of food for delivery to the sites will be negotiated as mutually acceptable to the Contractor and Subcontractor. Sites may differ on packaging of some items due to available site equipment and time/distance.
10. The Subcontractor shall be responsible for cleaning and care of equipment returned to his facility each day.
11. The Subcontractor shall place food in areas designated by meal location managers.
12. Food shall be transported no longer than 60 minutes after packaging.
13. Food shall be kept in heat retaining equipment no longer than **60 minutes** prior to serving.
14. Each delivery shall be accompanied by a delivery slip, in triplicate, designating number of meals and supplies delivered. Project Director or designated person will sign receipt, if in order, and one copy shall be left with the Project Director.
15. Instructions shall be attached to each food product delivered indicating name of meal location, number of servings, size of servings, and size of utensil to be used in serving.
16. Cake, cornbread, and casserole dishes, i.e. meatloaf, lasagna, tuna noodle casserole shall be pre-scored by the Subcontractor for the appropriate number of servings.
17. All Subcontractor delivery equipment shall be removed from the meal location by the next service day. Contractor is not responsible after this time.

18. The Subcontractor shall provide a back-up delivery system in the event of vehicle breakdown.
19. Electrical items required to be provided herein shall have the UNDER-RITERS LABORATORY approval and meet all current OSHA and COSHA laws and regulations. Subcontractor shall provide Contractor with a current copy of the health certificate and any corrected deficiencies with bid. To ensure that all regulations are followed, the Subcontractor must have a qualified food service manager or part-time registered dietitian (20 hours per week) or staff who will assure that meals are prepared in a safe and sanitary condition throughout the meal service operation.
20. Authorized representatives of the Contractor, County, centralized dietary services, State, and Federal shall have the right to inspect food preparation, storage, and packaging sites during the term of the contract.

D. Meal Standards

1. A Chemical analysis of any food delivered by the Subcontractor may be requested by the Contractor or County at any time. The Subcontractor agrees to cooperate in having the analysis done. If the analysis discloses that the food does not comply with required meal specifications, the Subcontractor shall be liable for the cost of this analysis and meals served to seniors out of compliance.
2. The Subcontractor shall be liable for meals that do not meet the nutritional standards and requirements, are spoiled or unwholesome at time of delivery, are incomplete or insufficient in number ordered, or are delivered after the time specified by the Contractor. In the event the Subcontractor fails to deliver complete meals, other foods, or supplies as agreed upon, the Contractor may provide a substitute meal with emergency meals of supplies purchased from other places and charge the cost of the purchased meal to the Subcontractor. The replacement cost shall not exceed **100** percent of the contract catered meal cost.
3. If any portion of a meal other than the entree is delivered in an unacceptable condition, such as incorrect temperature (potentially hazardous)* less than contracted portion, spoiled or too late, the Subcontractor shall be liable for the cost of that portion. If the entree is unacceptable, the Subcontractor shall be liable for the cost of the entire meal. In order to ensure conformance to the above, the delivery driver shall remain at the site until the food is checked by the location manager. All shortages shall be noted on delivery slip for proper crediting.

E. Menu Requirements

1. All menus shall comply with Title III-C meal pattern requirements.
2. A **six-week** cycle menu shall be used that is written once yearly.

3. The Contractor has the responsibility for menu writing with input from the Project Council and Subcontractor. The menu shall be approved by the centralized dietary services dietitian.
4. The Contractor is responsible for typing and duplicating the menu.
5. All menus must be signed by the Project Director, Project Council Chairman or designee, the centralized dietary services dietitian, and certified by the County nutritionist prior to the start of the menu cycle.
6. The Project Director or centralized dietary services dietitian shall submit all menu substitutions by the Subcontractor at least 2 days prior to the serving date. The subcontractor may, however, in an emergency make menu substitutions on verbal approval of the Project Director or centralized dietary services dietitian, with a written notice to follow for documentation.
7. Provisions shall be made by the Subcontractor to provide in-service training regarding food sanitation and safety for their food service staff. Documentation of such training shall be submitted to the Contractor. County may require the Contractor, based upon major finding of non-compliance items in food and safety, to provide additional food service training.

*See definition of Potentially Hazardous Food, DAAS Contract Management for Service Providers.

F. Meal Pattern Specifications

1. All food must be of the highest quality standard and conform to USDA requirements. It must be prepared in a manner to preserve optimum flavor and appearance while retaining nutrients and food value. Special consideration should be given to tenderness of meat because of the age of our participants. The Subcontractor is responsible for assuring its high quality before it is sent to the meal sites.

Title III – Meal Pattern:

Meat or meat alternatives	A minimum of 15 g protein per meal required. Specification for all processed preformed meat must be approved by the County nutritionist before adding to menu. Two-and one-half-ounce edible portion of meat/meat alternate in casserole dishes.
Vegetable/Fruits	Two half cup servings each per meal (exclusive of dessert).
Juice*	One-half cup Vitamin C fortification required to satisfy Vitamin C requirement.

Starch or alternate	One slice bread or one-half cup serving cooked starch, such as rice, pasta, etc. Selections made from whole grains are preferred.
Fortified margarine or butter	One teaspoon.
Dessert*	One-half (1/2) cup portions or fresh fruit equivalent. Limit of 1 dessert high in sugar, refined grains, or saturated fat per week.
Milk or milk product	Eight-fluid-ounce serving or calcium equivalent. Liquid milk served must be 1% fat, nonfat, or buttermilk.

- (a) In the preparation of all meals, the Subcontractor shall use a minimum of simple sugars. Each meal shall not exceed 1000 milligrams of sodium and shall be low in fat (standard is no more than 30 percent or less of total calories). Limit of 2 high-sodium meals served in any week.
- (b) Subcontractor shall provide all condiments that are normally served with specific menus including, but not limited to, salt; pepper; salad dressing; tartar sauce; mustard; catsup; cream; sugar; and garnishes, such as lemon slices and parsley (as agreed upon). A low-sodium salad dressing choice shall be offered and used in sodium and other nutrient calculations for menus with green salads.
- (c) Ground beef may be used no more often than twice a week and must be in solid form such as meat loaf or Salisbury steak for one of the servings. The fat content cannot exceed 15 percent.
- (d) Textured vegetable protein may be used at no greater amount than 30 percent of the total protein.
- (e) Meat alternates (dried beans, peas, lentils, nuts, nut butters) shall not be served more often than one time per week.
- (f) Desserts, such as fruits or high-nutrient density desserts shall be served throughout the week in one-half (1/2) cup portions. High-calorie desserts, such as plain gelatin desserts, cakes, pies, cookies, and similar foods, shall also be included but are to be limited to once per week. Milk-based dessert may be served once per week. A dessert consisting of 50 percent fruit (fruited Jell-O, etc.) may be served once a week.
- (g) Different fruits will be served once per meal. Whole fresh fruit in season shall be served at least once during each week. Canned fruit will be water packed or packed in its own juice.

2. Minimum grades for all foods shall be as follows:
- (a) Beef: USDA Grade A choice
 - (b) Pork: USDA Number 1 (as defined in S R.A., No. 171, U.S. Standards and Grades of Pork Carcasses)
 - (c) Lamb: USDA choice
 - (d) Poultry: USDA Grade A to be used for all fresh or frozen poultry products. Necks, backs, and wings alone shall not be used prior approval of the Project Director or project designee. Reconstructed roll products are not acceptable (optional).
 - (e) Variety meats: Grade No. 1 from USDA Government-inspected plants.
 - (f) Dairy products: Following is to be used as minimum specifications for all graded dairy products:
 - (1) Eggs, fresh USDA or State Graded A
 - (2) Cheese, USDA Grade A non-processed cheese
 - (3) Milk, low fat, shall be available
 - (g) Fish and seafood must be fresh or frozen and be a nationally distributed brand packed under continuous inspection of the U.S. Department of Interior.
 - (h) Canned fruits and juices: USDA Grade A (Fancy) and Grade B (Choice) are to be used for all graded fruits and fruit juices. Grade C (Standard) may be used for pie and cobbler products only.
 - (i) Fresh fruits: USDA Fancy to USDA No. 1 to be used for all graded fresh fruits as a minimum standard.
 - (j) Fresh vegetables: USDA Fancy and No. 1 to be used for all graded fresh vegetables as a minimum standard.
 - (k) Frozen fruits and vegetables: USDA Grade A is to be used for all graded frozen fruits and vegetables as a minimum standard.

3. Meal Component/Nutrient Analysis

- (a) A meal component /nutrient analysis of the entire menu cycle conducted and/or approved by a Registered Dietitian shall be completed in compliance with OAA, Section 339, and California Regulations, Title 22, Division 1.8, Chapter 4, Article 5, Section 7638.5.

Computerized Nutrient Analysis Requirements:

Although not required, use of computerized nutrient analysis is strongly recommended and will help ensure and verify the nutritional adequacy of meals. The goal of assessing nutrient intakes of groups is to determine the prevalence of inadequate or excessive nutrient intakes within a particular group of individuals. While meal patterns serve as a basic framework for menu planning, providers are encouraged to use computerized nutrient analysis because it provides specific information on nutrients the menu may **not** be providing. The information that a menu is not supplying all of the desired nutrients will guide the development of future menus. As required menu elements are expanded, it is more difficult to meet all of the requirements on a daily basis. Nutrition programs for the elderly should focus on:

- Vitamin A
- Vitamin C
- Protein
- Fat
- Sodium
- Fiber

Not all nutrient guidelines will be met with each meal. However, areas that do not meet the requirements should be the focus of future menu revisions and nutrition education.

The following nutrients should be included in the analysis when the computerized nutrient analysis method is used: calories; protein; carbohydrates; total fat; saturated fat; total fiber; Vitamins A, C, D, E, K, thiamin, riboflavin, niacin, B6, folate, B12; calcium, chromium, copper, iron, magnesium, sodium, and zinc. In addition to meeting one third of the Dietary Reference Intakes, the menus should also follow the Dietary Guidelines for Americans.

- (b) Menu cycle shall be analyzed on a regular basis and documentation maintained for County review.

G. Supplies Specification Procedures

The Subcontractor shall provide disposable table service based upon the supplies specification included. These supplies shall be ordered and delivered weekly at each site. A minimum of one week's supply on hand at all times. The Contractor shall supply order forms and monitor supply usage.

The Subcontractor shall furnish, as part of supplies, the cleaning and other miscellaneous supplies (see Supplies Specification Sheet). These supplies will be ordered as needed. The Contractor shall supply order forms and monitor supply usage. (This is subject to negotiation.)

EVALUATION OF SUBCONTRACTOR

The Contractor and centralized dietary services dietitian shall evaluate the Subcontractor's performance to determine if the Agreement is in compliance in meeting requirements. All evaluations must be sent to the County nutritionist.

RECEIPTS AND INVOICES PROCEDURES

- A. The Subcontractor shall issue daily delivery receipts to each site.
- B. After the close of each week, the Subcontractor will furnish to the program an invoice of meals ordered by the program, the previous week. The Contractor will pay such invoices for the prior week within 30 days after receipt of same invoice or as agreed between the Contractor and Subcontractor.

DEDUCTION PROCEDURE

- A. The Subcontractor shall deliver meals that meet Title III-C menu regulations. If the Subcontractor fails to deliver all menu items or appropriate substitute items and/or the program rejects food, the Subcontractor shall be reimbursed as outlined in Section 4, "Meal Standards."

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-46 WITH NUTRITION INK TO PROVIDE NUTRITION-EDUCATION SERVICES FOR THE SENIOR CITIZEN NUTRITION PROGRAM	DATE: June 15, 2015
	SECTION: AGREEMENTS
	ITEM NO.: 5
	FILE I.D.: HSV105
	DEPT.: HUMAN SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-46 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

BACKGROUND: At its meeting of June 1, 2015, the City Council approved Agreement No. 15-46 with the San Bernardino County Department of Aging and Adult Services to provide a Senior Citizen Nutrition Program for participants aged 60 and over. Agreement No. 15-46 requires that the City of Montclair provide nutrition-education services to program participants, volunteers and staff. Agreement No. 15-46 proposes that Nutrition Ink would perform the following services on a quarterly basis:

- ✓ Plan, organize, and conduct nutrition education training programs for participants, volunteers, and staff
- ✓ Monitor the nutrition site
- ✓ Evaluate and monitor food preparation and, if needed, make recommendations for improvements
- ✓ Recommend and monitor standards for sanitation, safety, and security of the food service

In addition, Nutrition Ink would review and analyze menus monthly or as needed and develop, maintain, and use pertinent record systems in relation to the needs of the program. The term of Agreement No. 15-46 is July 1, 2015, through June 30, 2016.

FISCAL IMPACT: There will be no fiscal impact on the City as these monies are reimbursable through funds approved in Agreement No. 15-36 with San Bernardino County for fiscal year 2015-16.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-46 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

Prepared by: <u><i>M. Richter</i></u>	Fiscal Impact Finance Review: <u><i>Ronald L. Parker</i></u>
Proofed by: <u><i>Vanessa Tom</i></u>	Reviewed and Approved By: <u><i>M. Richter</i></u>

NUTRITION INK AGREEMENT

I. OBJECTIVE:

To provide consultation to City of Montclair Senior Citizen's Program (Agency/Contractor) regarding nutrition provider requirements as outlined in Title 22, Division 1.8 of the California Department of Aging Regulations, including, but not limited to, the following:

- A. Give preference to older individuals in greatest economic or social need with particular attention to low-income minority individuals.
- B. Promote good health behaviors through nutrition education and nutrition screening of participants.
- C. Promote or maintain coordination with other nutrition-related supportive services for older individuals.

PROGRAM DESCRIPTION:

- A. Purpose – The purpose of the Elderly Nutrition Program (ENP) is to provide nutrition services as described in the Older Americans Act (OAA) of 1965, as amended, and to assist older individuals in California to live independently, by promoting better health through improved nutrition, and reduced isolation through programs coordinated with nutrition-related supportive services.
- B. Definition – Nutrition services means the procurement, preparation, transport, and service of meals, nutrition education, nutrition screening, and nutrition counseling, to eligible individuals at congregate sites or in their homes.
- C. Goals – to maintain or improve the physical, psychological, and social well being of older individuals, by providing or securing appropriate nutrition services.
- D. Target Population – The ENP Provider (City of Montclair) shall target individuals who are sixty (60) years of age or older, minorities, low income and living in rural areas of the County of San Bernardino.

2. TERMS OF AGREEMENT:

This is to certify that City of Montclair Senior Citizen's Program has engaged the services of *NUTRITION INK* (Sub-Contractor) for its Nutrition consultation to one (1) site. This service is effective July 1, 2015 through June 30, 2016

3. RESPONSIBILITIES OF SUB-CONTRACTOR:

- A. At a minimum, quarterly monitor site for safe food handling and sanitation practices of facilities.
- B. Provide input, review, and approve the Nutrition Education Plan for staff and participants prior to presentation.
- C. Develop, or review and approve the cycle menus unless provided and signed by RD of approved caterer.
- D. Provide technical support and assistance as needed.
- E. Plans, organizes and conducts Nutrition Education a minimum of four (4) times per year for food service staff (paid and volunteers) and participants in congregate meal programs. Nutrition Education for congregate sites is defined as demonstrations, presentations, lectures or small group discussions, all of which may be augmented with printed materials. Training sessions shall be evaluated by those receiving the training.
- F. Nutrition Education shall be based on the particular need of congregate meal participants. An annual Needs Assessment shall be performed by the ENP Provider to make this determination.
- G. The Nutrition Education Plan and annual Needs Assessment must be submitted to DAAS by September 1st of the FY it is being provided in.
- H. Nutrition Education sessions must be reported monthly to DAAS using the Nutrition Education Monthly Service Unit Report.

Nutrition Education Units of Service:

Program: C-1 (Congregate Meals)	Program: C-2 (Home-Delivered Meals)
# of Units to be Provided: 351	# of Units to be Provided: N/A
# of Sites to be Presented at: 1	# of Participants to be Presented to: N/A

4. RESPONSIBILITIES OF AGENCY/CONTRACTOR

- A. Identify person designated as supervisor or designee.
- B. Provide a general orientation for the dietitian to the Agency including its staff, policies, recording systems.
- C. Provide suitable space, equipment and materials.
- D. Make records available and if necessary send monthly menus to dietitian for review, analysis, and approval.
- E. Maintain documentation of each training session including sign-in sheets, agendas, handouts, and completed evaluations.
- F. An annual Needs Assessment shall be performed by the ENP Provider to determine the particular Nutrition Education need of congregate meal participants.
- G. Will send Nutrition Education Service Unit Report monthly to DAAS.
- H. Agrees not to hire or contract with a Nutrition Ink Dietitian for a period of one year from termination of this contract unless facility pays RD's annual salary as buyout fee.

5. COPIES of subcontracts, licenses and insurance memoranda and/or letters of understanding shall be on file with the Contractor. Contractor shall be responsible to ensure all subcontractors meet the insurance requirements and for monitoring the insurance requirements in accordance with Article III, Section N.

6. The Sub-Contractor shall provide the following:

- (1). Indemnification - The Sub-Contractor agrees to indemnify, defend and hold harmless the Contractor and County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from Sub-Contractor's acts, errors or omissions and for any costs or expenses incurred by the Contractor on account of any claim therefore, except where such indemnification is prohibited by law.
- (2). Insurance - Without in any way affecting the indemnity herein provided and in addition thereto, the Sub-Contractor shall secure and maintain throughout the term of the Contract the following types of insurance with minimum limits as shown:
 - a. Sub-Contractor will maintain Worker's Compensation - in amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Sub-Contractor and all risks to such persons under this Contract.
 - b. Professional Liability - Professional liability insurance shall have limits of at least \$1,000,000 per claim or occurrence.
- (3). Proof of coverage – Sub-Contractor shall immediately furnish certificates of the required insurance policies to contractor evidencing the insurance coverage, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (3) days prior written notice to Contractor, and Sub-Contractor shall maintain such insurance from the time Sub-Contractor commences performance of services hereunder until the termination of the Contract. Within sixty (60) days of the commencement of this Contract, the Sub-Contractor shall furnish copies of the policies.

7. The Sub-Contractor shall complete all reporting and expenditure documents requested by Contractor. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by Contractor.

8. Sub-Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for Contract performance. Said records shall be kept and maintained at 3164 W. Ramsey St., Banning, Ca. 92220.

9. Sub-Contractor shall notify Contractor in writing of any change in mailing address, telephone or fax numbers and/or physical location within ten (10) days of the change.

10. HIPAA Law:

The Sub-Contractor recognizes and acknowledges that, by virtue of entering into this Agreement and providing services to Institution, hereunder, Sub-Contractor will have access to certain information of Institution that is confidential and constitutes valuable, special and unique property of Institution. Sub-Contractor agrees that they will at no time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without Institution's express written consent, except pursuant to their duties hereunder, any confidential or proprietary information of Institution, including, but not limited to, information which concerns Institution's participants, cost, prices and treatment methods at any time used, developed or made by Institution, and which is not otherwise available to the public. Sub-Contractor shall not disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by Institution in writing, any participant or medical record information regarding Institution's participants, and Sub-Contractor shall comply with all federal and state laws and regulations, and all rules, regulations, and policies of Institution, regarding the confidentiality of such information. In addition, if necessary, Sub-Contractor agrees to assist in judicial proceedings any effort to obtain access to such records or information except such access as is expressly permitted by the aforementioned federal regulations.

11. Elderly Abuse. In accordance with W & I 15630 (a) all employees of the sub-contractor are mandated reporters of elder and dependent adult abuse. Mandated reporters are required to report all instances of physical abuse of elderly and dependent adults and may report other types of abuse.

Costs:

Nutrition Education and materials plus yearly plan	\$800
Site Monitoring quarterly.....	\$600
Staff Training quarterly.....	\$600
Mileage.....	\$200
Total.....	<u>\$2200</u>

(951) 849-5150 (951) 849-4799 Fax	Federal Tax I.D. Number 20-4651795
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SUBCONTRACTOR:

CITY:

NUTRITION INK

CITY OF MONTCLAIR

Merijane McTalley, R.D.

Paul M. Eaton, Mayor

Date: _____

Date: _____

ATTEST:

Andrea M. Phillips, Deputy City Clerk

Date: _____

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-47 WITH THE YWCA SAN GABRIEL VALLEY AND INLAND COMMUNITIES TO SERVE AS A RESOURCE AGENCY FOR THE HUMAN SERVICES DEPARTMENT	DATE: June 15, 2015 SECTION: AGREEMENTS ITEM NO.: 6 FILE I.D.: HSV042 DEPT.: HUMAN SVCS.
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REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-47 with the YWCA San Gabriel Valley and Inland Communities (YWCA) to serve as a Resource Agency for the Human Services Department.

A copy of proposed Agreement No. 15-47 is attached for the City Council's review and consideration. This agreement shall be subject to the City Council's approval of the applicable budget proposed in the Human Services Department's Fiscal Year 2015-16 Budget.

BACKGROUND: The YWCA is a nonprofit organization that has worked for 28 years promoting public health and engaging and empowering communities. The work of the YWCA in the areas of violence prevention, health and wellness, parent engagement, and empowerment strategies are conducted by culturally competent staff. During this Fiscal Year the YWCA has been a valued partner in the City's Healthy Montclair collaboration, assisting them with the development of the Community Garden, and the weekly Montclair Community Certified Farmers' Market and market voucher program.

The YWCA has the staff experience and subject matter expertise needed to support the on-going planning, implementation, and evaluation of the Human Services program/grant activities. With their assistance, Montclair received two recent awards; the Playful City Recognition and the American Planning Association (Inland Empire Section) Award of Excellence for Advancing Diversity & Social Change. Both of these honors may increase the City of Montclair's competitive advantage for state and national grant opportunities. Through the work of YWCA the City also received a new 3 year grant from the San Bernardino County Department of Aging and Adult Services to fund Senior Transportation programs from Fiscal Year 15-18, and a San Bernardino Associated Governments grant for the purchase of a new Golden Express bus in Fiscal Year 15-16.

The YWCA will provide staff expertise and resource development assistance in the Human Services Department for Fiscal Year 2015-16 and will primarily focus on the following Healthy Communities support:

- Planning and resource development and facilitation of the MCC

Prepared by: <u><i>M. Richter</i></u>	Fiscal Impact Finance Review:	<u><i>Ronald L. Parker</i></u>
Proofed by: <u><i>Vanessa Tom</i></u>	Reviewed and Approved By:	<u><i>M. Richter</i></u>

- Maintaining current grant requirements and identifying and applying for future grants that support program sustainability and development, now including On-Line to College
- Supervision of collection and utilization of evaluation data and preparation of the required reports
- Refining community engagement processes
- Supervision and recruitment of students and interns

Subject to budget approval, the term of proposed Agreement No. 15-47 is July 1, 2015, through June 30, 2016.

FISCAL IMPACT: Subject to the City Council's approval of the proposed Human Services Department Fiscal Year 2015-16 Budget, the City's contractual obligation for the YWCA to serve as a Resource Agency for the City of Montclair shall not exceed \$95,000 for the term of the contract (\$82,000 to be funded by the General Fund and \$13,000 to be grant funded).

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-47 with the YWCA San Gabriel Valley and Inland Communities to serve as a Resource Agency for the City of Montclair.

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

AGREEMENT FOR CONTRACTED SERVICES

THIS AGREEMENT is made and entered into this 15th day of June 2015, by and between the City of Montclair, hereinafter referred to as the "**CITY**," and the YWCA San Gabriel Valley and Inland Communities, hereinafter referred to as the "**YWCA**."

1. Services To Be Performed by YWCA.

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

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

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

2. Compensation.

(a) Except as otherwise provided in this Agreement, **CITY** agrees to compensate **YWCA** for services rendered under this Agreement for a total of \$95,000, based on the Scope of Work, Attachment A.

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

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

(d) **CITY** will not withhold any federal or state income tax for payment made pursuant to this Agreement. **YWCA** is hereby advised that such statement of

earnings shall, if required, be provided to the Internal Revenue Service and the State Franchise Tax Board.

3. Term of Agreement.

The term of this Agreement is July 1, 2015, through June 30, 2016. Termination is pursuant to the provisions of Section 6 of this Agreement. CITY shall not be obligated to pay YWCA any additional consideration unless YWCA undertakes additional services, in which instance the consideration shall be increased as CITY and YWCA shall agree in writing.

4. Obligations of YWCA.

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

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

(c) YWCA shall indemnify, pay for the defense of, and hold harmless CITY and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of YWCA's negligent or willful acts and/or omissions in rendering any services hereunder. YWCA 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 YWCA or any employee and shall further indemnify, pay for the defense of, and hold harmless CITY of and from any such payment or liability arising out of or in any manner connected with YWCA 's performance under this Agreement.

5. Obligations of City.

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

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

6. Termination of Agreement.

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

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

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

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

7. General Provisions.

(a) Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices shall be deemed given and served upon delivery personally, or three (3) days after depositing in the United States Mail. Mailed notices shall be addressed to the parties at the addresses set forth in this Agreement for **CITY** and **YWCA**. 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 **YWCA** and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed by both parties, except **CITY** may unilaterally amend the Agreement to accomplish the changes listed below:

- (1) Increase dollar amount
- (2) Administrative changes
- (3) 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 CITY, YWCA, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the State Auditor or the State of California, at the request of CITY or as part of any audit of CITY, for a period of three (3) years after final payment is made under this Agreement. YWCA shall preserve and cause to be preserved such books, records and files for the audit period.

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

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

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

"YWCA"
943 N. Grand Avenue
Covina, CA 91724
(626) 960-2995

By: _____
Paul M. Eaton
Mayor

By: _____
Miki Carpenter
Executive Director

Date: _____

Date: _____

ATTEST:

Andrea M. Phillips
Deputy City Clerk

Date: _____

ATTACHMENT A Scope of Work

During the term of this Agreement and in accordance with Section 1, the YWCA shall provide the services described below:

Planning

- Support Human Services in its on-going planning and resource development activities;
- Develop Action Plan including prioritization and identification of best practices to consider for MCC.

Supervision

- Supervise public health students including Fellows, field study interns and other programs;
- Provide screening, recruitment, and supervision of interns from colleges, as needed

Coordinate with other City projects

- Oversee coordination with all other Human Services-funded projects to ensure integration, accurate monitoring, and appropriate strategies to grow projects;
- Participate in, support, and facilitate the Montclair Community Collaborative;
- Engage with and support cross-program integration including Senior and Youth Centers, *Por La Vida*, After-School Programs, Montclair Medical Clinic, Healthy Montclair including Community Garden, Fruit Park, Farmers' Market, On-Line to College, and other grant funded Projects.

Communication and Consultation

- Maintain communication with appropriate City and Program staff regarding any work being conducted;
- Provide guidance and technical assistance to City and program staff and to Human Services Project Staff;
- Facilitate and participate in meetings, as required.

Evaluation, Outcomes Assessment and Grant Writing

- Oversee and develop assessment and program evaluation strategies and efforts to any new and existing projects;
- Participate in identifying, compiling information for, and coordinating grant writing
- Coordinate efforts with all other Human Services-funded projects to ensure integration, accurate monitoring, and appropriate strategies to grow projects.

Contracts

- Responsible for all Human Services program contract administration and fiscal reporting.

Sustainability

- Consistent with the draft Sustainability Plan (and its on-going updates or changes as may be agreed with the Director), support Human Services in its capacity building priorities to include the following:
 - Assist in the development, coordination, and roll out of a Montclair Human Services Sustainability Implementation Plan for FY 15/16;

- Support and advise on the short-term capacity building priorities of staff; development, strategic planning, knowledge sharing, and enhanced partnerships as outlined in the Sustainability Plan;
- Support and advise on the mid-term capacity building priorities of Marketing and Communications, Talent Management, Adaptability to Change, and Basic Infrastructure; and
- Support and advise on the long-term capacity building priorities of Funding and Outcomes Orientation as outlined in the Sustainability Plan.

Invoices

- Provide itemized monthly invoices based on YWCA tasks and activities and/or deliverables conducted each month along with associated costs. The final invoice for the fiscal year must be submitted not later than the 10th of the July of the given fiscal year. Any monies invoiced after this deadline will not be paid.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF TRACT MAP NO. 19943 LOCATED ON THE EAST SIDE OF MONTE VISTA AVENUE SOUTH OF HOWARD STREET	DATE: June 15, 2015
CONSIDER APPROVAL OF AGREEMENT NO. 15-49, A SUBDIVISION AGREEMENT WITH FH II, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY DOING BUSINESS AS FRONTIER COMMUNITIES	SECTION: AGREEMENTS
CONSIDER AUTHORIZING TRACT MAP NO. 19943 TO BE RECORDED WITH THE OFFICE OF THE SAN BERNARDINO COUNTY RECORDER	ITEM NO.: 7
	FILE I.D.: LDU600
	DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Land subdivisions, including parcel maps and tract maps, are allowed by the Subdivision Map Act, subject to City Council approval. Subdivision agreements require City Council approval.

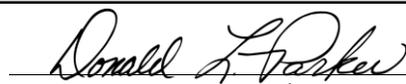
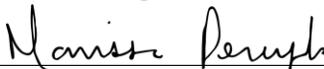
BACKGROUND: The owners of a 4.4-acre property generally located at the southeast corner of Howard Street and Monte Vista Avenue have submitted a request to subdivide and develop the property as an 18 unit single family residential development. The lots range in size from 7,500 square feet to over 13,000 square feet with the average lot size being just over 7,500 square feet.

The development was approved by the Planning Commission on March 9, 2015 and by the City Council on April 6, 2015. A copy of the map is shown on the following page.

FISCAL IMPACT: Approval of Tract Map No. 19943 is likely to create an unknown but positive fiscal impact when the property is developed.

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

1. Approve Tract Map No. 19943 located on the east side of Monte Vista Avenue south of Howard Street.
2. Approve Agreement No. 15-49 with FH II, LLC, a California Limited Liability Company doing business as Frontier Communities, a subdivision agreement.
3. Authorize Tract Map No. 19943 to be recorded with the Office of the San Bernardino County Recorder.

Prepared by: <u></u>	Fiscal Impact Finance Review:	<u></u>
Proofed by: <u></u>	Reviewed and Approved By:	<u></u>

GROSS AREA: 4.42 ACRES
 NET AREA: 3.32 ACRES
 NUMBERED LOTS: 18
 LETTERED LOTS: 2
 SCALE: 1"=40'

TRACT NO. 19943

THE CITY OF MONTCLAIR
 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

LAWRENCE L. TRUMAN, L.S. 5346



DATE OF SURVEY: NOVEMBER, 2014

SHEET 3 OF 3 SHEETS

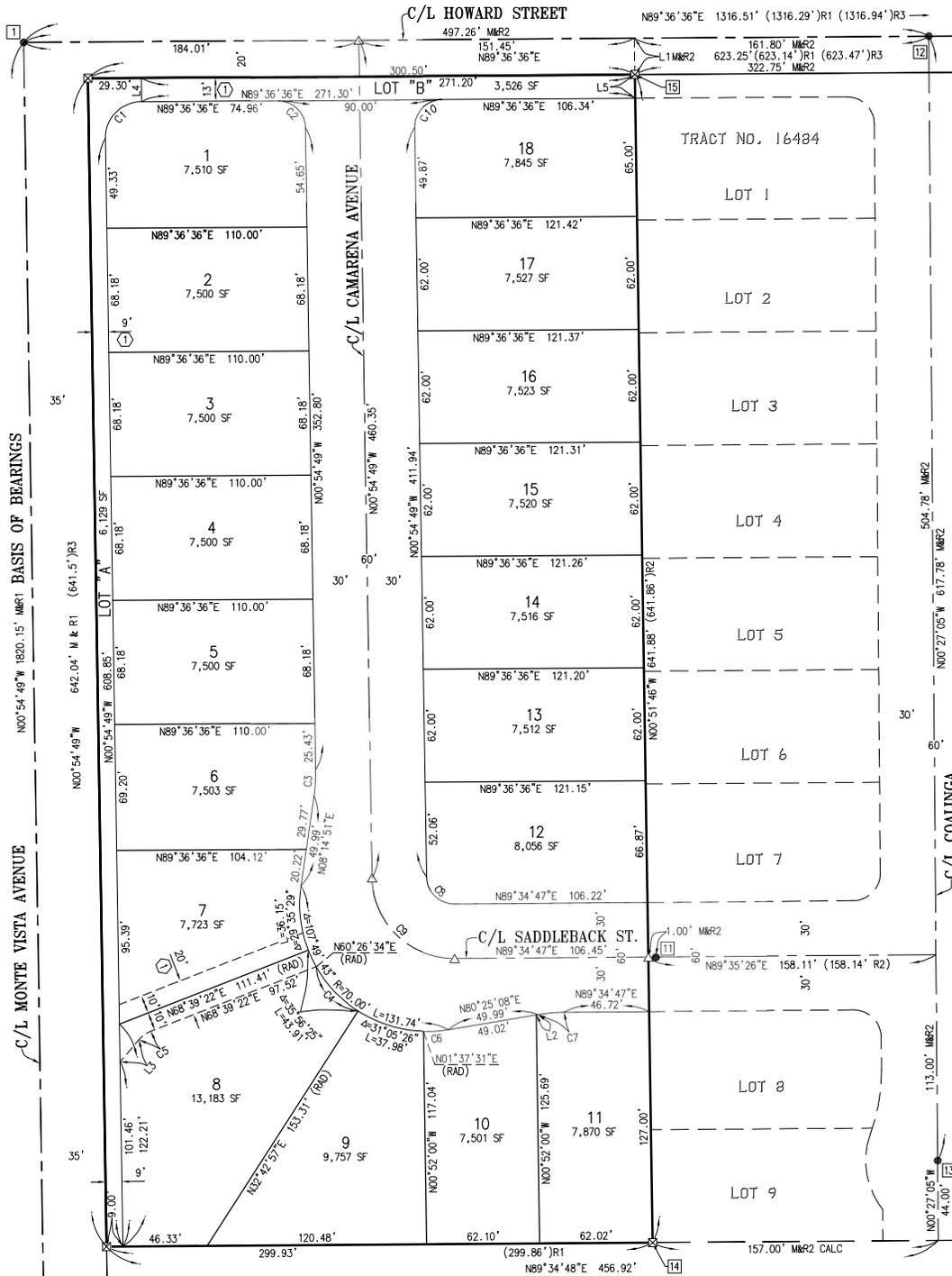
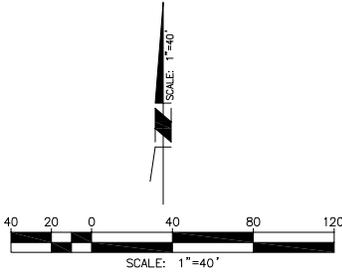
NOTES:
 SEE SHEET 2 FOR BOUNDARY CONTROL, MONUMENT NOTES, BASIS OF BEARINGS, EASEMENT NOTES, RECORD REFERENCES & LEGEND.

EASEMENT NOTES

① DENOTES EASEMENT FOR PUBLIC ROADS AND UTILITY PURPOSES DEDICATED HEREON TO THE CITY OF MONTCLAIR.

LINE DATA TABLE		
NO.	BEARING	LENGTH
L1	N00°23'24"W	20.00'
L2	N80°25'08"E	0.98'
L3	N40°36'35"E	15.98'
L4	N00°23'24"W	13.00'
L5	N00°51'46"W	13.00'

CURVE DATA TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	90°31'25"	20.00'	31.60'
C2	89°28'35"	15.00'	23.42'
C3	09°09'40"	90.00'	14.39'
C4	27°43'37"	70.00'	33.87'
C5	28°02'47"	16.50'	8.08'
C6	11°12'23"	70.00'	13.69'
C7	09°09'39"	90.00'	14.39'
C8	89°30'24"	15.00'	23.43'
C9	89°30'24"	45.00'	70.30'
C10	90°31'25"	15.00'	23.70'



SUBDIVISION AGREEMENT

for

TRACT NO. 19943

This Agreement, made and entered into by and between the City of Montclair, State of California (hereinafter called "City"), and FH II, LLC, a California Limited Liability Company doing business as Frontier Communities (hereinafter called "Subdivider") on the date signed by the Mayor of the City.

A. RECITALS

- (i) City has previously approved a tentative subdivision map for **Tract No. 19943** in the City of Montclair;
- (ii) Subdivider wants the final subdivision map for **Tract No. 19943** recorded with the San Bernardino County Recorder's Office; and
- (ii) As a condition of the approval of said tentative subdivision map and authorization for the recording of same, Subdivider is required to enter into an agreement to complete certain improvements as required by Government Code Section 66462.

B. AGREEMENT

It is agreed by and between the parties hereto as follows:

FIRST: Subdivider, for and in consideration of the approval by the City of the final map of that certain land division, or that certain other land development project, known as **Tract No. 19943**, agrees, at Subdivider's own expense, to furnish all labor, equipment, and material necessary, and within Eighteen (18) months from the date this Agreement is executed, to perform and complete in a good and workmanlike manner, all of the required improvements in accordance with those improvement plans for said project which have been approved by the City Engineer, and are on file in the office of the City Engineer, and to do all work incidental thereto in accordance with the standards set forth in City ordinances and regulations, and pay all costs of engineering necessary in connection therewith, which are expressly made a part of this Agreement. All of the above required work shall be done under the inspection of and to the satisfaction of the City Engineer, and shall not be deemed complete until approved and accepted as complete by the City. In case of dispute, the good faith judgment of the City Engineer shall be final and binding upon the parties. Subdivider further agrees to guarantee the required improvements for a period of one year following acceptance by the City and during this one-year period to repair and replace, to the satisfaction of the City Engineer, any defective work or labor done or defective materials furnished. Subdivider shall complete the improvements described in this paragraph pursuant to Government Code Section 66462. Subdivider shall also complete any offsite improvements required as a condition of approval and with plans approved by the City Engineer at such time as the City acquires an interest in the land which will permit the improvements to be made, and the Subdivider waives the 120-day time limitation set forth in Government Code Section 66462.5. The estimated cost of said work and improvements, pursuant to the Preliminary Estimate of Cost labeled Exhibit A attached hereto, is the sum of SIX HUNDRED AND FIFTY THOUSAND DOLLARS (\$650,000).

SECOND: Should Subdivider, or his agents or employees, fail to comply with any of the terms or provisions of this Agreement, or fail to perform satisfactorily any of the provisions of the plans and specifications, the Subdivider shall be in default of this Agreement and shall be liable to City for the reasonable value of any work or improvements not completed or improperly done or performed. In the event of any such default, City shall give to Subdivider written notice thereof. Unless the work or improvements covered by said notice, including defective work and improvements, are commenced by Subdivider within fifteen (15) days of the date of said notice and diligently prosecuted to completion, the City may at its option:

(a) Collect from Subdivider the reasonable value of the work and improvements not so done and performed by Subdivider, to be measured by the anticipated costs and expenses of completing the same; or

(b) City may complete said work and improvements not so completed by Subdivider and collect its costs and expenses in completing the same; or

(c) City may, as to some of such work and improvements, proceed under remedy (a) above, and as to the remainder, under remedy (b) above.

City may change any election prior to trial of any lawsuit, and prior thereto no election of remedies shall be binding upon City. In either event, there shall be included in said "costs and expenses" the reasonable overhead expenses of the City. In addition to the foregoing, Subdivider shall be liable to City for reasonable attorney's fees and court costs incurred by City in enforcing the obligations of Subdivider under this Agreement.

The determination by the City Engineer of the questions as to whether any of the terms of the Agreement or specifications have been violated, or have not been performed satisfactorily, shall be conclusive upon Subdivider, and any and all parties who may have any interest in the Agreement or any portion thereof. The foregoing provisions of this section shall be in addition to all other rights and remedies available to the City under law.

THIRD: Subdivider agrees to pay to the City the actual cost of such inspection of the works and improvements as may be required by the City Engineer. Subdivider further agrees that, if suit is brought upon this Agreement or any bond guaranteeing the completion of the required improvements, all costs and reasonable expenses and fees incurred by the City in successfully enforcing such obligations shall be paid by Subdivider and guaranteed by the surety in addition to the face amount of the security, including reasonable attorney's fees, and that, upon entry of judgment, such costs, expenses and fees shall be taxed as costs and included in any judgment rendered.

FOURTH: City shall not, nor shall any officer or employee of City, except for its or their sole negligence, be liable or responsible for any accident, loss, or damage happening or occurring to the works specified in this Agreement prior to the completion and approval thereof, nor shall City or any officer or employee thereof, be liable for any persons or property injured by reason of the nature of the work, or by reason of the acts or omissions of Subdivider, his/her agents or employees, in the performance of the work, and all of said liabilities are assumed by Subdivider. Subdivider agrees to protect, defend and hold harmless City and the elected and appointed officials, officers, and employees thereof from all loss, liability or claim because of, or arising out of the acts or

omissions of Subdivider, his/her agents and employees, in the performance of this Agreement.

FIFTH: The Subdivider hereby grants to the City and/or to any authorized agent or employee of the City, the irrevocable permission to enter upon the lands of the above-referenced land division for the purpose of completing the improvements. This permission shall terminate in the event that the Subdivider has completed the work within the time specified or any extension thereof granted by the City.

SIXTH: Subdivider agrees at all times, up to the completion and acceptance of the improvements by the City, to give good and adequate warning to the traveling public of each and every dangerous condition caused by the construction of the improvements, and to protect the traveling public from such defective or dangerous conditions. The Subdivider shall keep all traveled ways that are a part of, or affected by the construction of this project free and clear of mud, dirt, and debris.

SEVENTH: The Subdivider, his/her agents and employees, shall give notice to the City Engineer at least fifteen (15) days before beginning any work and shall furnish said City Engineer with the identity of the contractors performing the work and other information requested by the City Engineer.

EIGHTH: Subdivider agrees to file with City, prior to the date this Agreement is executed, a good and sufficient improvement security in an amount not less than 100 per cent of the estimated cost of the work and improvements for the faithful performance of the terms and conditions of this Agreement, and good and sufficient security for payment of labor and materials in an amount not less than 100 per cent to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California. Subdivider agrees to renew each and every said bond or bonds with good and sufficient sureties or increase the amounts of said bond or bonds, or both, within ten (10) days after being notified by the City Engineer that the sureties or amounts are insufficient. Notwithstanding any other provision herein, if Subdivider fails to take such action as is necessary to comply with said notice, he/she shall be in default of this Agreement unless all required improvements are completed within ninety (90) days of the date on which the City Engineer notified the Subdivider of the insufficiency of the security or the amount of the bonds or both.

In lieu of a bond, Subdivider may either:

(a) Deposit with City the sum of SIX HUNDRED AND FIFTY THOUSAND DOLLARS (\$650,000) to guarantee the performance of this Agreement. In choosing this option, Subdivider waives all right to interest on the cash deposit while the same is being held by City; or

(b) Subdivider agrees to deposit with City, in trust, the sum of SIX HUNDRED AND FIFTY THOUSAND DOLLARS (\$650,000) in an account at _____ to guarantee the performance of this Agreement. Said account shall read "City of Montclair, as Trustee," and the interest from said account shall be paid to Subdivider.

Subdivider shall increase the sums on deposit and/or in said account within ten (10) days of notification by the City Engineer that the amounts on deposit and/or in said account are insufficient.

In the event of Subdivider's default as set forth herein, the City may utilize the sums on deposit and/or withdraw sums from the above account at its sole discretion to complete the improvements herein.

NINTH: It is further agreed by and between the parties hereto, including the surety or sureties on the bonds securing this Agreement that, in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this Agreement, extensions of time **may** be granted by the City from time to time, either at its own option, or upon request of Subdivider, and such extensions shall in no way affect the validity of this Agreement or release the surety or sureties on said bonds. Subdivider further agrees to maintain the aforesaid bonds in full force and effect during the terms of this Agreement, including any extensions of time as may be granted therein.

TENTH: Within thirty-five (35) days after completion of all construction as certified by the City Engineer, the City Council may authorize payment to Subdivider of that portion of said deposit of money held as guarantee for faithful performance or the cancellation of the faithful performance bond. Within six (6) months after completion of all construction as certified by the City Engineer that portion of said deposit held as guarantee for payment for labor and materials or the labor and materials bond may be released, providing that at the end of said six (6) month period there have been no liens or claims filed against this work. However, cash deposits may be withdrawn in twenty-five percent (25%) increments subject to the following provisions:

(a) Partial refunds shall only be made upon written request when improvements which exceed the requested refund by at least ten percent (10%) in cost have been approved and accepted by City. Also, a surety bond guaranteeing payment for all labor and materials will be required before any said refund will be approved.

(b) Refunds will be made providing written request for same is filed with the City Engineer forty (40) working hours before a regular Council meeting.

ELEVENTH: Insurance Requirements

(a) Types of Required Coverages-Without limiting the indemnity provisions of the Contract, the Contractor shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

(1) **Commercial General Liability:** Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, with minimum limits of at least \$1,000,000 per occurrence for bodily injury, personal injury and property damage, and \$2,000,000 aggregate total bodily injury, personal injury and property damage. Commercial General Liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.

Products-Completed Operations: Contractor shall procure and submit to City evidence of insurance for a period of at least three (3) years from the time that all work under this Contract is completed.

(2) **Automobile Liability Insurance:** Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the exact equivalent, with minimum limits of \$1,000,000 for bodily injury and property

damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.

(3) **Workers Compensation:** Workers Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.

(b) Endorsements-Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

(1) The insurance coverages required by Section (a)(1) Commercial General Liability; and (a)(2) Automobile Liability Insurance shall contain the following provisions or be endorsed to provide the following:

Additional Insured: The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Contract. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

Additional Insured Endorsements shall not:

1. Be limited to "Ongoing Operations"
2. Exclude "Contractual Liability"
3. Restrict coverage to the "Sole" liability of contractor
4. Exclude "Third-Party-Over Actions"
5. Contain any other exclusion contrary to the Contract)

Primary Insurance: This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

(2) The policy or policies of insurance required by Section (a)(3) Workers' Compensation shall be endorsed, as follows:

Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(c) Notice of Cancellation-Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(d) Waiver of Subrogation-Required insurance coverages shall not prohibit Contractor from waiving the right of subrogation prior to a loss. Contractor shall waive all rights of subrogation against the indemnified parties and Policies shall contain or be endorsed to contain such a provision.

(e) Evidence of Insurance-The Contractor, concurrently with the execution of the contract, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of

insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

(f) Deductible or Self-Insured Retention-Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

(g) Contractual Liability-The coverage provided shall apply to the obligations assumed by the Contractor under the indemnity provisions of this contract.

(h) Failure to Maintain Coverage-Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Contract. In addition, the 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 Contractor's expense, the premium thereon.

In the event that the Contractor's operations are suspended for failure to maintain required insurance coverage, the Contractor shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

(i) Acceptability of Insurers-Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing in accordance with the City.

(j) Claims Made Policies-If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial Contractor's Contract with the City and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least three (3) years from termination or expiration of this Contract.

Upon expiration or termination of coverage of required insurance, Contractor shall procure and submit to City evidence of "tail" coverage or an extended reporting coverage period endorsement for the period of at least three (3) years from the time that all work under this contract is completed.

(k) Insurance for Subcontractors-Contractor shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Contract/Agreement, including adding the City as an Additional Insured to the Subcontractor's policies.

TWELFTH: It is understood and agreed by the parties hereto that, if any part, term or provision of this Agreement is by the courts held to be unlawful and void, the validity of the remaining portions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, item or provision held to be invalid.

THIRTEENTH: Any notice or notices required or permitted to be given pursuant to this Agreement shall be served on the other party by mail, postage prepaid, at the following addresses:

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

Subdivider:
FH II, LLC, dba Frontier Communities
8300 Utica #300
Rancho Cucamonga, CA 91730

IN WITNESS WHEREOF, Subdivider has affixed his name, address and seal.

Date approved by the City: _____

City

Subdivider

By: _____
Paul M. Eaton
Mayor

By: _____

ATTEST:

(Print Name/Title)

By: _____
Andrea M. Phillips
Deputy City Clerk

By: _____

APPROVED AS TO FORM:
CITY ATTORNEY

(Print Name/Title)

By: _____
Diane Robbins
City Attorney

Date: _____

NOTE: TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS UNLESS CORPORATE DOCUMENTS ARE PROVIDED THAT INDICATE OTHERWISE.

SUBDIVIDER SIGNATURES MUST BE NOTARIZED.

BOND FOR FAITHFUL PERFORMANCE

(Subdivision Agreement)

Whereas, the **CITY COUNCIL OF THE CITY OF MONTCLAIR**, State of California, and **FH II, LLC, a California Limited Liability Company doing business as Frontier Communities** (hereinafter designated as "principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 2015, and identified as Tract No. **19943**, is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and _____, as surety, are held and firmly bound unto the **CITY OF MONTCLAIR**, hereinafter called ("**CITY**"), in the penal sum of **SIX HUNDRED AND FIFTY THOUSAND DOLLARS (\$650,000)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless **CITY**, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect. As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by **CITY** in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on _____, 2015.

SURETY _____

PRINCIPAL _____

(SEAL)

(SEAL)

SIGNATURES MUST BE NOTARIZED

LABOR AND MATERIAL BOND

(Subdivision Agreement)

Whereas, the **CITY COUNCIL OF THE CITY OF MONTCLAIR**, State of California, and **FH II, LLC, a California Limited Liability Company doing business as Frontier Communities** (hereinafter designated as "principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements which said agreement, dated _____, 2015, and identified as Tract No. **19943**, is hereby referred to and made a part hereof; and

Whereas, under the terms of said agreement, principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Montclair to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, said principal and the undersigned as corporate surety, are held firmly bound unto the **CITY OF MONTCLAIR** and all contractors, subcontractors, laborers, material men and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code in the sum of **SIX HUNDRED AND FIFTY THOUSAND DOLLARS (\$650,000)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by **CITY** in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the principal surety above named, on _____, 2015.

SURETY _____

PRINCIPAL _____

(SEAL)

(SEAL)

SIGNATURES MUST BE NOTARIZED

MONUMENT BOND

(Subdivision Agreement)

Whereas, the **CITY COUNCIL OF THE CITY OF MONTCLAIR**, State of California, (hereinafter designated as "City"), and **FH II, LLC, a California Limited Liability Company doing business as Frontier Communities** (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install certain improvements for Tract No. 19943; and

Whereas, under the terms of said agreement, Principal is required to set or caused to be set certain survey monuments and centerline points.

Now, therefore, said Principal and the undersigned as corporate surety, are held firmly bound unto City, and

FIRST: Principal hereby agrees at Principal's own cost and expense, to furnish all labor, material, and equipment necessary to perform and complete, within one year from the date hereof, in a good and workmanlike manner the setting of survey monuments and centerline points and furnishing to the City Engineer of said City centerline tie notes for said points according to the applicable Ordinances of said City.

SECOND: That it is further agreed that said Principal has filed a good and sufficient bond or posted cash with said City in the amount of **TEN THOUSAND DOLLARS (\$10,000)** to guarantee the faithful performance of this agreement.

THIRD: That it is further agreed by and between City and Principal, including the Surety or Sureties on the bonds attached hereto, that in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this agreement, said extension may be granted by City and shall in no way affect the validity of this agreement or release the surety or sureties on the bonds attached hereto.

FOURTH: That it is further agreed that if the Principal fails to obtain completion of the work within the time specified or extensions thereof, City may upon written notice to the Principal and surety or sureties, cease and terminate this agreement. In the event of such termination, the surety or sureties shall have the right to take over and complete the work, provided that if the surety or sureties do not commence performance within ten days following written notice from City of such termination, City may complete the work by any means it may deem advisable at the expense of Principal and surety or sureties, and in such event, City without liability for so doing, may take possession of and utilize in completion said work such materials, equipment and other property belonging to Principal as may be on the site of the work and necessary therefor.

In witness whereof, this instrument has been duly executed by the principal surety above named, on _____, 2015.

SURETY _____ **PRINCIPAL** _____

(SEAL)

(SEAL)

(SIGNATURES MUST BE NOTARIZED)

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 15-3076 AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN SAN BERNARDINO COUNTY DURING 2014 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2015-16	DATE: June 15, 2015
	SECTION: RESOLUTIONS
	ITEM NO.: 1
	FILE I.D.: FIN225
	DEPT.: FINANCE

REASON FOR CONSIDERATION: The City Council is requested to consider adoption of Resolution No. 15-3076 pursuant to Government Code Section 7901, requiring each city to annually adopt a resolution selecting the change in population factor for purposes of calculating the Gann Spending Limit.

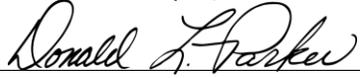
A copy of proposed Resolution No. 15-3076 is attached for the City Council's review and consideration.

BACKGROUND: The passage of Proposition 111 in June 1990 requires cities to annually select a change-in-population factor for the purpose of calculating the Gann Spending Limit. For this purpose, Government Code Section 7901 permits cities to select either the change in population within their jurisdictions or within the county in which they are located. This selection must be done by a recorded vote of the governing body of each city.

The change in population in the City of Montclair during 2014 was 3.02 percent compared to a 1.09 percent change for San Bernardino County. Because it is in the City's best interest to establish the highest possible Gann Spending Limit, staff suggests the City Council choose the percentage change in population in the City of Montclair during 2014 as the change-in-population factor to be used in calculating the limit.

FISCAL IMPACT: There would be no fiscal impact to the City's General Fund should the City Council adopt proposed Resolution No. 15-3076 authorizing approval of the change in population in the City of Montclair during 2014 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2015-16.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 15-3076 authorizing approval of the change in population in the City of Montclair during 2014 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2015-16.

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

RESOLUTION NO. 15-3076

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN THE CITY OF MONTCLAIR DURING 2014 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2015-16

WHEREAS, California Government Code Section 7901 requires a city to calculate its Gann Spending Limit by choosing either the change in population within its jurisdiction or the change in population within the county in which it is located; and

WHEREAS, the selection of the change in population must be accomplished by a recorded vote of the governing body; and

WHEREAS, the change in population in the City of Montclair during 2014 was 3.02 percent compared to a 1.09 percent change in population in San Bernardino County; and

WHEREAS, it is in the City's best interest to establish the highest possible Gann Spending Limit.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby approves the change in population in The City of Montclair during 2014 as its change-in-population factor to be used in calculating the Gann Spending Limit for Fiscal Year 2015-16.

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. 15-3076 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 ADOPTION OF RESOLUTION NO. 15-3077 ESTABLISHING AN APPROPRIATIONS LIMIT FOR FISCAL YEAR 2015-16 PURSUANT TO ARTICLE 13-B OF THE CALIFORNIA CONSTITUTION AND TO SECTION 7910 OF THE GOVERNMENT CODE	DATE: June 15, 2015
	SECTION: RESOLUTIONS
	ITEM NO.: 2
	FILE I.D.: FIN225
	DEPT.: FINANCE

REASON FOR CONSIDERATION: The City Council is requested to consider adoption of Resolution No. 15-3077 establishing an appropriations limit for Fiscal Year 2015-16.

BACKGROUND: Government Code Section 7910 requires a city council to establish, by resolution, the city's appropriations limit (Gann Spending Limit) for the following fiscal year pursuant to Article 13-B of the California Constitution. The limit, which restricts the amount of tax revenues spent during the year, is based upon the limit for the preceding year, as adjusted for changes in population and cost of living.

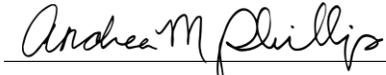
The passage of Proposition 111 in June 1990 requires each city to choose either the percentage change in population within its jurisdiction as its change-in-population factor, or the percentage change in population within the county in which it is located. The City of Montclair elects to use the percentage change in California's per capita personal income, which is available in May of each year, as its change in cost-of-living factor.

Earlier this evening, the City Council adopted Resolution No. 15-3076 approving the change in population in the City of Montclair during 2014 as the change-in-population factor to be used in calculating the Fiscal Year 2015-16 appropriations limit.

The change in population in the City of Montclair during 2014 was 3.02 percent. The change in California per capita personal income during 2014 was 3.82 percent. Based on these adjustment factors, the City's appropriations limit for Fiscal Year 2015-16 is \$345,786,377 as established by proposed Resolution No. 15-3077.

FISCAL IMPACT: The City would be authorized to spend all tax revenues received up to \$345,786,377 should the City Council adopt proposed Resolution No. 15-3077.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 15-3077 establishing an appropriations limit for Fiscal Year 2015-16 pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code.

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

RESOLUTION NO. 15-3077

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR ESTABLISHING
AN APPROPRIATIONS LIMIT FOR FISCAL
YEAR 2015-16 PURSUANT TO ARTICLE 13-B
OF THE CALIFORNIA CONSTITUTION AND
TO SECTION 7910 OF THE GOVERNMENT
CODE**

WHEREAS, Article 13-B of the California Constitution limits the appropriations budget of a local government, which is financed by taxes to the appropriations limit (Gann Spending Limit) of the prior fiscal year as adjusted by the change in population and the change in cost of living; and

WHEREAS, Government Code Section 7910 requires that the governing body of each local jurisdiction shall, by resolution, annually establish its appropriations limit for the following fiscal year pursuant to Article 13-B of the California Constitution; and

WHEREAS, at a meeting held on June 15, 2015, the City Council selected the change in cost of living and change in population factors to be used in determining the appropriations limit for Fiscal Year 2015-16; and

WHEREAS, the City of Montclair has determined that said appropriations limit for Fiscal Year 2015-16 is \$345,786,377, and documentation supporting calculation of the limit is available to the public as required by Government Code Section 7910.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby establishes an appropriations limit in the amount of \$345,786,377 for Fiscal Year 2015-16 pursuant to Article 13-B of the Constitution of the State of California and Government Code Section 7910.

BE IT FURTHER RESOLVED that said appropriations limit herein established may be changed as deemed necessary by resolution of the City Council.

APPROVED AND ADOPTED this XX day of XX, 2015.

Mayor

ATTEST:

Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 15-3077 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 ADOPTION OF RESOLUTION NO. 15-3079 ESTABLISHING THE CITY'S COMMITMENT TO THE GOALS AND OBJECTIVES OF THE INLAND VALLEY HUMANE SOCIETY & SPCA "GETTING 2 ZERO" PROGRAM TO ELIMINATE THE EUTHANASIA OF ADOPTABLE ANIMALS

DATE: June 15, 2015

SECTION: RESOLUTIONS

ITEM NO.: 3

FILE I.D.: ANL600

DEPT.: CITY MGR.

REASON FOR CONSIDERATION: The Inland Valley Humane Society & SPCA (IVHS) has recently adopted a strategy known as "Getting 2 Zero," a model program aimed at helping end the euthanasia of healthy, treatable, and adoptable animals.

A copy of proposed Resolution No. 15-3079 establishing the City's commitment to the goals and objectives of the Inland Valley Humane Society to eliminate the euthanasia of adoptable animals is attached for the City Council's review and consideration.

BACKGROUND: IVHS is a private nonprofit organization that offers a wide range of animal care and control services. IVHS provides animal care and control services to the cities of Chino, Chino Hills, Claremont, Diamond Bar, Glendora, La Verne, Montclair, Ontario, Pomona, San Dimas and the unincorporated areas of San Bernardino County including the West End, San Antonio Heights, and Mt. Baldy.

IVHS operates a newly renovated facility located at 500 Humane Way, Pomona, which offers a wide range of animal care services including training, adoptions, vaccinations, pet care information and education, and a pet supply store. Improvements include dog kennel renovations, construction of a cat adoption ward, and expansion of the dispatch center.

The City has contracted with IVHS for animal control services since 1983. The contractual services provided to the City include: collection of stray and unwanted, injured, or dead animals; enforcement of leash laws and other regulatory Ordinances related to animals within the City; provision of animal ambulance services; and operation of an animal shelter in compliance with State standards pursuant to California Food and Agriculture Code Sections 30501, *et seq.*

Getting 2 Zero

"Getting 2 Zero" is a strategic and sustainable framework which details principles, structures, and strategies aimed at ending the euthanasia of healthy, treatable, and adoptable animals and provides support mechanisms in order to reach a zero euthanasia rate. Originally developed and trialed successfully in Australia, "Getting 2

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

Zero" and similar programs, have been adopted by local agencies and human societies throughout the United States.

"Getting 2 Zero" is based on implementing proactive measures and programs in order to ensure that no adoptable animal is euthanized. "Getting 2 Zero" is based on the following three principles:

- Each community takes responsibility for saving their own abandoned animals
 - Animal owners, breeders, pet shops, vets, dog trainers, governments, animal shelters, rescue groups, wildlife groups, teachers, students and community groups all contribute to prevent abandonment and save lives.
- 90% of animals are savable
 - Saving 90% of all incoming animals in a community is achievable. 90% represents the number of cats and dogs that are healthy and treatable.
- Save Healthy and Treatable animals
 - All cats and dogs are equally deserving of our utmost efforts to preserve and enhance their lives. Only those animals that are irremediably suffering or have a poor prognosis for rehabilitation should be euthanized.

Nationwide approximately 7.6 million animals enter animal shelters every year. Of those, approximately 3.9 million are dogs and 3.4 million are cats. Each year, approximately 2.7 million animals are euthanized (1.2 million dogs and 1.4 million cats).

An essential component in reaching the goal of eliminating the euthanasia of adoptable animals is the cooperation, coordination, and communication of shelters, rescue groups, adoption organizations, and other interested parties to solicit, advertise and promote adoption events aimed at increasing adoption of eligible animals.

As part of this effort, the IVHS is implementing a series of programs such as the Big Meow, the Chihuahua Challenge, and Pit Stop as part of their "Getting 2 Zero" strategic and sustainable framework. These programs are aimed at providing free spay and neuter to animals, low cost micro-chipping of animals, and either free or reduced surgery costs. Further, IVHS is partnering with local agencies, businesses, and nonprofit groups to increase the amount of adoption events, including shelter adoptions and mobile adoption, increasing partnerships for animal rescue, proactive and affordable spay and neuter programs, subsidies/free services to end the cycle of unwanted litters, and animal transport services.

FISCAL IMPACT: Adoption of proposed Resolution No. 15-3079 would have no direct fiscal impact on the City's General Fund.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 15-3079 establishing the City's commitment to the goals and objectives of the Inland Valley Humane Society & SPCA "Getting 2 Zero" Program to eliminate the euthanasia of adoptable animals.

RESOLUTION NO. 15-3079

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ESTABLISHING THE CITY'S COMMITMENT TO THE GOALS AND OBJECTIVES OF THE INLAND VALLEY HUMAN SOCIETY & SPCA "GETTING 2 ZERO" PROGRAM TO ELIMINATE THE EUTHANASIA OF ADOPTABLE ANIMALS

WHEREAS, the City of Montclair recognizes the importance of animals in thriving communities; and

WHEREAS, the City of Montclair recognizes animal welfare, education, and stewardship is the whole community's responsibility; and

WHEREAS, the City of Montclair strives to increase the number of lost animals being returned to their homes by increasing licensing, microchip identification, care, responsibility, education, and other animal programs; and

WHEREAS, the City of Montclair strives to decrease the euthanasia of animals through spay and neuter programs; and

WHEREAS, the City of Montclair strives to decrease the euthanasia of animals except when necessary due to illness, injury or behavior; and

WHEREAS, the City of Montclair recognizes the hard work, compassion, and commitment displayed by the animal welfare employees and volunteers throughout the community as they continually seek new and innovative ways to serve the needs of our animal companions; and

WHEREAS, an essential component in reaching our goal of eliminating the euthanasia of adoptable dogs is cooperation, coordination, and communication with shelters, rescue groups, adoption organizations, and other interested parties to solicit, advertise and promote, volunteer or host events, programs, and other efforts to increase adoption of eligible animals; and

WHEREAS, the Inland Valley Humane Society and S.P.C.A. has identified the Getting 2 Zero model as a strategic and sustainable framework for achieving the City's goal of eliminating euthanasia of Adoptable Dogs.

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

Section 1. Hereby adopt the Getting 2 Zero strategic model to save healthy and treatable animals.

Section 2. Call upon animal shelters, rescue groups, welfare advocates, veterinarians, and individuals to broaden their work and collaboration in support of the Getting 2 Zero program.

Section 3. Support the Inland Valley Humane Society and SPCA in implementing the Getting 2 Zero program on behalf of the City of Montclair.

Section 4. Achieve an Adoptable Dog live release rate of at least ninety percent (90%) in pursuit of becoming a G2Z community by January 1, 2020.

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-XX 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 ADOPTION OF RESOLUTION
NO. 15-3081 ADOPTING THE CITY OF
MONTCLAIR FISCAL YEAR 2015-16
ANNUAL BUDGET

DATE: June 15, 2015
SECTION: RESOLUTIONS
ITEM NO.: 4
FILE I.D.: FIN240
DEPT.: CITY MGR.

REASON FOR CONSIDERATION: The governing body of a local government agency is required to annually adopt an Operating Budget. The City Council is requested to consider adoption of Resolution No. 15-3081, formally adopting the City of Montclair Fiscal Year 2015-16 Annual Budget.

A copy of proposed Resolution No. 15-3081 is attached for City Council review and consideration.

BACKGROUND: The City Council reviewed the Fiscal Year 2015-16 Preliminary Budget on June 10, 2015, at an adjourned joint meeting.

In addition to providing a formal means to adopt the Annual Budget, proposed Resolution No. 15-3081 includes the following fiscal-control provisions:

- The automatic reappropriation of funds into the Fiscal Year 2015-16 Budget to finance outstanding encumbrances as of June 30, 2015.
- The automatic reappropriation of funds into the Fiscal Year 2015-16 Budget to finance capital improvement projects and grants that were not completed during Fiscal Year 2014-15.

The City Council's adoption of Resolution No. 15-3081 would provide for a total Estimated Revenue Budget, including transfers-in, of \$38,862,685, and a total Appropriations Budget, including transfers-out, of \$37,649,222. The General Fund has estimated revenues/transfers-in of \$26,752,519, and appropriation budget/transfers-out of \$26,446,519, leaving an excess of \$306,000.

FISCAL IMPACT: It is estimated the Fiscal Year 2015-16 Preliminary Budget would provide for an overall increase in total unreserved fund balances/retained earnings of \$1,213,463 when considering all funds and operations of the City.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 15-3081 adopting the City of Montclair Fiscal Year 2015-16 Annual Budget.

Prepared by: Donald L. Parker

Fiscal Impact
Finance Review: Donald L. Parker

Proofed by: Andrea M. Phillips

Reviewed and
Approved By: James J. Han

RESOLUTION NO. 15-3081

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR ADOPTING THE
FISCAL YEAR 2015-16 BUDGET**

WHEREAS, the City Manager submitted to the City Council of the City of Montclair the proposed budget for Fiscal Year 2015-16 including all proposed expenditures, estimated revenues, and estimated fund balances; and

WHEREAS, a copy of the proposed budget is on file in the City Clerk's office for inspection by the public; and

WHEREAS, the City Council duly reviewed the proposed budget at a meeting open to the public on June 10, 2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby adopts the proposed budget as the Annual Budget for Fiscal Year 2015-16.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into Fiscal Year 2015-16 for all outstanding purchase orders and unexecuted contracts as of June 30, 2015, for which a valid appropriation exists.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into Fiscal Year 2015-16 for all capital improvement projects included in the adopted budget that have not been completed as of June 30, 2015.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into Fiscal Year 2015-16 for all grants included in the adopted budget that have not been completed as of June 30, 2014.

BE IT FURTHER RESOLVED that department heads and their designees are authorized to transfer funds between object codes within the Services and Supplies Budget provided the funding source remains the same.

BE IT FURTHER RESOLVED that except for personnel cost-of-living adjustments, which are governed by approved Memorandums of Understanding and Agreements, all expenditures from the Contingency Reserve Fund must be expressly authorized by the City Council.

APPROVED AND ADOPTED this XX day of XX, 2015

Mayor

ATTEST:

Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 15-3081 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 MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 15-01 ADOPTING THE FISCAL YEAR 2015-16 BUDGET FOR THE MONTCLAIR HOUSING CORPORATION

DATE: June 15, 2015
SECTION: RESOLUTIONS
ITEM NO.: 5
FILE I.D.: FIN220
DEPT.: MHC

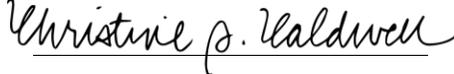
REASON FOR CONSIDERATION: Pursuant to state law, the governing body of a local government agency is required to annually adopt an Operating Budget. The Montclair Housing Corporation Board of Directors is requested to consider adoption of Resolution No. 15-01, formally adopting the Montclair Housing Corporation Budget for Fiscal Year 2015-16.

BACKGROUND: The Fiscal Year 2015-16 Preliminary Budget for the Montclair Housing Corporation was submitted to the respective Board of Directors on June 10, 2015.

The Montclair Housing Corporation Board of Directors is requested to approve the Annual Budget for the Montclair Housing Corporation. The expenses related to the Montclair Housing Corporation involve operation and maintenance of 31 properties. The Montclair Housing Corporation owns and manages 17 single-family homes and 80 multifamily units.

FISCAL IMPACT: It is estimated that the Fiscal Year 2015-16 Montclair Housing Corporation Budget would provide for a decrease in total balance of \$299,248 during Fiscal Year 2015-16.

RECOMMENDATION: Staff recommends that the Montclair Housing Corporation Board of Directors adopt Resolution No. 15-01 adopting the Montclair Housing Corporation Fiscal Year 2015-16 Annual Budget.

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

RESOLUTION NO. 15-01

A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION ADOPTING THE FISCAL YEAR 2015-16 BUDGET FOR THE MONTCLAIR HOUSING CORPORATION

WHEREAS, the President has submitted to the Board of Directors of the City of Montclair Housing Corporation the Preliminary Budget for Fiscal Year 2015-16 including all proposed expenditures, estimated revenues, and estimated fund balances; and

WHEREAS, a copy of the Preliminary Budget is on file in the Montclair Housing Corporation Secretary's office for inspection by the public; and

WHEREAS, the Montclair Housing Corporation has duly reviewed the Preliminary Budget at an adjourned joint meeting open to the public held on June 10, 2015.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Montclair Housing Corporation hereby adopts the Preliminary Budget as the Annual Budget for Fiscal Year 2015-16.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into the Fiscal Year 2016-17 Budget for all outstanding purchase orders and unexecuted contracts as of June 30, 2016, for which a valid appropriation exists.

BE IT FURTHER RESOLVED that funds are automatically reappropriated into the Fiscal Year 2016-17 Budget for all capital improvement projects included in the adopted Budget that have not been completed as of June 30, 2016.

APPROVED AND ADOPTED this XX day of XX, 2015.

ATTEST:

Chairman

Secretary

I, Andrea M. Phillips, Secretary of the Montclair Housing Corporation, DO HEREBY CERTIFY that Resolution No. 15-01 was duly adopted by the Montclair Housing Corporation Board of Directors at a regular meeting thereof, held on the XX day of XX, 2015, and that it was adopted by the following vote, to-wit:

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

Andrea M. Phillips
Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
JUNE 1, 2015, AT 8:55 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 8:55 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 May 4, 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 May 4, 2015.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

At 8:56 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 9:22 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Raft stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 9:22 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager