

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

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

July 6, 2015

7:00 p.m.

*As a courtesy please silence your cell phones and other electronic devices while the meeting is in session. Thank you.*

*The CC/SA/MHC/MHA/MCF meetings are now available in audio format on the City's website at [www.cityofmontclair.org](http://www.cityofmontclair.org) and can be accessed the day following the meeting after 10:00 a.m.*

Page No.

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

**II. INVOCATION**

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

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS**

- A. Introduction of New Appointee — Interim Fire Chief

**VI. PUBLIC COMMENT**

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

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

**VII. PUBLIC HEARINGS**

- A. Second 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] 5
- B. Second Reading – Consider Adoption of Ordinance No. 15-953 Amending Section 10.28.060 of the Montclair Municipal Code Regarding Fire Sprinkler Requirements [CC] 30
- C. Second 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] 34
- D. First Reading – Consider Adoption of 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] 39

**VIII. CONSENT CALENDAR**

- A. Approval of Minutes
  - 1. Minutes of the Regular Joint Council/Successor Agency Board/MHC Board/MHA Commission Meeting of June 15, 2015 [CC/SA/MHC/MHA]
- B. Administrative Reports
  - 1. Consider Approval of the Filing of a Notice of Completion, Reduction of Faithful Performance Bond to 10 Percent, and Retention of Payment Bond for Six Months for the Northeast Montclair Street Rehabilitation Phase 2 Project [CC]  
  
Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC] 43
  - 2. Consider Approval of the Filing of a Notice of Completion, Reduction of Faithful Performance Bond to 10 Percent, and Retention of Payment Bond for Six Months for the Benson Avenue Cul-De-Sac Closure Project [CC]  
  
Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC]
  - 3. Consider Authorizing the Appropriation and Expenditure of \$1,595 from the Crime Prevention Fund for the Purchase of Challenge Coins for Use in the Recognition of Special Achievements [CC] 47
  - 4. Consider Waiving Local Portion of Transportation Development Impact Fee for Development of Tract No. 19943 [CC]  
  
Consider Waiving Local Portion of Transportation Development Impact Fee for Development of 4480 Holt Boulevard [CC] 48
  - 5. Consider Approval of Warrant Register and Payroll Documentations [CC] 50

C. Agreements

1. Consider Ratification of Agreement No. 15-09, a Memorandum of Understanding Between the City of Montclair and San Bernardino Public Employees' Association [CC] 51
2. Consider Approval of Agreement No. 15-48 with Liebert Cassidy Whitmore for Participation in the East Inland Empire Employment Relations Consortium [CC] 53
3. Consider Approval of Agreement No. 15-50, a Memorandum of Understanding with the Metro Gold Line Foothill Extension Construction Authority to Participate in a Fire/Life Safety and Security Committee for Phase 2B of the Metro Gold Line Extension [CC] 56
4. Consider Approval of Agreement No. 15-53 with the Inland Empire United Way to Provide Case Management and Funding for Healthy Montclair Programs [CC] 61
5. Consider Montclair Community Foundation Board of Directors' Approval of Agreement No. 15-54 with the Inland Empire United Way to Support the Montclair Online to College Program [MCF] 66
6. Consider Approval of Agreement No. 15-55 with All City Management Services, Inc., for School Crossing Guard Services [CC] 71
7. Consider Approval of Agreement No. 15-56 with David Turch and Associates for Professional Consulting and Federal Legislative Advocacy Services [CC]
- Consider Approving Allocation of \$3,000 from the General Fund for Federal Legislative Advocacy Services [CC] 78

D. Resolutions

1. Consider Adoption of Resolution No. 15-3082 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges [CC] 86
2. Consider Adoption of Resolution No. 15-3083 Authorizing Mayor Paul M. Eaton to Sign Administering Agency-State Agreement Program Supplement Agreement No. 008-N (City Agreement No. 15-51) [CC]
- Consider Approval of Agreement No. 15-51, Program Supplement Agreement No. 008-N, with the Department of Transportation for the Monte Vista Avenue Grade Separation Project [CC] 94
3. Consider Successor Agency Board of Directors' Adoption of Resolution No. 15-03 Approving Agreement No. 15-52 with Integra Realty Resources to Perform an Update to the Appraisal of Vacant Property Located on the Southeast Corner of Ramona Avenue and State Street and Approving a Solicitation Process for Sale of the Property Through the Issuance of a Request for Proposals [SA] 103

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. RESPONSE - None**

**XI. COMMUNICATIONS**

A. City Attorney

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

*Camou v. Montclair*

B. City Manager/Executive Director

C. Mayor/Chairman

1. Announcement of Community Action Committee Appointment

D. Council/SA Board/MHC Board/MHA Commissioners/MCF Board

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

1. Minutes of the Personnel Committee Meeting of June 15, 2015 120

2. Minutes of the Public Works Committee Meeting of June 18, 2015 121

**XII. ADJOURNMENT OF SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS, MONTCLAIR HOUSING AUTHORITY COMMISSIONERS, AND MONTCLAIR COMMUNITY FOUNDATION BOARD OF DIRECTORS**

*(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 City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board meetings will be held on Monday, July 20, 2015, at 7:00 p.m. in the Council Chambers.*

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

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

*I, Andrea M. Phillips, Deputy City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall on July 1, 2015.*

## AGENDA REPORT

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<b>SUBJECT:</b> 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  <u>SECOND READING</u>	<b>DATE:</b> July 6, 2015  <b>SECTION:</b> PUBLIC HEARINGS  <b>ITEM NO.:</b> A  <b>FILE I.D.:</b> LDU050  <b>DEPT.:</b> COMMUNITY DEV.
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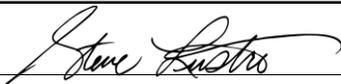
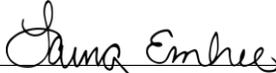
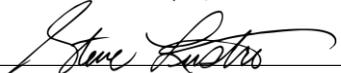
**REASON FOR CONSIDERATION:** Amendments to the Municipal Code require public hearing review and approval by the City Council.

**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.

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

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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 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.

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Mayor

**ATTEST:**

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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

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Andrea M. Phillips  
Deputy City Clerk

## AGENDA REPORT

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**SUBJECT:** CONSIDER ADOPTION OF ORDINANCE  
NO. 15-953 AMENDING SECTION 10.28.060  
OF THE MONTCLAIR MUNICIPAL CODE  
REGARDING FIRE SPRINKLER REQUIREMENTS

SECOND READING

**DATE:** July 6, 2015  
**SECTION:** PUBLIC HEARINGS  
**ITEM NO.:** B  
**FILE I.D.:** UTL060  
**DEPT.:** PUBLIC WORKS

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**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 should the City Council adopt Ordinance No. 15-953.

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

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Prepared by:



Fiscal Impact  
Finance Review:



Proofed by:



Reviewed and  
Approved By:



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**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

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Andrea M. Phillips  
Deputy City Clerk

## AGENDA REPORT

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<b>SUBJECT:</b> 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>SECOND READING</u>	<b>DATE:</b> July 6, 2015 <b>SECTION:</b> PUBLIC HEARINGS <b>ITEM NO.:</b> C <b>FILE I.D.:</b> TRC625 <b>DEPT.:</b> 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.

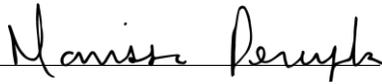
**BACKGROUND:** The City last performed a citywide speed survey in 2011. The speeds adopted by Ordinance No. 11-925 based on that speed survey should be good for another three years. However, it was discovered last year that Howard Street was not included in the list of streets surveyed at that time.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

Under California law, the maximum speed limit in urban areas is 55 MPH on 2-lane undivided roads and 65 MPH on divided or multi-lane roads. All other speed limits are prima facie limits, which are considered by law to be safe and prudent under normal conditions. Certain prima facie limits are established by state law, including the 25 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 by the City Council. These surveys include an analysis of roadway conditions, accident records, and a sampling of the prevailing speed of traffic. Speed limits are generally considered safe and reasonable when they are set equal to or slightly below the speed at which 85 percent of the drivers drive. Traffic flowing at uniform speeds results in increased safety and fewer accidents. Drivers are less impatient, pass less often, and tailgate less, which reduces both head-on and rear-end collisions.

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

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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 MPH for Howard Street between Pipeline Avenue and Central Avenue contingent on City Council adoption of proposed Ordinance No. 15-954.

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

**RECOMMENDATION:** Staff recommends the City Council 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.

**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.

<b>Name of Street or Portion of Street Affected</b>	<b>Declared Prima Facie Speed Limit (miles per hour)</b>
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

Name of Street or Portion of Street Affected	Declared Prima Facie Speed Limit (miles per hour)
7. Central Avenue, from Mission Boulevard to the Phillips Boulevard	45 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

Name of Street or Portion of Street Affected	Declared Prima Facie Speed Limit (miles per hour)
30. San Bernardino Street, from Mills Avenue to Benson Avenue	40 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

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<b>SUBJECT:</b> CONSIDER ADOPTION OF 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	<b>DATE:</b> July 6, 2015 <b>SECTION:</b> PUBLIC HEARINGS <b>ITEM NO.:</b> D <b>FILE I.D.:</b> FLP030 <b>DEPT.:</b> COMMUNITY DEV.
<u>FIRST READING</u>	

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**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:** Implementation of Ordinance No. 15-952 would have no impact on the City's General Fund.

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

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

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**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.

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Mayor

**ATTEST:**

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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. 15-952 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

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<b>SUBJECT:</b> CONSIDER APPROVAL OF THE FILING OF A NOTICE OF COMPLETION, REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT, AND RETENTION OF PAYMENT BOND FOR SIX MONTHS FOR THE NORTHEAST MONTCLAIR STREET REHABILITATION PHASE 2 PROJECT	<b>DATE:</b> July 6, 2015
	<b>SECTION:</b> ADMIN. REPORTS
	<b>ITEM NO.:</b> 1
	<b>FILE I.D.:</b> STA540
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	<b>DEPT.:</b> PUBLIC WORKS

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**REASON FOR CONSIDERATION:** State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a public works project. The City Council is requested to consider approval of the filing of a Notice of Completion with the Office of the San Bernardino County Recorder and related actions concerning the Northeast Montclair Street Rehabilitation Phase 2 Project.

**BACKGROUND:** On April 6, 2015, All American Asphalt, Inc., was awarded a contract for construction of the Northeast Montclair Street Rehabilitation Phase 2 Project and entered into Agreement No. 15-24 with the City. All work required under Agreement No. 15-24 has been satisfactorily completed. The Northeast Montclair Street Rehabilitation Phase 2 Project resurfaced 13 residential streets and replaced uplifted curb, gutter, and sidewalk throughout the project limits.

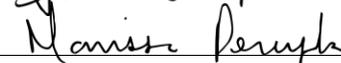
**FISCAL IMPACT:** All American Asphalt, Inc., was awarded the construction contract for \$514,150. The City Council also authorized a construction contingency of \$55,000, bringing the total expenditure authorization to \$569,150.

During the course of construction, it was necessary to amend a few bid item quantities by way of construction change order. The changes ultimately increased the total construction cost from the authorized amount of \$514,150 to the final construction cost of \$545,350.23, an increase of \$33,200.23, still keeping the amount within the construction contingency authorized by the City Council at the time of award. The project is funded entirely by Lease Revenue Bond Proceeds.

**RECOMMENDATION:** Staff recommends the City Council take the following actions related to the Northeast Montclair Street Rehabilitation Phase 2 Project:

1. Approve the filing of a Notice of Completion with the Office of the San Bernardino County Recorder.
2. Reduce the Faithful Performance Bond to 10 percent.
3. Retain the Payment Bond for six months.
4. Release retention 30 days after recordation of Notice of Completion.

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

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RECORDING REQUESTED BY:

**City of Montclair**

AND WHEN RECORDED MAIL DOCUMENT AND  
TAX STATEMENT TO:

NAME: **City of Montclair**

STREET ADDRESS: **5111 Benito Street**

CITY, STATE & ZIP  
CODE: **Montclair, CA 91763**

Government Code 6103

(Space above this line for Recorder's Use Only)

## NOTICE OF COMPLETION

NOTICE is hereby given that: The undersigned is the owner of an interest of estate in the hereinafter described property, the nature of which said interest or estate is:

fee

The full name and address of the undersigned is  
Michael C. Hudson  
Public Works Director  
City Engineer  
5111 Benito Street  
Montclair, CA 91763

The work was completed on that certain work known as:

### **Northeast Montclair Street Rehabilitation Phase 2 Project**

for the undersigned City of Montclair,  
a Municipal Corporation, on the 6th day of July, 2015

The City accepted the job on the 1st day of July, 2015

The Contractor on said job was  
All American Asphalt, Inc.  
400 E. Sixth Street  
P.O. Box 2229  
Corona, Ca 92878-2229

The improvement consisted of:

Street Improvements

The property upon which said work of improvement was completed is described as:

Residential Streets within an area bound by Caroline Street, Benson Ave, San Jose Street and Central Ave

### **VERIFICATION**

I, the undersigned, say that I am agent for the owner of the aforesaid interest or estate in the property described in the above notice. I have read the foregoing notice and know and understand the contents thereof, and the facts stated herein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 6, 2015 at 5111 Benito Street, Montclair, California

\_\_\_\_\_  
Michael C. Hudson  
Public Works Director  
City Engineer

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF THE FILING OF A NOTICE OF COMPLETION, REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT, AND RETENTION OF PAYMENT BOND FOR SIX MONTHS FOR THE BENSON AVENUE CUL-DE-SAC CLOSURE PROJECT	<b>DATE:</b> July 6, 2015
	<b>SECTION:</b> ADMIN. REPORTS
	<b>ITEM NO.:</b> 2
	<b>FILE I.D.:</b> STA660
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	<b>DEPT.:</b> PUBLIC WORKS

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**REASON FOR CONSIDERATION:** State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a public works project. The City Council is requested to consider approval of the filing of a Notice of Completion with the Office of the San Bernardino County Recorder and related actions concerning the Benson Avenue Cul-De-Sac Closure Project.

**BACKGROUND:** On April 20, 2015, Aguilera Brothers Construction, Inc., was awarded a contract for construction of the Benson Avenue Cul-De-Sac Closure Project and entered into Agreement No. 15-28 with the City. All work required under Agreement No. 15-28 has been satisfactorily completed. The Benson Avenue Cul-De-Sac Closure Project constructed approximately 2,200 square feet of new block wall and eliminated two pedestrian paths that led from Benson Avenue to the culs-de-sac of Caroline Street and Deodar Street.

**FISCAL IMPACT:** Aguilera Brothers Construction, Inc., was awarded the construction contract for \$79,180. The City Council also authorized a construction contingency of \$11,000, bringing the total expenditure authorization to \$90,180.

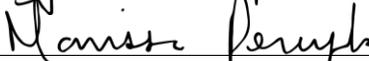
During the course of construction it was necessary to amend a few bid item quantities by way of construction change order. The changes ultimately decreased the total construction cost from the authorized amount of \$79,180 to the final construction cost of \$72,040, a decrease of \$7,140. The project is funded entirely by Gas Tax funds.

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

1. Approve the filing of a Notice of Completion with the Office of the San Bernardino County Recorder.
2. Reduce the Faithful Performance Bond to 10 percent.
3. Retain the Payment Bond for six months.
4. Release retention 30 days after recordation of Notice of Completion.

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

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RECORDING REQUESTED BY:

**City of Montclair**

AND WHEN RECORDED MAIL DOCUMENT AND  
TAX STATEMENT TO:

NAME: **City of Montclair**

STREET ADDRESS: **5111 Benito Street**

CITY, STATE & ZIP  
CODE: **Montclair, CA 91763**

Government Code 6103

(Space above this line for Recorder's Use Only)

## NOTICE OF COMPLETION

NOTICE is hereby given that: The undersigned is the owner of an interest of estate in the hereinafter described property, the nature of which said interest or estate is:

fee

The full name and address of the undersigned is  
Michael C. Hudson  
Public Works Director  
City Engineer  
5111 Benito Street  
Montclair, CA 91763

The work was completed on that certain work known as:

### **Benson Avenue Blockwall Replacement Project**

for the undersigned City of Montclair, 6th day of July, 2015  
a Municipal Corporation, on the

The City accepted the job on the 1st day of July, 2015

The Contractor on said job was  
Aguilera Brothers Construction, Inc.  
288 Country View Ct.  
Santa Paula, Ca 93060

The improvement consisted of:

Right of Way Improvements

The property upon which said work of improvement was completed is described as:

9200 Benson Avenue

### **VERIFICATION**

I, the undersigned, say that I am agent for the owner of the aforesaid interest or estate in the property described in the above notice. I have read the foregoing notice and know and understand the contents thereof, and the facts stated herein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 6, 2015 at 5111 Benito Street, Montclair, California

\_\_\_\_\_  
Michael C. Hudson  
Public Works Director  
City Engineer

## AGENDA REPORT

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**SUBJECT:** CONSIDER AUTHORIZING THE APPROPRIATION AND EXPENDITURE OF \$1,595 FROM THE CRIME PREVENTION FUND FOR THE PURCHASE OF CHALLENGE COINS FOR USE IN THE RECOGNITION OF SPECIAL ACHIEVEMENTS

**DATE:** July 6, 2015  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 3  
**FILE I.D.:** PDT200  
**DEPT.:** POLICE

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**REASON FOR CONSIDERATION:** The City Council is requested to consider authorizing the purchase of challenge coins for distribution by Department staff when recognizing special achievements.

**BACKGROUND:** The Police Department and its Community Relations Division are dedicated to building trust with, and ensuring the safety of, our residents and community. To that end, the Department is committed to guiding, supporting, and encouraging Montclair residents to take an active role in securing a safer community through acknowledgment of special achievements and acts of courage or bravery.

Many law enforcement agencies use challenge coins to recognize those special achievements and acts of courage or bravery. Challenge coins are small and medallion-like and they bear an organization's insignia or emblem. Because they are special, they are not meant to be given randomly, but, rather as mementos of a significant act or accomplishment. The coins are normally presented by commanders of a law enforcement agency.

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

Funds received pursuant to Penal Code Section 1202.5 are held in the Crime Prevention Fund (1151). If authorized by the City Council, funding for the purchase of challenge coins would result in an appropriation and expenditure of \$1,595 from said fund.

**RECOMMENDATION:** Staff recommends the City Council consider authorizing the appropriation and expenditure of \$1,595 from the Crime Prevention Fund for the purchase of challenge coins for use in the recognition of special achievements.

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Prepared by:

B. VENTURA

Fiscal Impact  
Finance Review

Donald L. Parker

Proofed by:

Sharon B. Agajanian

Reviewed and  
Approved By:

M. deMOET

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# AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER WAIVING LOCAL PORTION OF TRANSPORTATION DEVELOPMENT IMPACT FEE FOR DEVELOPMENT OF TRACT NO.19943	<b>DATE:</b> July 6, 2015
CONSIDER WAIVING LOCAL PORTION OF TRANSPORTATION DEVELOPMENT IMPACT FEE FOR DEVELOPMENT OF 4480 HOLT BOULEVARD	<b>SECTION:</b> ADMIN. REPORTS
	<b>ITEM NO.:</b> 4
	<b>FILE I.D.:</b> LDU600
	<b>DEPT.:</b> PUBLIC WORKS

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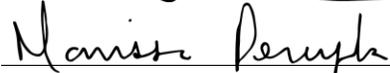
**REASON FOR CONSIDERATION:** Since 2006, the City has been collecting transportation development impact fees for transportation related impacts caused by new development. Authority to waive the fee or any portion thereof rests with the City Council.

**BACKGROUND:** The passage and reauthorization of Measure I by voters in 2004 included a requirement that Measure I funds not be used to address transportation issues resulting from developments approved subsequent to the passage of Measure I, unless cities adopt an ordinance requiring developers to contribute to a transportation improvement fund. In 2006, the City Council adopted Ordinance No. 06-887, establishing the Transportation Development Impact Fee, and Resolution No. 06-2653, establishing the amount of the fee. The fee is composed of two parts: the first part is a regional fee to address such regional transportation issues as arterial widenings, grade separations, and interchange reconstructions; the second part is a local fee to address local transportation issues, primarily work such as widening local and collector streets to ultimate widths.

Two developments have recently received entitlements in Montclair that would be subject to the Transportation Development Impact Fee. The first is Tract No. 19943, located at the southeast corner of Howard Street and Monte Vista Avenue. Frontier Homes purchased land to develop single-family residential housing. Tentative Map No. 19943 was previously approved by the Planning Commission and City Council earlier this year. Conditions of approval include widening Monte Vista Avenue through the property frontage and adding curb, gutter, sidewalk, and street lighting. Grading is currently underway. A previous development completed approximately 20 years ago, Tract No. 15533, constructed these same improvements through its frontage to the south. However, with the completion of Tract No. 19943 improvements, a 150-foot gap will exist between these two developments without the street improvements.

Frontier Homes has offered to construct all the missing improvements (curb, gutter, sidewalk, and pavement) in exchange for the City waiving the local portion of the Transportation Development Impact Fee. The fee amounts to \$10,728. Public Works Director/City Engineer Hudson discussed this request with the Public Works Committee at its meeting on June 18, 2015, along with a recommendation that the local portion of

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

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the Transportation Development Impact Fee be waived. The Committee concurred with staff recommendation. When these improvements are completed, Monte Vista will have two northbound lanes from Grand Avenue to Mission Boulevard, leaving only the short segment between Grand Avenue and Phillips Boulevard to complete at a later date.

The second development is located at 4480 Holt Boulevard, the northwest corner of Holt Boulevard and Ramona Avenue. This project includes improvements at this intersection and both streets. The improvements will add one additional lane to Ramona Avenue and will require the relocation and reprogramming of the traffic signal for the intersection. The work will eliminate the split phase signal operation, which is currently used for the north/south direction of travel.

The required improvements are estimated at \$284,571. In addition to the cost of improvements, the developer would normally be required to contribute \$126,221.60 for the local portion of the Transportation Development Impact Fee based on the magnitude of the project. The developer has asked for some relief of the fees based on the value of the improvements being undertaken. Although the improvements are conditions of approval for the development, the work being performed is included in the list of projects that the local portion of the Transportation Development Impact Fee would pay for. Requiring both the work and payment of fee would essentially amount to double billing the developer. Public Works Director/City Engineer Hudson discussed this request with the Public Works Committee at its meeting on June 18, 2015, along with a recommendation that the local portion of the Transportation Development Impact Fee be waived. The Committee concurred with staff recommendation.

**FISCAL IMPACT:** For the Frontier Homes project, the City would waive a fee totaling \$10,728 and receive improvements valued at approximately \$20,000. For the Holt Boulevard project, the City would waive a fee totaling \$126,221.60 and receive improvements valued at approximately \$284,571. Neither fee waiver affects the regional fee portion.

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

1. Waive the local portion of the Transportation Development Impact Fee for the development of Tract No. 19943.
2. Waive the local portion of the Transportation Development Impact Fee for the development of 4480 Holt Boulevard.

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATIONS      **DATE:** July 6, 2015  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 5  
**FILE I.D.:** FIN540  
**DEPT.:** ADMIN. SVCS.

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

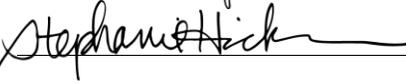
**BACKGROUND:** Mayor Pro Tem Raft has examined the Warrant Register dated July 6, 2015, and the Payroll Documentations dated June 14, 2015, and June 28, 2015, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated July 6, 2015, totals \$2,749,669.57. The Payroll Documentation dated June 14, 2015, totals \$673,674.14 gross, with \$457,100.13 net being the total cash disbursement. The Payroll Documentation dated June 28, 2015, totals \$549,720.05 gross, with \$382,380.64 net being the total cash disbursement.

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

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

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## AGENDA REPORT

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**SUBJECT:** CONSIDER RATIFICATION OF AGREEMENT NO. 15-09, A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MONTCLAIR AND SAN BERNARDINO PUBLIC EMPLOYEES' ASSOCIATION

**DATE:** July 6, 2015  
**SECTION:** AGREEMENTS  
**ITEM NO.:** 1  
**FILE I.D.:** SBP500  
**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider ratification of Agreement No. 15-09, a Memorandum of Understand (MOU) between the City of Montclair and San Bernardino Public Employees' Association (SBPEA).

A copy of the proposed MOU is included in the City Council agenda packets for review and consideration.

**BACKGROUND:** The City of Montclair and SBPEA have reached agreement on the provisions related to the terms and conditions of employment. The proposed MOU shall be effective upon date of ratification by the City Council for the period July 1, 2014, through June 30, 2015. After June 30, 2015, the existing terms, conditions, and provisions of the proposed MOU shall remain in effect; and City and employees agree to abide by those terms, conditions, and provisions unless otherwise altered by the meet-and-confer process or unless otherwise indicated in the proposed MOU.

Following is a summary of the changes in the proposed MOU related to the terms and conditions of employment:

- Article 8 (Section 8.01): This change relates to the one-time stipend payment of \$1,500 provided to employees represented by SBPEA during fiscal year 2014-15.
- Article 8 (Section 8.04): The change relates to the amended language of the Education Grant Program and an increase in the reimbursable amount (from \$1,300 to \$1,400 per fiscal year) for employees represented by SBPEA.
- Article 9 (Section 9.01): The change relates to an increase in the benefit fund contribution from \$850 to \$900 per month effective July 1, 2015, for employees represented by SBPEA.
- Article 15 (Section 15.01): The change relates to the establishment of a sick leave accrual cap of 1,400 hours for members currently grandfathered under the terms of the previous agreement.
- Article 43: The change relates to the term of the Agreement.

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Prepared by:

*Gary E. Charlton*

Fiscal Impact  
Finance Review:

*Donald L. Parker*

Proofed by:

*Andrea M. Phillips*

Reviewed and  
Approved By:

*[Signature]*

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**FISCAL IMPACT:** There is no fiscal impact associated with the City Council's ratification of the proposed MOU (Agreement No. 15-09) between the City of Montclair and SBPEA other than what has been included in the Fiscal Year 2014-15 Budget.

**RECOMMENDATION:** Staff recommends the City Council ratify Agreement No. 15-09, a Memorandum of Understanding between the City of Montclair and San Bernardino Public Employees' Association.

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT  
NO. 15-48 WITH LIEBERT CASSIDY  
WHITMORE FOR PARTICIPATION IN  
THE EAST INLAND EMPIRE EMPLOY-  
MENT RELATIONS CONSORTIUM

**DATE:** July 6, 2015  
**SECTION:** AGREEMENTS  
**ITEM NO.:** 2  
**FILE I.D.:** PER250  
**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City's current Agreement with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium (ERC) is scheduled for renewal on July 1, 2015. The City Council is requested to consider approval of proposed Agreement No. 15-48 with Liebert Cassidy Whitmore, a copy of which is attached for the City Council's review and consideration.

**BACKGROUND:** For the past 27 years, the City of Montclair has participated in the Liebert Cassidy Whitmore ERC. The City's participation entitles elected officials and employees to receive five one-day group training sessions, unlimited free telephone consultations with the law firm's attorneys, and a monthly employment-relations newsletter. Participating agencies may also receive specialized training for an added cost.

The term of proposed Agreement No. 15-48 is July 1, 2015, through June 30, 2016.

**FISCAL IMPACT:** The annual fee for participation in the Consortium is \$2,785. Funds to cover the cost of the training sessions and consulting service are included in the Fiscal Year 2015-16 Budget.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 15-48 with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium.

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Prepared by:

*Gary E. Charlot*

Fiscal Impact  
Finance Review:

*Donald J. Parker*

Proofed by:

*Andrea M. Phillips*

Reviewed and  
Approved By:

*[Signature]*

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## AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the City of Montclair, A Municipal Corporation, hereinafter referred to as "Agency," and the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation, hereinafter referred to as "Attorney."

WHEREAS Agency has the need to secure expert training and consulting services to assist Agency in its relations and negotiations with its employee organizations; and

WHEREAS Agency has determined that no less than twenty-two (22) public agencies in the East Inland Empire area have the same need and have agreed to enter into identical agreements with Attorney; and

WHEREAS Attorney is specially experienced and qualified to perform the special services desired by the Agency and is willing to perform such services;

NOW, THEREFORE, Agency and Attorney agree as follows:

### **Attorney's Services:**

During the year beginning July 1, 2015, Attorney will provide the following services to Agency (and the other aforesaid public agencies):

1. Five (5) days of group training workshops covering such employment relations subjects as management rights and obligations, negotiation strategies, employment discrimination and affirmative action, employment relations from the perspective of elected officials, performance evaluation (administering evaluations), grievance and discipline administration for supervisors and managers, planning for and responding to concerted job actions, current court, administrative and legislative developments in personnel administration and employment relations, etc., with the specific subjects covered and lengths of individual workshop presentations to be determined by Agency and the other said local agencies.

It is expressly understood that the material used during these presentations, including written handouts and projected power points are provided solely for the contracted workshops. This agreement warrants there will be no future use of Liebert Cassidy Whitmore material in other trainings or formats without the expressed written permission of Liebert Cassidy Whitmore. Any such use will constitute a violation of this agreement and copyright provisions.

2. Availability of Attorney for Agency to consult by telephone.
3. Providing of a monthly newsletter covering employment relations developments.

### **Fee:**

Attorney will provide these special services to Agency for a fee of Two Thousand Seven Hundred Eighty Five Dollars (\$2,785.00) payable in one payment prior to August 1, 2015. The fee, if paid after August 1, 2015 will be \$2,885.00.

Said fee will cover Attorney's time in providing said training and consultative services and the development and printing of written materials provided to attendees at the training programs.

**Additional Services:**

Attorney shall, as and when requested by Agency, make itself available to Agency to provide representational, litigation, and other employment relations services. The Agency will be billed for the actual time such representation services are rendered, including reasonable travel time, plus any necessary costs and expenses authorized by the Agency.

The range of hourly rates for Attorney time is from One Hundred Ninety to Three Hundred Twenty-Five Dollars (\$190.00 - \$325.00) per hour for attorney staff and from Seventy-Five to One Hundred Fifty Dollars (\$75.00 - \$150.00) per hour for services provided by paraprofessional and litigation support staff. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour. Attorney reviews its hourly rates in an annual basis and if appropriate, adjusts them effective July 1.

**Independent Contractor:**

It is understood and agreed that Attorney is and shall remain an independent contractor under this Agreement.

**Term:**

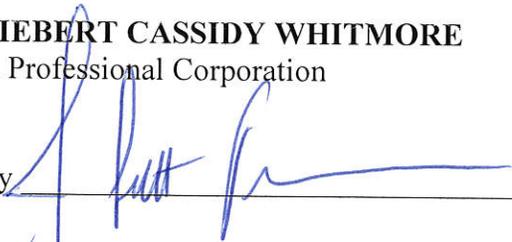
The term of this Agreement is twelve (12) months commencing July 1, 2015. The term may be extended for additional periods of time by the written consent of the parties.

**Condition Precedent:**

It is understood and agreed that the parties' aforesaid rights and obligations are contingent on no less than twenty-two (22) local agency employers entering into a substantially identical Agreement with Attorney on or about July 1, 2015.

Dated: 6/4/15

**LIEBERT CASSIDY WHITMORE**  
A Professional Corporation

By 

Dated: \_\_\_\_\_

**CITY OF MONTCLAIR**  
A Municipal Corporation

By \_\_\_\_\_

# AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 15-50, A MEMORANDUM OF UNDERSTANDING WITH THE METRO GOLD LINE FOOTHILL EXTENSION CONSTRUCTION AUTHORITY TO PARTICIPATE IN A FIRE/LIFE SAFETY AND SECURITY COMMITTEE FOR PHASE 2B OF THE METRO GOLD LINE EXTENSION	<b>DATE:</b> July 6, 2015
	<b>SECTION:</b> AGREEMENTS
	<b>ITEM NO.:</b> 3
	<b>FILE I.D.:</b> PDT175/TRN256
	<b>DEPT.:</b> POLICE/FIRE

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 15-50 to enter into a Memorandum of Understanding (MOU) with the Metro Gold Line Foothill Extension Construction Authority to participate in a Fire/Life Safety and Security Committee (FLSSC) for the proposed Metro Gold Line Extension Phase 2B.

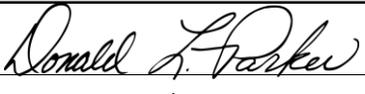
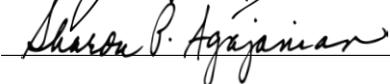
**BACKGROUND:** A route alignment chosen for the Metro Gold Line Foothill Extension Light Rail Transit (LRT) System proposes to pass through geographic areas administered by several fire/life safety and police jurisdictions, including the City of Montclair. This extension of the LRT is referred to as Phase 2B, which stretches from the City of Glendora to the proposed final stop and switch-back at the current Montclair Transcenter.

The California Public Utilities Commission (CPUC) is vested with the authority and responsibility to regulate and approve rail transit system design, construction, and operation with regard to safety and security appliances and procedures. The Authority is governed by the rules, regulations, and orders of the CPUC in this regard.

The Metro Gold Line Foothill Extension Construction Authority wishes to enter into a MOU with impacted jurisdictions along the proposed route 2B to participate in a FLSSC. The purpose of the FLSSC is to facilitate the interchange of information, make evaluations and recommendations, and promulgate Metro Fire/Life Safety and Security Criteria for the purpose of minimizing the fire and life safety hazards and security vulnerabilities to patrons, employees, and property affected by the LRT system. Permanent members of the FLSSC will include a representative of the Metro Gold Line Foothill Extension Construction Authority who will act as chairperson/facilitator of the meetings. Also included in the FLSSC are members of all affected fire and police jurisdictions, including the City of Montclair and the Los Angeles County Metropolitan Transportation Authority (Metro).

The MOU requires that the FLSSC be provided the opportunity to review and comment on all fire/life safety and security-related submittals including, but not limited to, fire protection, system access, passenger egress, lighting, fencing, intrusion detection, and emergency response. The FLSSC will meet at various intervals throughout the planning and proposed construction process.

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

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Requirements of the FLSSC include, but are not limited to, supporting inspection of the transit system elements for compliance with the established FLSSC criteria.

Signing and entering into the aforementioned MOU with the Metro Gold Line Foothill Extension Construction Authority confirms agreements with the duties as delineated in the MOU. The MOU requires the signatures of the Executive Director of Public Safety and the Fire Chief. Each has reviewed and approved the agreement.

**FISCAL IMPACT:** Approval of Agreement No. 15-50 would incur no fiscal impact to the City.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 15-50, a Memorandum of Understanding with the Metro Gold Line Foothill Extension Construction Authority to participate in a Fire/Life Safety and Security Committee for Phase 2b of the Metro Gold Line Extension.

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**METRO GOLD LINE FOOTHILL**  
**CONSTRUCTION AUTHORITY**  
**AND THE**  
**PHASE 2B FOOTHILL GOLD LINE**  
**FIRE/LIFE SAFETY AND SECURITY COMMITTEE**

**WHEREAS**, a route alignment chosen for the Metro Gold Line Foothill Extension Light Rail Transit (LRT) System passes through geographic areas administered by the undersigned fire/life safety and police jurisdictions, each of which has separate district fire and police service responsibilities, and

**WHEREAS**, the California Public Utilities Commission (hereinafter referred to as "CPUC") is vested with the authority and responsibility to regulate and approve rail transit system design, construction, and operation with regard to safety and security appliances and procedures, and the Metro Gold Line Foothill Construction Authority (hereinafter referred to as "Authority") is governed by the rules, regulations, and orders of the CPUC in this regard, and

**WHEREAS**, the Chief of any City or County Fire Department or Fire Prevention District, and/or their authorized representative, are vested with authority and responsibility to enforce the rules and regulations of the State Fire Marshal in their respective jurisdictions, and

**WHEREAS**, the Chiefs of any Law Enforcement agencies and/or their authorized representative, are vested with the authority and responsibility to provide local law enforcement and to enforce applicable criminal statutes, and

**WHEREAS**, the experience of other municipalities who have designed, built, and operated transit systems, has proven the need for the continuous exchange of information between the affected jurisdictions and the designer / constructor/operator of the fixed guide way transit systems, to establish a commonality of purpose, to maintain efficient channels of communication, and to allow input of design preferences early in the design process, and

**WHEREAS**, representatives of the undersigned jurisdictions will adopt a Fire/Life Safety and Security Metro Criteria for the LRT system, using national standards, jurisdictional laws and codes as guidelines.

**BE IT AGREED BY THE UNDERSIGNED THAT:**

A Fire/Life Safety and Security Committee (hereinafter referred to as the "FLSSC") is established to facilitate the interchange of information, make evaluations and recommendations, and promulgate Metro Fire/Life Safety and Security Criteria, for the purpose of minimizing the fire and life safety hazards and security vulnerabilities to patrons, employees and property affected by the LRT system.

Permanent members of the FLSSC will include a representative of the Authority, who will act as chair-person/facilitator of the meetings, a representative of the City of Glendora Police Department, the City of La Verne Fire and Police Departments, the City of Pomona Police Department, the City of Claremont Police Department, the City of Montclair Fire and Police Departments, Los Angeles County Sheriff's Department which provides law enforcement services for the City of San Dimas, the Consolidated Fire Protection District of Los Angeles County which provides fire services for the Cities of Glendora, San Dimas, Pomona and Claremont and the Los Angeles County Metropolitan Transportation Authority(Metro).

The FLSSC shall be provided the opportunity to review and comment on all fire/life safety and security-related submittals including but not limited to fire protection, system access, passenger egress, lighting, fencing, intrusion detection, emergency response, etc.

The FLSSC shall support inspection of the transit system elements for compliance with the established Fire/Life Safety and Security Criteria.

The FLSSC shall participate in the review, performance evaluation, and witnessing of acceptance tests of safety and security systems.

The FLSSC shall assist in gaining understanding and cooperation of the various public service departments within all affected city and county jurisdictions.

The FLSSC shall serve as the prime interface and coordination point for fire/life safety and security information and issues between the police / fire service jurisdictions, Metro and the Authority.

The FLSSC will evaluate safety-readiness of the Project before issuing a joint Certificate of Occupancy based on fire/life safety concerns.

The signatures below confirm agreements with the Fire/Life Safety and Security Committee's duties as delineated in this Memorandum of Understanding between the signatories.

Agency	Signature
Metro Gold Line Foothill Construction Authority	
	Name: Habib F. Balian Date
Los Angeles County Metropolitan Transportation Authority	
	Name: Vijay Khawani Date
Consolidated Fire Protection District of Los Angeles County	
	Name: Darrell Osby Date
City of Glendora Police Department	
	Name: Tim Staab Date
City of La Verne Police Department	
	Name: Scott Pickwith Date
City of La Verne Fire Department	
	Name: Pete Jankowski Date
City of Pomona Police Department	
	Name: Paul Capraro Date
City of Claremont Police Department	
	Name: Paul Cooper Date
Los Angeles County Sheriff's Department	
	Name: Jim McDonnell Date
City of Montclair Police Department	 6/9/15
City of Montclair Fire Department	 06/10/15

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 15-53 WITH THE INLAND EMPIRE UNITED WAY TO PROVIDE CASE MANAGE- MENT AND FUNDING FOR HEALTHY MONTCLAIR PROGRAMS	<b>DATE:</b> July 6, 2015
	<b>SECTION:</b> AGREEMENTS
	<b>ITEM NO.:</b> 4
	<b>FILE I.D.:</b> HSV042
	<b>DEPT.:</b> HUMAN SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider Agreement No. 15-53 accepting a grant from the Inland Empire United Way (IEUW) to provide funding for the Healthy Montclair Programs.

A copy of proposed Agreement No. 15-53 is attached for the City Council's review and consideration.

**BACKGROUND:** The City is receiving funding from IEUW to assist in providing Healthy Montclair Programs to members of the Montclair community. The goal of the Healthy Montclair Programs is to assist families to live active and healthier lifestyles through training, education, and case management. The City has been awarded funds from IEUW in support of our Programs since 2007.

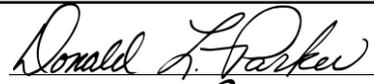
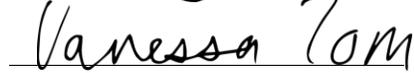
The term of Agreement No. 15-53 is July 1, 2015, through June 30, 2016.

**FISCAL IMPACT:** The IEUW has offered the City a grant of \$7,500 for the Healthy Montclair Programs. There will be no direct fiscal impact on the City's General Fund associated with the Council's approval of Agreement No. 15-53.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 15-53 with the Inland Empire United Way to provide Healthy Montclair Programs.

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

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# Inland Empire United Way

Serving areas of San Bernardino, Los Angeles, and Riverside Counties

9644 Hermosa Avenue, Rancho Cucamonga, CA 91730  
 p 909 980 2857 • f 909 980 2957 • www.ieuw.org



June 17, 2015

Edward Starr  
 City Manager  
 City of Montclair  
 5111 Benito Street  
 Montclair, CA 91763

Dear Mr. Starr,

Congratulations! We are pleased to inform you that your agency has been selected as a recipient for a 2015-16 Community Impact Grant from Inland Empire United Way!

The IEUW Board of Directors recently approved the Grant Review Team's funding recommendations. City of Montclair has been approved for an Impact Grant in the amount of \$7,500 for the Healthy Montclair program. The funding cycle is July 1, 2015 to June 30, 2016.

The 2015-2016 Program Funding Agreement is enclosed. Please review it carefully before signing. Please return a signed (original) copy of the agreement to Lorraine Williams no later than July 1, 2015. The July grant payment will be submitted to organizations in anticipation of receiving the signed program agreement by July 1. However, if a signed copy is not received by the deadline, August and following payments will be held until the agreement is submitted.

A few very important reminders:

- A mandatory Community Impact Partners orientation meeting will be held Tuesday, July 28, 2015 at 3:00 p.m. You will also be receiving a meeting invitation via e-mail.
- In order to ensure prompt payment of your grant, please contact Suzan Attaway at [sattaway@ieuw.org](mailto:sattaway@ieuw.org) to provide updated direct deposit information for your organization.
- A mid-year report will be required on January 18, 2016.
- Final reports for your 2015-16 grant will be due on July 18, 2016. Late or incomplete reports may result in interruption or loss of 2015-16 and/or future funding.

On behalf of everyone at Inland Empire United Way, thank you for your commitment to our community. We look forward to working together in the upcoming year!

Sincerely,



Gregory Bradbard  
 President & CEO



Lorraine Williams  
 Director of Community Programs

Inland Empire United Way is changing lives through:



**INLAND EMPIRE UNITED WAY**  
**2015-2016 PROGRAM FUNDING AGREEMENT**



**I. PURPOSE**

The Inland Empire United Way (consisting of board of directors, volunteers, employees, contractors), hereinafter referred to as "IEUW", and City of Montclair hereinafter referred to as "Organization" enter into this mutual Agreement, including Attachment A (Standards of Affiliation) referred to herein, for the period commencing July 1, 2015 to June 30, 2016.

**II. RESPONSIBILITIES**

*A. The Organization agrees to:*

1. Program Responsibility:
  - a. Operate programs and deliver services as set forth during the application process.
  - b. Submit proposed changes or reductions in program outcomes affected by United Way funds.
2. Fiscal Responsibility:
  - a. Use the funds only for the purposes described in the proposal, and not use the funds for any purpose prohibited by law. Also repay any portion of the funding, which is not used for the purposes described in the proposal.
  - b. To maintain books, records and documents in accordance with generally accepted accounting procedures and practice which accurately and appropriately reflect all expenditures of funds listed in the Program Budget and the Organization Budget (submitted with the funding request).
  - c. To provide evidence of adequate financial accountability and accounting procedures documented by submission of a certified audit for agency budgets of \$500,000 or more; a CPA review for agency budgets of \$100,001 - \$500,000; a CPA compilation for agency budgets of \$100,000 or less and submission of a completed IRS Form 990, with a percentage of revenue directed to management/general/fund raising expenses (including required dues payments to national organizations) of less than 25%. The required documents shall be submitted to IEUW within six (6) months of the closing of the agency's fiscal year.
  - d. That all financial records and supporting documentation shall be subject at all times to inspection, review, or audit by IEUW personnel or its duly authorized agent.
  - e. To maintain and submit, in a timely fashion, documentation and progress reports related to services provided under this agreement.
  - f. To retain all financial records, supporting documentation, statistical records, and any other documents pertinent to this Agreement for a period of three (3) years after termination of this Agreement. If an audit has been initiated and audit findings have not been resolved at the end of three (3) years, all records shall be retained until resolution of audit findings.
  - g. Agency shall not assign the responsibility of this Agreement to another party or subcontract the program(s) funded under this Agreement, without prior written approval of IEUW.
3. Provide service data, demographics, and other information as requested.
4. Meet with IEUW staff to coordinate an in-house agency employee campaign for the IEUW community impact fund; participate in community campaign activities by providing campaign materials, speakers, tours and/or displays as requested.
5. Complete and submit Agency Profile, Program/Services Profile, and Sites Profile for the 2-1-1 database with, as a minimum, annual updates.
6. Complete and submit Agency Agreement and information about volunteer opportunities (as available) for the HandsOn Inland Empire website with, as a minimum, annual updates.

*B. IEUW agrees to:*

1. Recognize and respect the autonomy of the Organization, through its governing board, to determine its own policies and to manage its own programs.
2. Provide access to training, technical assistance and other opportunities for the purpose of the accomplishment of outcomes as set forth in this Agreement.
3. Conduct periodic evaluations/monitoring of program operations.

- C. *Both Parties agree to:*
  - 1. Keep channels of communication open for discussion of matters of common concern.
  - 2. Communicate to each other significant changes, in a timely manner throughout the year, of any circumstances or events that may reasonably be considered to jeopardize its capability to continue to meet its obligations under the terms of this Agreement.
  - 3. Promote effective service and efficient administration.

**III. PROGRAM OUTCOMES AND ACTIVITIES**

*For Impact Grant Recipients Only:* The Organization agrees to perform and collect data from the outcomes and activities described in the Organization's individual program applications, program logic models, and evaluation plans, and report results as requested by United Way, with a reasonable amount of advance notice.

**IV. PROGRAM FUNDING**

IEUW commits to provide an Impact Grant for the following program:  
**Healthy Montclair \$7,500**

**V. TERMS/METHOD OF PAYMENT**

Unless otherwise agreed upon, IEUW will issue monthly payments, effective July 1, 2015 through June 30, 2016, via electronic deposit for all Safety Net and Impact Grants.

**VI. TERMINATION OF AGREEMENT**

- A. If, at any time during the life of this Agreement, it becomes necessary to change the scope or provisions of the Agreement, the time period of the Agreement, or the conditions of the relationship between the Organization and the United Way, such changes, after being mutually negotiated and agreed upon by both parties, shall be effective when incorporated in written amendments to this Agreement.
- B. Either party may terminate this Agreement by giving written notice to the other party at any time, with termination normally to take effect at the beginning of the subsequent United Way fiscal year.
- C. Terminations to take effect at a time other than the beginning of a new United Way fiscal year must be agreed upon by both parties, or must result from a significant violation of the terms of this Agreement or United Way fundraising policies and eligibility standards.
- D. The United Way may unilaterally terminate this Agreement and funding of the Organization's program in the event of any of the following (upon written notice, to be delivered by certified mail, return receipt requested, or in person with proof of delivery):
  - 1. A clear breach of this Agreement, including all attachments.
  - 2. Determination that the program funded in whole or in part no longer provides a service appropriate for United Way support.
- E. In case of termination as set forth herein, all funding shall terminate, and any funds disbursed and not used for services rendered per the Agreement shall be refunded, by the Organization, to IEUW.
- F. The above provisions shall not limit IEUW's right to remedies at law or to damages.

**VII. SUSPENSION OF FUNDS**

- A. IEUW shall solely determine:
  - 1. Whether the Organization is performing its obligation satisfactorily as to the Agreement.
  - 2. The terms and conditions of funding suspension and the terms and conditions in which the Organization may qualify for full or partial restoration of funding.
  - 3. The decision whether to invoke suspension or termination of program funding.
- B. IEUW may suspend funding to a program, in whole or in part, in the event of:
  - 1. Insufficient availability of funds to IEUW;
  - 2. The Organization's failure to provide timely outcome results or the agency substantially re-defining the outcomes for this program without consulting with IEUW;
  - 3. The Organization making substantial changes to the program activities and/or ceasing to provide the program without consulting with IEUW;

4. Events and/or activities attributable to the Organization or its personnel which result in:
  - a. Negative publicity to the Organization and/or IEUW, or
  - b. Call into question the ability of the Organization to satisfactorily perform under the terms of this Agreement, or
  - c. Unsatisfactory program performance by the Organization and of its responsibilities under this Agreement, and/or
  - d. Violation of the Program Funding Agreement.

Prior to suspension of agency funding by IEUW, the Organization shall be given an opportunity to explain its position to the President & CEO of IEUW, or other person designated by the IEUW Board of Directors.

**VIII. HOLD HARMLESS CLAUSE**

To the extent provided by law, the Organization agrees to indemnify and hold harmless the IEUW from liability on account of any injuries, damages, omissions, commissions, actions, causes of actions, claims, suits, judgments and damages accruing, including court costs and attorney's fees, as a result of services performed or not performed, or any negligent act by the Organization or funding granted or not granted by the IEUW or any action arising out of the operation of this funding Agreement.

**IX. EVALUATION REQUIREMENTS**

The Organization agrees to submit evaluation reports in such format and at such times as may be prescribed by IEUW, reporting the program progress. The Organization agrees to cooperate in an on-site monitoring if such is requested by IEUW. All financial and supporting documents should be available for review at all times.

**X. AGENCY ACKNOWLEDGMENT**

By execution of this Agreement, Organization accepts the working relationship between IEUW and the Organization providing the program; agrees to the conditions set forth in this Agreement. In addition, the Organization acknowledges the lack of an appeals process and accepts the funding level set forth in this Agreement.

**INLAND EMPIRE UNITED WAY**

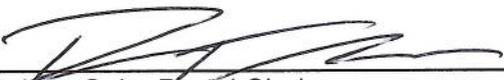
**CITY OF MONTCLAIR**

  
 \_\_\_\_\_  
 Gregory Bradbard, President/CEO

\_\_\_\_\_  
 Edward Starr, City Manager

*6/12/15*  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Robert Cole, Board Chair

\_\_\_\_\_  
 Board Chair

*6/17/15*  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER MONTCLAIR COMMUNITY FOUNDATION BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 15-54 WITH THE INLAND EMPIRE UNITED WAY TO SUPPORT THE MONTCLAIR ONLINE TO COLLEGE PROGRAM	<b>DATE:</b> July 6, 2015 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 5 <b>FILE I.D.:</b> MCF100 <b>DEPT.:</b> MCF
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**REASON FOR CONSIDERATION:** The City Council serves as the Board of Directors for the Montclair Community Foundation, Inc., and as such is requested to consider Agreement No. 15-54 accepting a grant from the Inland Empire United Way (IEUW) to provide funding for the Montclair Online to College (OTC) Program.

A copy of proposed Agreement No. 15-54 is attached for the City Council's review and consideration.

**BACKGROUND:** The Montclair Community Foundation, Inc. (MCF) Board of Directors, who also serves as Montclair City Council Members, is receiving funding from IEUW to assist in supporting the Montclair OTC Program.

The vision of MCF is to work collectively and collaboratively to strengthen services and enhance the quality of life for residents by promoting health, wellness, and economic stability for all including the most vulnerable in our community. The mission of MCF is to guarantee a quality community for all, by working together as diverse, committed individuals and organizations to make an impact that improves the overall well-being of the community. MCF strives to sustain that children, families and individuals of Montclair have improved quality of life and to know how to access needed services. One of the annual goals for 2015 is to support the highly successful Online to College Program which will provide qualifying Montclair High School students a two year scholarship to attend Chaffey College.

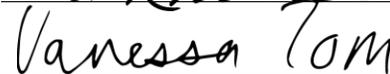
The term of Agreement No. 15-54 is July 1, 2015, through June 30, 2016.

**FISCAL IMPACT:** The Inland Empire United Way has offered the Montclair Community Foundation, Inc., a grant of \$7,500 for the Montclair Online to College Program. There will be no direct fiscal impact on the City's General Fund associated with the approval of Agreement No. 15-54.

**RECOMMENDATION:** Staff recommends the City Council, serving as the Board of Directors for the Montclair Community Foundation, Inc., approve Agreement No. 15-54 with the Inland Empire United Way to support the Montclair Online to College Program.

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

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# Inland Empire United Way

Serving areas of San Bernardino, Los Angeles, and Riverside Counties

9644 Hermosa Avenue, Rancho Cucamonga, CA 91730  
p 909 980 2857 • f 909 980 2957 • www.ieuw.org

AGREEMENT NO. 15-54

LIVE UNITED



June 17, 2015

Edward Starr  
City Manager  
Montclair Community Foundation  
5111 Benito Street  
Montclair, CA 91763

Dear Mr. Starr,

Congratulations! We are pleased to inform you that your agency has been selected as a recipient for a 2015-16 Community Impact Grant from Inland Empire United Way!

The IEUW Board of Directors recently approved the Grant Review Team's funding recommendations. Montclair Community Foundation has been approved for an Impact Grant in the amount of \$7,500 for the Montclair Online to College program. The funding cycle is July 1, 2015 to June 30, 2016.

The 2015-2016 Program Funding Agreement is enclosed. Please review it carefully before signing. Please return a signed (original) copy of the agreement to Lorraine Williams no later than July 1, 2015. The July grant payment will be submitted to organizations in anticipation of receiving the signed program agreement by July 1. However, if a signed copy is not received by the deadline, August and following payments will be held until the agreement is submitted.

A few very important reminders:

- A mandatory Community Impact Partners orientation meeting will be held Tuesday, July 28, 2015 at 3:00 p.m. You will also be receiving a meeting invitation via e-mail.
- In order to ensure prompt payment of your grant, please contact Suzan Attaway at [sattaway@ieuw.org](mailto:sattaway@ieuw.org) to provide updated direct deposit information for your organization.
- A mid-year report will be required on January 18, 2016.
- Final reports for your 2015-16 grant will be due on July 18, 2016. Late or incomplete reports may result in interruption or loss of 2015-16 and/or future funding.

On behalf of everyone at Inland Empire United Way, thank you for your commitment to our community. We look forward to working together in the upcoming year!

Sincerely,

  
Gregory Bradbard  
President & CEO



Lorraine Williams  
Director of Community Programs

Inland Empire United Way is changing lives through:



**INLAND EMPIRE UNITED WAY**  
**2015-2016 PROGRAM FUNDING AGREEMENT**



**I. PURPOSE**

The Inland Empire United Way (consisting of board of directors, volunteers, employees, contractors), hereinafter referred to as "IEUW", and Montclair Community Foundation hereinafter referred to as "Organization" enter into this mutual Agreement, including Attachment A (Standards of Affiliation) referred to herein, for the period commencing July 1, 2015 to June 30, 2016.

**II. RESPONSIBILITIES**

*A. The Organization agrees to:*

1. Program Responsibility:
  - a. Operate programs and deliver services as set forth during the application process.
  - b. Submit proposed changes or reductions in program outcomes affected by United Way funds.
2. Fiscal Responsibility:
  - a. Use the funds only for the purposes described in the proposal, and not use the funds for any purpose prohibited by law. Also repay any portion of the funding, which is not used for the purposes described in the proposal.
  - b. To maintain books, records and documents in accordance with generally accepted accounting procedures and practice which accurately and appropriately reflect all expenditures of funds listed in the Program Budget and the Organization Budget (submitted with the funding request).
  - c. To provide evidence of adequate financial accountability and accounting procedures documented by submission of a certified audit for agency budgets of \$500,000 or more; a CPA review for agency budgets of \$100,001 - \$500,000; a CPA compilation for agency budgets of \$100,000 or less and submission of a completed IRS Form 990, with a percentage of revenue directed to management/general/fund raising expenses (including required dues payments to national organizations) of less than 25%. The required documents shall be submitted to IEUW within six (6) months of the closing of the agency's fiscal year.
  - d. That all financial records and supporting documentation shall be subject at all times to inspection, review, or audit by IEUW personnel or its duly authorized agent.
  - e. To maintain and submit, in a timely fashion, documentation and progress reports related to services provided under this agreement.
  - f. To retain all financial records, supporting documentation, statistical records, and any other documents pertinent to this Agreement for a period of three (3) years after termination of this Agreement. If an audit has been initiated and audit findings have not been resolved at the end of three (3) years, all records shall be retained until resolution of audit findings.
  - g. Agency shall not assign the responsibility of this Agreement to another party or subcontract the program(s) funded under this Agreement, without prior written approval of IEUW.
3. Provide service data, demographics, and other information as requested.
4. Meet with IEUW staff to coordinate an in-house agency employee campaign for the IEUW community impact fund; participate in community campaign activities by providing campaign materials, speakers, tours and/or displays as requested.
5. Complete and submit Agency Profile, Program/Services Profile, and Sites Profile for the 2-1-1 database with, as a minimum, annual updates.
6. Complete and submit Agency Agreement and information about volunteer opportunities (as available) for the HandsOn Inland Empire website with, as a minimum, annual updates.

*B. IEUW agrees to:*

1. Recognize and respect the autonomy of the Organization, through its governing board, to determine its own policies and to manage its own programs.
2. Provide access to training, technical assistance and other opportunities for the purpose of the accomplishment of outcomes as set forth in this Agreement.
3. Conduct periodic evaluations/monitoring of program operations.



4. Events and/or activities attributable to the Organization or its personnel which result in:
  - a. Negative publicity to the Organization and/or IEUW, or
  - b. Call into question the ability of the Organization to satisfactorily perform under the terms of this Agreement, or
  - c. Unsatisfactory program performance by the Organization and of its responsibilities under this Agreement, and/or
  - d. Violation of the Program Funding Agreement.

Prior to suspension of agency funding by IEUW, the Organization shall be given an opportunity to explain its position to the President & CEO of IEUW, or other person designated by the IEUW Board of Directors.

**VIII. HOLD HARMLESS CLAUSE**

To the extent provided by law, the Organization agrees to indemnify and hold harmless the IEUW from liability on account of any injuries, damages, omissions, commissions, actions, causes of actions, claims, suits, judgments and damages accruing, including court costs and attorney's fees, as a result of services performed or not performed, or any negligent act by the Organization or funding granted or not granted by the IEUW or any action arising out of the operation of this funding Agreement.

**IX. EVALUATION REQUIREMENTS**

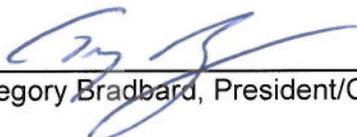
The Organization agrees to submit evaluation reports in such format and at such times as may be prescribed by IEUW, reporting the program progress. The Organization agrees to cooperate in an on-site monitoring if such is requested by IEUW. All financial and supporting documents should be available for review at all times.

**X. AGENCY ACKNOWLEDGMENT**

By execution of this Agreement, Organization accepts the working relationship between IEUW and the Organization providing the program; agrees to the conditions set forth in this Agreement. In addition, the Organization acknowledges the lack of an appeals process and accepts the funding level set forth in this Agreement.

**INLAND EMPIRE UNITED WAY**

**MONTCLAIR COMMUNITY FOUNDATION**

  
 \_\_\_\_\_  
 Gregory Bradbard, President/CEO

\_\_\_\_\_  
 Edward Starr, City Manager

*6/12/15*  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Robert Cole, Board Chair

\_\_\_\_\_  
 Board Chair

*6/17/15*  
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 Date

\_\_\_\_\_  
 Date

# AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT  
NO. 15-55 WITH ALL CITY MANAGEMENT  
SERVICES, INC., FOR SCHOOL CROSSING  
GUARD SERVICES

**DATE:** July 6, 2015  
**SECTION:** AGREEMENTS  
**ITEM NO.:** 6  
**FILE I.D.:** PDT205  
**DEPT.:** POLICE

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 15-55 with All City Management Services, Inc., for school crossing guard services.

Proposed Agreement No. 15-55 has been approved by the City Attorney and is attached for the City Council's review and consideration.

**BACKGROUND:** All City Management Services, Inc., has provided school crossing guard services for the City since November 1998 and has notified Police Department staff that its hourly rate for crossing guard services will increase by 3 percent for Fiscal Year 2015-16. The adjustment would increase the current hourly rate by \$.48, resulting in an hourly billing rate of \$16.65.

All City Management Services, Inc., has indicated that, in order to maintain its workforce, it must maintain a buffer between the minimum wage and its own wage rates. The company must also provide wages that would allow it to effectively compete against other part-time employers for recruitment and retention of crossing guards.

**FISCAL IMPACT:** \$116,700 is allocated in the Police Department Fiscal Year 2015-16 Budget to provide crossing guard services for the 2015-16 school year.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 15-55 with All City Management Services, Inc., for school crossing guard services.

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Prepared by:


Fiscal Impact  
Finance Review:



Proofed by:

Reviewed and  
Approved By:



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AGREEMENT BETWEEN THE CITY OF MONTCLAIR AND  
ALL CITY MANAGEMENT SERVICES, INC.  
FOR CROSSING GUARD SERVICES

This Agreement is made and entered into this July 1, 2015, by and between the **City of Montclair**, hereinafter referred to as the "City", and **All City Management Services, Inc.**, hereinafter referred to as the "Contractor";

WITNESSETH

The parties hereto have mutually covenanted and agreed as follows:

1. This Agreement is for a period of time which commences July 1, 2015, and ends on June 30, 2016, and for such term thereafter as the parties may agree upon.
2. The Contractor is an independent contractor and the guards to be furnished by it shall at all times be its employees and not those of the City.
3. The City's representative in dealing with the Contractor shall be the City Manager or such person as the City Manager may designate.
4. If, at any time during the contract period, the City questions the meaning of any item of this Agreement, the City may contact the Contractor for interpretation of that item.
5. The City shall have the right to determine the hours and locations when and where guards shall be furnished by the Contractor. The Contractor shall notify the City in writing of any changes which may need to occur in hours of work or locations. The City further has the power to add to, delete from, or revise the work schedule/locations at any time.
6. The Contractor shall provide supervisory personnel to see that guard activities are taking place at the required places and times, and in accordance with all items of this Agreement.
7. The Contractor shall maintain adequate reserve personnel to be able to furnish alternate guards in the event that any person fails to report for work at the assigned time and location.
8. The Contractor shall provide personnel properly trained as herein specified for the performance of duties of Crossing Guards. In the performance of their duties the Contractor and employees of the Contractor shall conduct themselves in accordance with the conditions of this Agreement and laws and codes of the State of California and the City of Montclair.
9. The Contractor shall train, schedule, provide, and supervise personnel in accordance with the contract and the rules and regulations of the City of Montclair. Crossing Guards shall perform their duties as trained and within the City's rules for such guards.

10. Persons provided by the Contractor as Crossing Guards shall be trained in the laws and codes of the State of California and the City of Montclair pertaining to general pedestrian safety and school crossing areas.
11. Crossing Guard Services shall be provided by the Contractor at the designated locations and at the designated hours on all days on which the designated schools in the City of Montclair are in session.
12. The Contractor shall provide all Crossing Guards with apparel by which they are readily visible and easily recognized as Crossing Guards. Such apparel shall be uniform for all persons performing the duties of Crossing Guards and shall be worn at all times while performing said duties. This apparel must be appropriate for weather conditions. The Contractor shall also provide all Crossing Guards with hand-held Stop signs and any other safety equipment which may be necessary. Apparel and equipment shall be pre-approved by the City Manager or the designee.
13. (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 \$3,000,000 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.
- (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.

14. Contractor agrees to indemnify the City, its officers, employees, and agents against, and will hold and save each of them harmless from, any and all actions, claims, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the negligent acts or intentional tortious acts, errors, or omissions of Contractor, its agents, employees, subcontractors, or invitee, or otherwise arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part to the performance of this Agreement.
  - a) Contractor will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities and will pay all costs and expenses including attorney's fees incurred in connection herewith.
  - b) Contractor will promptly pay any judgment rendered against City, its officers, agents, or employees for any such claims, damages, penalties, obligations or liabilities.
  - c) In the event City, its officers, agents, or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the performance of this Agreement, Contractor agrees to pay City, its officers, agents, or employees, any and all costs and expenses incurred by City, its officers, agents, or employees in such action or proceeding, including, but not limited to, reasonable attorney's fees.
  - d) All obligations under this provision are to be paid by Contractor as they are incurred by City.

- e) The provisions of this indemnity provision as contained at Paragraph 14 are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City. Contractor acknowledges that City would not enter into this Agreement in the absence of the commitment of Contractor to indemnify and protect as set forth herein.
- 15. Either party shall have the right to cancel this Agreement by giving thirty (30) days written notice to the other.
- 16. The Contractor shall not have the right to assign this Contract to any other person or firm except with the consent of the City.
- 17. The City agrees to pay Contractor the sum of Sixteen Dollars and Sixty-Five Cents (\$16.65) per hour for each hour of crossing guard service provided pursuant to this Agreement.
- 18. In the event that this Agreement is extended beyond June 30, 2016, the compensation for services shall be established by mutual consent of the parties. Said payment shall be made upon written statement to the City by the Contractor and approval of the appropriate City representative.
- 19. This Agreement shall be governed by and construed in accordance with the law of the State of California.
- 20. In the event any legal proceeding is instituted to enforce any term or provision of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorney's fees and costs from the opposing party in an amount determined by the court to be reasonable.

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

**City of Montclair**

**All City Management Services, Inc.**

By \_\_\_\_\_  
Paul M. Eaton, Mayor

By \_\_\_\_\_  
Baron Farwell, General Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

**ATTEST:**

By \_\_\_\_\_  
Andrea M. Phillips, Deputy City Clerk

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

# AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT  
NO. 15-56 WITH DAVID TURCH AND  
ASSOCIATES FOR PROFESSIONAL  
CONSULTING AND FEDERAL LEGISLATIVE  
ADVOCACY SERVICES

CONSIDER APPROVING ALLOCATION OF  
\$3,000 FROM THE GENERAL FUND FOR  
FEDERAL LEGISLATIVE ADVOCACY SERVICES

**DATE:** July 6, 2015

**SECTION:** AGREEMENTS

**ITEM NO.:** 6

**FILE I.D.:** FGV125

**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** At its meeting of September 18, 2000, the City Council approved Agreement No. 00-91 with David Turch and Associates for Federal Legislative Advocacy Services. The first year of Agreement No. 00-91 ran from October 1, 2000 to September 30, 2001, and thereafter continued in full force on a month-to-month basis. David Turch and Associates and the City propose entering into a new Agreement for professional consulting and federal legislative advocacy services.

A copy of proposed Agreement No. 15-56 between the City and David Turch and Associates is attached for City Council review and consideration.

**BACKGROUND:** Competition for limited federal tax dollars and discretionary revenues has complicated the task of administering local governments. It is, therefore, incumbent upon local government administrators and elected representatives to secure services that represent the interests of their respective communities. Accordingly, staff proposes entering into a new Agreement with David Turch and Associates (DTA) for retention of professional consulting services.

Established in 1987, DTA is a successful and respected federal and legislative government relations firm providing numerous legislative, advocacy, and professional services to clients. DTA specializes in Federal Departments/Legislative advocacy, assisting clients in securing federal funds, obtaining grants, securing amendments to legislation and federal regulations, and building support, coalitions, and partnerships with federal officials.

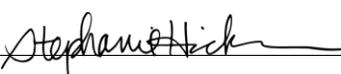
DTA provides services to a number of municipalities in California, Florida, Minnesota, Montana, and Oregon, and to private corporations in California, Minnesota, and Ohio.

Contractual services provided to the City by DTA include intergovernmental liaison/political analyses services and advice and counseling related to the Legislative and Executive Branches of the Federal government, including federal government-related programs and services, surface transportation and transit, economic development, homeland security, local municipal interests, public safety, education, emergency preparedness, and funding/grant opportunities.

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Prepared by: 

Proofed by: 

Fiscal Impact  
Finance Review: 

Reviewed and  
Approved By: 

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DTA has accrued years of legislative advocacy experience including the ability to capture discretionary funds and provide ancillary services, and the ability to provide and commit resources and services necessary to meet legislative advocacy needs.

DTA has been successful in representing the interests of local municipalities and has secured funding opportunities for numerous projects on behalf of their clients. Examples of DTA work in the local area include the following:

- DTA secured \$3 million for the City of Montclair for construction of the Ramona Avenue Grade Separation (\$1.5 million) and Monte Vista Avenue Grade Separation. DTA has since sought to move the \$1.5 million designated for the Ramona Avenue GSP to the Monte Vista Avenue GSP and continues to work toward this objective.
- DTA is working with Montclair, Federal legislators, and the Federal Transit Administration to secure fifty percent grant funding (\$36 million) for construction of the Montclair Segment of the Gold Line.
- DTA is working with the Department of Education to secure funding for Montclair's Online to College Program.
- DTA helped the City of Monrovia secure over \$4.5 million in Federal funds for the development of the Gold Line light rail extension project. Beyond assisting the Monrovia in securing Federal funds for the Gold Line light rail extension project, DTA engaged in obtaining congressional support to facilitate an agreement between Monrovia and the Gold Line Construction Authority for construction of a Gold Line maintenance facility in that city.
- DTA was able to secure \$3 million in grant funds from the Commerce Department's Economic Development Administration to fund extension of water, wastewater, and road infrastructure projects for the City of Imperial.
- DTA worked with the Riverside Transit Administration (RTA) to secure a \$2.4 million Federal Transit Administration Clean Fuel Grant. The Federal funds were used to cover the cost of replacing RTA's fleet of compressed natural gas buses, which were reaching the end of their useful life.

Proposed Agreement No. 15-56 would succeed Agreement No. 00-91, the previous agreement between DTA and Montclair that took effect on October 1, 2000, and continued in force after September 30, 2001, on a month-to-month basis.

The term of proposed Agreement No. 15-56 would be for a period of two-years, effective July 1, 2015, and would extend through June 30, 2017. Unless otherwise terminated by either the City of Montclair or DTA, the proposed Agreement would automatically renew for no more than three consecutive one-year periods (July 1 to June 30) beginning July 1, 2017 through June 30, 2020, at which time the proposed Agreement would expire or be replaced by a successor agreement mutually approved by both the City of Montclair and DTA.

**FISCAL IMPACT:** Approval of proposed Agreement No. 15-56 with DTA would result in a yearly cost of \$45,000 to the City' General Fund related to the delivery and provision of services included in the proposed Agreement—an increase of \$3,000 over the current annual fee of \$42,000; however, under terms of the proposed agreement, DTA

would be responsible for all ordinary costs related to the provision of services. Costs for extraordinary services would have to be approved in advance by the City Council. The proposed fee for services has not increased in approximately 15 years.

Currently, \$42,000 has been allocated in the Fiscal Year 2015-16 Budget to account number 001-400-4101-52190 for Federal Legislative Advocacy Services provided by DTA. Approval of proposed Agreement No. 15-56 would require the City Council to allocate an additional \$3,000 from available General Fund Revenue for Federal Legislative Advocacy Services.

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

1. Approve Agreement No. 15-56 with David Turch and Associates for Professional Consulting and Federal Legislative Advocacy Services; and
2. Approve allocating \$3,000 from available General Fund Revenue to Account No. 001-400-4101-52190 for Federal Legislative Advocacy Services.

**AGREEMENT NO. 15-56**

**PROFESSIONAL CONSULTING AGREEMENT  
BETWEEN DAVID TURCH AND ASSOCIATES  
AND THE CITY OF MONTCLAIR**

This is a professional services agreement between David Turch and Associates of Washington, D.C., a sole partnership, hereinafter referred to as DTA, and the City of Montclair, California, a municipal corporation, hereinafter referred to as Montclair.

Hereinafter, the term "parties" shall refer to both Montclair and DTA jointly.

**1. PURPOSE**

Montclair hereby engages the services of DTA, a federal government relations firm, to provide intergovernmental liaison and political analyses services and advice, counsel and represent Montclair with, principally but not limited to, its affairs with the Legislative and Executive Branches of the Federal Government, such affairs to include but not be limited to government-related programs and services, surface transportation, transit, economic development, homeland security, local municipal interests, public safety, education, emergency preparedness, and funding/grant opportunities.

DTA hereby agrees to faithfully and to the best of its ability, promote, and represent Montclair and its interests with, principally but not limited to, federal legislative proposals which could have a substantial impact on Montclair or the conduct of its operations.

**2. EFFECTIVE DATES**

- a. This Agreement succeeds the previous agreement between DTA and Montclair that took effect on the 1st day of October, 2000, and remained in full force for

a period of one-year through September 30, 2001, and thereafter continued in full force on a month-to-month basis.

The term of this successor Agreement shall be for a period of two-years, effective July 1, 2015, and shall extend through June 30, 2017.

- b. Unless otherwise terminated by either party, this Agreement shall automatically renew for no more than three consecutive one-year periods (July 1 to June 30) beginning July 1, 2017 through June 30, 2020, at which time this Agreement shall expire or be replaced by a successor agreement mutually approved by the parties.

### 3. TERMINATION

This Agreement may be terminated by either party in writing, delivered to the other. Such termination shall take effect as of the end of the last calendar day of the month following the month in which such notification was received.

### 4. COMPENSATION

- a. **Ordinary Compensation:** Compensation from Montclair to DTA is agreed to be Forty Five Thousand Dollars (\$45,000) per year. Such compensation is to be paid according to the following schedule:

Each month's payment of Three Thousand Seven Hundred Fifty Dollars (\$3,750) is agreed to be due and payable within twenty days of receipt of invoice from DTA for each preceding month throughout the term of this Agreement.

Montclair and DTA agree that compensation provided for herein shall be for all ordinary and reasonable expenses incurred by DTA to deliver and provide

services intended by this Agreement including per diem, transportation and housing.

**b. Additional Compensation:** It is understood that, from time-to-time, other tasks/services outside the scope of this Agreement, whether general or specific, may be requested by Montclair and performed by DTA by mutual consent of the parties. Adjustments to the monthly compensation schedule, if any, for such other tasks/services shall be mutually agreed to by the parties on a case by case basis. Montclair and DTA agree that DTA shall not invoice Montclair for additional and extraordinary expenses without prior consideration and approval by Montclair, including a schedule of fees for additional services to be provided by DTA. In the event Montclair and DTA agree to additional compensation for tasks/services outside the scope of this Agreement, invoicing for such tasks/services shall be delivered to Montclair in the month following the delivery of such tasks/services for which additional compensation was incurred, subject to the provisions of "**Section 4.a.**" of this Agreement.

## **5. GOVERNING LAW**

Except as otherwise provided for herein, the parties understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the City of Montclair.

## **6. ATTORNEY FEES**

In any action or proceeding between the parties arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing party.

**7. FAILURE TO ENFORCE**

The failure of either party to insist upon strict performance of any of the terms and conditions stated herein shall not be deemed a waiver of any rights or remedies that either party may have and shall not be deemed a waiver of any subsequent breach or default in the terms and conditions herein contained.

**8. ENTIRE AGREEMENT**

This is the entire agreement between the parties. This Agreement may be modified or amended at any time by the mutual consent of the parties. Any such amendment or modification shall be in writing and become a permanent part of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument.

**9. INDEPENDENT CONTRACTOR**

DTA is and shall at all times remain as to Montclair a wholly independent contractor. The personnel performing the services under this Agreement on behalf of DTA shall at all times be under DTA's exclusive direction and control and shall not be construed to be employees of Montclair for any purpose, including eligibility under Public Employees Retirement Law. No employee benefits shall be available to DTA in connection with the performance of this Agreement. Except for the fees paid to DTA as provided herein, Montclair shall not pay salaries, wages, or other compensation to DTA for performing services hereunder for Montclair.

**10. WORKERS' COMPENSATION**

DTA shall maintain workers' compensation insurance as required by the State of California or the District of Columbia, where DTA is domiciled.

**11. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person, or persons executing this Agreement on behalf of DTA warrants and represents that he/she has the authority to execute this Agreement on behalf of DTA and has the authority to bind DTA to the performance of its obligations hereunder. This contract shall be binding upon Montclair and DTA and their successors and/or assigns.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

**Approved as to Form:**

**DAVID TURCH AND ASSOCIATES**

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
David Turch

**CITY OF MONTCLAIR**

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Paul M. Eaton  
Mayor

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Diane E. Robbins  
City Attorney

**Attest:**

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Andrea M. Phillips  
Deputy City Clerk

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 15-3082 AUTHORIZING PLACEMENT OF LIENS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH CHARGES	<b>DATE:</b> July 6, 2015 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 1 <b>FILE I.D.:</b> STB300-17 <b>DEPT.:</b> ADMIN. SVCS.
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**REASON FOR CONSIDERATION:** Staff has identified 190 sewer and trash accounts in the odd-numbered-month billing cycle that are more than three billing periods delinquent. Pursuant to Montclair Municipal Code Chapter 1.12, these properties are subject to lien.

**BACKGROUND:** Ordinance No. 02-815 authorizes the placement of liens on properties on which delinquent civil debts have accrued and makes property owners responsible for delinquent sewer and trash charges accrued after the effective date of the Ordinance (March 1, 2002) for accounts in tenants' names. Prior to the City Council's adoption of Ordinance No. 02-815, property owners were responsible for only those accounts in their own names.

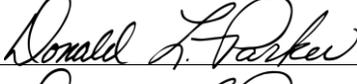
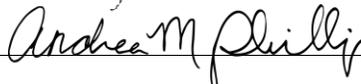
The 190 liens presented for approval are for accounts that are at least 90 days delinquent.

**FISCAL IMPACT:** Recoverable amount is \$48,744.55, plus \$3,990.00 for release of lien fees, plus \$9,500.00 in lien fees, for a total of \$62,234.55.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 15-3082 authorizing placement of liens on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

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

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**RESOLUTION NO. 15-3082**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MONTCLAIR AUTHORIZ-  
ING PLACEMENT OF LIENS ON CERTAIN  
PROPERTIES FOR DELINQUENT SEWER  
AND TRASH ACCOUNTS**

**WHEREAS**, Chapter 1.12 of the Montclair Municipal Code authorizes the City to place liens on properties on which delinquent civil debts have accrued; and

**WHEREAS**, all owners of property in the City of Montclair were notified about the adoption of Ordinance No. 02-815 authorizing placement of liens on properties on which delinquent civil debts have accrued; and

**WHEREAS**, it has been determined that there are 190 sewer and/or trash accounts on which there are delinquencies in excess of 90 days; and

**WHEREAS**, the owners of these properties have received regular billing statements and late notices since the onset of such delinquencies; and

**WHEREAS**, the owners of these properties were notified on June 11, 2015, that their delinquent accounts are subject to causing a lien to be placed on their properties for settlement of such delinquencies; and that such liens would be considered for approval by the Montclair City Council on Monday, July 6, 2015.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair approves the placement of liens on the properties and in the amounts specified in Exhibit A, entitled *Report of Delinquent Civil Debts - July 2015*, attached hereto.

**BE IT FURTHER RESOLVED** that the Deputy City Clerk is authorized to provide the San Bernardino County Auditor/Controller-Recorder with the documents required to cause such liens to be placed.

**APPROVED AND ADOPTED** this XX day of XX, 2015.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 15-3082 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

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Andrea M. Phillips  
Deputy City Clerk

Exhibit A to Resolution No. 15-3082  
Report of Delinquent Civil Debts - July 2015

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
4334	Alamitos Street	Residential	\$ 229.22	\$ 50.00	\$ 21.00	\$ 300.22
5371	Alamitos Street	Residential	237.14	50.00	21.00	308.14
5634	Alamitos Street	Residential	259.60	50.00	21.00	330.60
5356	Alamitos Street	Residential	229.13	50.00	21.00	300.13
4667	Allesandro Street	Residential	229.13	50.00	21.00	300.13
9910	Amherst Avenue	Residential	229.15	50.00	21.00	300.15
5106	Aspen Drive	Residential	219.67	50.00	21.00	290.67
9982	Bel Air Avenue	Residential	229.13	50.00	21.00	300.13
9950	Bel Air Avenue	Residential	229.67	50.00	21.00	300.67
9939	Bel Air Avenue	Residential	203.99	50.00	21.00	274.99
10045	Bel Air Avenue	Residential	226.43	50.00	21.00	297.43
5389	Benito Street	Senior	229.72	50.00	21.00	300.72
4814	Benito Street	Senior	400.89	50.00	21.00	471.89
4400	Benito Street	Residential	229.13	50.00	21.00	300.13
5429	Benito Street	Residential	243.35	50.00	21.00	314.35
4460	Benito Street	Residential	229.13	50.00	21.00	300.13
4931	Benito Street	Residential	228.14	50.00	21.00	299.14
5138	Benito Street	Residential	307.82	50.00	21.00	378.82
9590	Benson Avenue	Residential	229.13	50.00	21.00	300.13
9952	Benson Avenue	Residential	329.82	50.00	21.00	400.82
4285	Berkeley Street	Residential	229.13	50.00	21.00	300.13
5382	Berkeley Street	Residential	229.13	50.00	21.00	300.13
4769	Berkeley Street	Residential	210.70	50.00	21.00	281.70
9598	Bolton Avenue	Residential	229.13	50.00	21.00	300.13
4541	Bonnie Brae Street	Residential	283.20	50.00	21.00	354.20
4810	Brooks Street	Commercial	452.03	50.00	21.00	523.03
5051	Brooks Street	Commercial	240.64	50.00	21.00	311.64
9851	Camarena Avenue	Residential	229.13	50.00	21.00	300.13
5438	Cambridge Street	Residential	229.14	50.00	21.00	300.14
5448	Cambridge Street	Residential	229.13	50.00	21.00	300.13
4853	Cambridge Street	Residential	229.13	50.00	21.00	300.13
9606	Camulos Avenue	Residential	229.13	50.00	21.00	300.13
9547	Camulos Avenue	Residential	231.35	50.00	21.00	302.35
9511	Camulos Avenue	Residential	229.13	50.00	21.00	300.13
9877	Camulos Aveune	Residential	255.08	50.00	21.00	326.08
9757	Camulos Avenue	Residential	321.53	50.00	21.00	392.53
9737	Camulos Avenue	Residential	229.13	50.00	21.00	300.13
9243	Camulos Avenue	Residential	229.13	50.00	21.00	300.13
9530	Camulos Avenue	Residential	229.02	50.00	21.00	300.02
9112	Camulos Avenue	Residential	228.95	50.00	21.00	299.95
5635	Caroline Street	Residential	252.88	50.00	21.00	323.88
5665	Caroline Street	Residential	399.45	50.00	21.00	470.45
9454	Carrillo Avenue	Residential	321.53	50.00	21.00	392.53
10070	Central Avenue	Residential	272.52	50.00	21.00	343.52

Exhibit A to Resolution No. 15-3082  
Report of Delinquent Civil Debts - July 2015

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
9845	Central Avenue	Residential	\$ 320.98	\$ 50.00	\$ 21.00	\$ 391.98
9855	Central Avenue	Residential	209.88	50.00	21.00	280.88
9556	Central Avenue	Residential	227.50	50.00	21.00	298.50
10220	Central Avenue	Commercial	246.81	50.00	21.00	317.81
9795	Coalinga Avenue	Residential	229.13	50.00	21.00	300.13
9875	Coalinga Avenue	Residential	321.53	50.00	21.00	392.53
4401	Denver Street	Senior	218.56	50.00	21.00	289.56
5616	Denver Street	Residential	229.13	50.00	21.00	300.13
4416	Denver Street	Residential	220.78	50.00	21.00	291.78
4956	Denver Street	Residential	203.99	50.00	21.00	274.99
5168	El Morado Street	Residential	229.13	50.00	21.00	300.13
5416	El Morado Street	Residential	229.24	50.00	21.00	300.24
9463	Exeter Avenue	Residential	427.89	50.00	21.00	498.89
9567	Fremont Avenue	Residential	255.08	50.00	21.00	326.08
9823	Fremont Avenue	Residential	229.13	50.00	21.00	300.13
9020	Fremont Avenue	Senior	229.70	50.00	21.00	300.70
9829	Fremont Avenue	Residential	345.88	50.00	21.00	416.88
10037	Geneva Avenue	Residential	239.03	50.00	21.00	310.03
9985	Geneva Avenue	Residential	229.13	50.00	21.00	300.13
9932	Geneva Avenue	Residential	232.02	50.00	21.00	303.02
4328	Granada Street	Residential	229.13	50.00	21.00	300.13
5628	Granada Street	Residential	229.13	50.00	21.00	300.13
4277	Granada Street	Residential	229.15	50.00	21.00	300.15
4947	Granada Street	Residential	212.83	50.00	21.00	283.83
5422	Granada Street	Residential	229.40	50.00	21.00	300.40
9783	Greenwood Avenue	Residential	229.13	50.00	21.00	300.13
9846	Greenwood Avenue	Senior	212.05	50.00	21.00	283.05
9627	Greenwood Avenue	Residential	230.88	50.00	21.00	301.88
4418	Harvard Street	Residential	229.13	50.00	21.00	300.13
5516	Harvard Street	Residential	285.92	50.00	21.00	356.92
4430	Harvard Street	Residential	203.99	50.00	21.00	274.99
4785	Harvard Street	Senior	227.91	50.00	21.00	298.91
4883	Harvard Street	Residential	205.53	50.00	21.00	276.53
4386	Harvard Street	Residential	241.83	50.00	21.00	312.83
4407	Harvard Street	Residential	239.03	50.00	21.00	310.03
5462	Harvard Street	Residential	433.60	50.00	21.00	504.60
5596	Hawthorne Street	Residential	229.13	50.00	21.00	300.13
5627	Hawthorne Street	Residential	225.03	50.00	21.00	296.03
9095	Helena Avenue	Residential	321.53	50.00	21.00	392.53
9660	Helena Avenue B	Residential	226.43	50.00	21.00	297.43
4864	Highland St	Residential	255.08	50.00	21.00	326.08
4370	Holt Blvd.	Commercial	438.69	50.00	21.00	509.69
5110	Holt Blvd.	Commercial	253.15	50.00	21.00	324.15
5190	Howard St A & B	Multi-family	516.07	50.00	21.00	587.07

Exhibit A to Resolution No. 15-3082  
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Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
4585	James Street	Residential	\$ 229.13	\$ 50.00	\$ 21.00	\$ 300.13
9860	Kimberly Avenue	Residential	203.99	50.00	21.00	274.99
9844	Kimberly Avenue	Residential	228.73	50.00	21.00	299.73
5564	La Deney Street	Residential	230.70	50.00	21.00	301.70
5565	La Deney Street	Residential	251.95	50.00	21.00	322.95
5430	La Deney Street	Residential	229.13	50.00	21.00	300.13
5515	La Deney Street	Residential	229.20	50.00	21.00	300.20
4555	La Deney Street	Residential	200.53	50.00	21.00	271.53
9054	Lindero Avenue	Residential	321.53	50.00	21.00	392.53
10041	Lindero Avenue	Residential	239.16	50.00	21.00	310.16
10042	Lindero Avenue	Residential	259.61	50.00	21.00	330.61
9803	Lindero Avenue	Residential	229.89	50.00	21.00	300.89
9024	Lindero Avenue	Residential	224.71	50.00	21.00	295.71
9958	Lindero Avenue	Residential	229.13	50.00	21.00	300.13
9864	Mammoth Drive	Residential	230.20	50.00	21.00	301.20
10049	Marion Avenue	Residential	203.99	50.00	21.00	274.99
9527	Marion Avenue	Residential	229.13	50.00	21.00	300.13
9245	Mills Avenue	Senior	285.92	50.00	21.00	356.92
9575	Mills Avenue	Residential	360.63	50.00	21.00	431.63
9969	Mills Avenue	Residential	240.55	50.00	21.00	311.55
9595	Mills Avenue	Residential	214.68	50.00	21.00	285.68
9066	Monte Vista Avenue	Residential	255.10	50.00	21.00	326.10
9815	Monte Vista Avenue	Residential	229.14	50.00	21.00	300.14
9056	Monte Vista Avenue	Residential	242.74	50.00	21.00	313.74
5082	Moreno Street	Residential	229.13	50.00	21.00	300.13
4872	Olive Street	Residential	229.40	50.00	21.00	300.40
4644	Olive Street	Residential	256.88	50.00	21.00	327.88
4684	Olive Street	Residential	231.67	50.00	21.00	302.67
5690	Orchard Street	Residential	229.13	50.00	21.00	300.13
4322	Orchard Street	Residential	255.08	50.00	21.00	326.08
4151	Orchard Street	Senior	317.63	50.00	21.00	388.63
4316	Orchard Street	Residential	295.86	50.00	21.00	366.86
5257	Palo Verde Street	Senior	227.94	50.00	21.00	298.94
5393	Palo Verde Street	Residential	252.88	50.00	21.00	323.88
9585	Poulsen Avenue	Residential	229.44	50.00	21.00	300.44
9935	Poulsen Avenue	Residential	229.13	50.00	21.00	300.13
10043	Poulsen Avenue	Residential	229.13	50.00	21.00	300.13
9633	Poulsen Avenue	Residential	224.06	50.00	21.00	295.06
9375	Pradera Avenue	Multi-family	1,030.83	50.00	21.00	1,101.83
9970	Pradera Avenue	Residential	227.09	50.00	21.00	298.09
9532	Pradera Avenue	Residential	243.04	50.00	21.00	314.04
9425	Pradera Avenue #2	Residential	333.29	50.00	21.00	404.29
9425	Pradera Avenue #3	Residential	228.84	50.00	21.00	299.84
4438	Princeton Street	Residential	241.70	50.00	21.00	312.70

Exhibit A to Resolution No. 15-3082  
Report of Delinquent Civil Debts - July 2015

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
5451	Princeton Street	Residential	\$ 204.43	\$ 50.00	\$ 21.00	\$ 275.43
9223	Ramona Avenue	Residential	229.10	50.00	21.00	300.10
9209	Ramona Avenue	Residential	229.24	50.00	21.00	300.24
9779	Ramona Avenue	Residential	214.68	50.00	21.00	285.68
9551	Ramona Avenue	Residential	203.99	50.00	21.00	274.99
9595	Ramona Avenue	Residential	229.13	50.00	21.00	300.13
9434	Rose Avenue	Residential	229.13	50.00	21.00	300.13
9324	Rose Avenue	Senior	391.59	50.00	21.00	462.59
9352	Rose Avenue	Residential	229.13	50.00	21.00	300.13
9413	Rose Avenue	Residential	281.14	50.00	21.00	352.14
9866	Rose Avenue	Senior	227.94	50.00	21.00	298.94
9720	Rose Avenue	Residential	255.08	50.00	21.00	326.08
9472	Rose Avenue	Residential	321.53	50.00	21.00	392.53
4800	Rosewood Street	Residential	244.41	50.00	21.00	315.41
5361	Rosewood Street	Residential	229.40	50.00	21.00	300.40
5389	Rosewood Street	Residential	268.51	50.00	21.00	339.51
4683	Rosewood Street	Residential	230.20	50.00	21.00	301.20
4560	Rosewood Street	Residential	229.13	50.00	21.00	300.13
4954	Rosewood Street	Residential	252.88	50.00	21.00	323.88
4307	Rosewood Street	Residential	372.31	50.00	21.00	443.31
5401	Rosewood Street	Residential	231.68	50.00	21.00	302.68
4164	Rudisill Street	Residential	229.13	50.00	21.00	300.13
5360	Rudisill Street	Residential	255.08	50.00	21.00	326.08
5409	Rudisill Street	Residential	254.48	50.00	21.00	325.48
5421	Rudisill Street	Residential	255.08	50.00	21.00	326.08
5489	San Bernardino Street	Residential	260.98	50.00	21.00	331.98
5418	San Bernardino Street	Residential	256.27	50.00	21.00	327.27
4749	San Bernardino Street	Residential	236.07	50.00	21.00	307.07
4711	San Bernardino Street	Residential	229.13	50.00	21.00	300.13
5133	San Bernardino Street	Residential	229.13	50.00	21.00	300.13
4844	San Bernardino Street	Residential	252.08	50.00	21.00	323.08
4843	San Bernardino Street	Residential	230.20	50.00	21.00	301.20
4285	San Bernardino Street	Residential	230.20	50.00	21.00	301.20
5446	San Jose Street	Residential	230.70	50.00	21.00	301.70
4594	San Jose Street	Residential	259.23	50.00	21.00	330.23
4485	San Jose Street	Residential	255.19	50.00	21.00	326.19
5510	San Jose Street	Residential	227.74	50.00	21.00	298.74
4595	San Jose Street	Residential	252.38	50.00	21.00	323.38
5543	San Jose Street	Residential	321.53	50.00	21.00	392.53
4424	San Jose Street #10	Residential	229.13	50.00	21.00	300.13
4424	San Jose Street #18	Residential	229.13	50.00	21.00	300.13
4424	San Jose Street #27	Residential	252.88	50.00	21.00	323.88
4630	San Jose Street M	Residential	261.11	50.00	21.00	332.11
4630	San Jose Street P	Residential	261.11	50.00	21.00	332.11

Exhibit A to Resolution No. 15-3082  
Report of Delinquent Civil Debts - July 2015

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
9946	Santa Anita Avenue	Residential	\$ 278.16	\$ 50.00	\$ 21.00	\$ 349.16
10016	Santa Anita Avenue	Residential	239.73	50.00	21.00	310.73
9817	Sun Valley Drive	Residential	381.88	50.00	21.00	452.88
5134	Sundance Drive	Residential	267.42	50.00	21.00	338.42
9617	Surrey Avenue	Residential	229.13	50.00	21.00	300.13
9584	Surrey Avenue	Residential	230.20	50.00	21.00	301.20
9834	Tudor Avenue	Residential	229.13	50.00	21.00	300.13
9824	Tudor Avenue	Residential	229.13	50.00	21.00	300.13
9829	Vail Drive	Residential	252.88	50.00	21.00	323.88
9942	Vernon Avenue	Residential	253.62	50.00	21.00	324.62
9912	Vernon Avenue	Residential	229.34	50.00	21.00	300.34
9350	Vernon Avenue	Residential	229.13	50.00	21.00	300.13
5447	Yale Street	Residential	252.08	50.00	21.00	323.08
5418	Yale Street	Residential	321.53	50.00	21.00	392.53
<b>Totals:</b>			<b>48,744.55</b>	<b>\$9,500.00</b>	<b>\$3,990.00</b>	<b>62,234.55</b>

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 15-3083 AUTHORIZING MAYOR PAUL M. EATON TO SIGN ADMINISTERING AGENCY-STATE AGREEMENT PROGRAM SUPPLEMENT AGREEMENT NO. 008-N (CITY AGREEMENT NO. 15-51)	<b>DATE:</b> July 6, 2015 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 2 <b>FILE I.D.:</b> STA110 <b>DEPT.:</b> PUBLIC WORKS
CONSIDER APPROVAL OF AGREEMENT NO. 15-51, PROGRAM SUPPLEMENT AGREEMENT NO. 008-N, WITH THE DEPARTMENT OF TRANSPORTATION FOR THE MONTE VISTA AVENUE GRADE SEPARATION PROJECT	

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**REASON FOR CONSIDERATION:** In order to use funds identified by the Department of Transportation (DOT) for the Monte Vista Avenue Grade Separation Project, the state requires the City approve an agreement and adopt a Resolution designating and authorizing an individual to sign the Agreement. Agreements and Resolutions require City Council approval.

**BACKGROUND:** The Monte Vista Avenue/Union Pacific Railroad Grade Separation Project was originally intended to be funded 100% through the Traffic Congestion Relief Act of 2000. The state funding was rescinded in late 2002 and only partially restored three years later. During that time, the City successfully sought financial assistance through Congress for federal transportation dollars and was awarded \$1.6 million.

In order to use the federal money, the City is required by the state to enter into an agreement. A Master Agreement was entered into between the City and the state on August 14, 2008 (State Agreement No. 08-5326R, City Agreement No. 08-59). Each new project using federal funds requires a supplemental agreement be executed with the state. Program Supplement Agreement No. 008-N (City Agreement No. 15-51) has been prepared by the state for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.

Resolution No. 15-3083 designates and authorizes Mayor Paul M. Eaton to sign the supplement agreement.

**FISCAL IMPACT:** The federal funds identified for this project are being used for design. Program Supplement Agreement No. 008-N authorizes an expenditure of up to \$1.8 million, comprised of \$1,439,839.50 federal money and \$360,150.50 local match, provided by Measure I funds. The design contract with NCM Engineering Corporation includes a design fee of \$1,699,596, approximately \$100,000 less than the amount authorized by the Program Supplement Agreement. The federal

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

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contribution to this contract will remain constant while the local match would be reduced by approximately \$100,000.

Failure to execute the Program Supplement Agreement would result in the loss of federal funding for this project.

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

1. Adopt Resolution No. 15-3083 authorizing Mayor Paul M. Eaton to sign Administering Agency-State Agreement Program Supplement Agreement No. 008-N (City Agreement No. 15-51).
2. Approve Agreement No. 15-51, Program Supplement Agreement No. 008-N, with the Department of Transportation for the Monte Vista Avenue Grade Separation Project.

**RESOLUTION NO. 15-3083**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING MAYOR PAUL M. EATON TO SIGN PROGRAM SUPPLEMENT AGREEMENT NO. 008-N TO ADMINISTERING AGENCY-STATE AGREEMENT NO. 08-5326R**

**WHEREAS**, funds available under the federal Transportation Act have been made available to the City by the Department of Transportation (DOT) for the design of the Monte Vista Avenue Grade Separation Project; and

**WHEREAS**, before federal funds can be used for a specific project, the local agency and state are required to enter into an agreement to establish terms and conditions applicable to the local agency when receiving state funds for a designated project facility and to the subsequent operation and maintenance of that completed facility; and

**WHEREAS**, the state and City have previously entered into Administering Agency-State Master Agreement No. 08-5326R, a master agreement for administering such contracts; and

**WHEREAS**, the state has prepared Program Supplement Agreement No. 008-N specific to the Monte Vista Avenue Grade Separation Project; and

**WHEREAS**, the state requires the local agency to designate by resolution the appropriate City official to sign the supplement agreement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does hereby designate Mayor Paul M. Eaton as the local agency official authorized to sign Program Supplement Agreement No. 008-N to Administering Agency-State Master Agreement No. 08-5326R.

**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 Resolution No. 15-3083 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

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Andrea M. Phillips  
Deputy City Clerk

PROGRAM SUPPLEMENT NO. N008  
to  
ADMINISTERING AGENCY-STATE AGREEMENT  
FOR FEDERAL-AID PROJECTS NO 08-5326R

Adv Project ID 0812000175 Date: May 29, 2015  
Location: 08-SBD-0-MCL  
Project Number: PNRSHPL-5326(016)  
E.A. Number:  
Locode: 5326

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 08/14/08 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. \_\_\_\_\_ approved by the Administering Agency on \_\_\_\_\_ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

**PROJECT LOCATION:**

Monte Vista Avenue over the Union Pacific Railroad tracks (Alhambra Line) from Mission Boulevard to 300 feet north of Brooks Street

**TYPE OF WORK:** New overhead

**LENGTH:** 0.5(MILES)

Estimated Cost	Federal Funds		Matching Funds	
	HY10	LY10	LOCAL	OTHER
\$1,800,000.00	\$273,751.00	\$1,166,088.50	\$360,160.50	\$0.00

CITY OF MONTCLAIR

STATE OF CALIFORNIA  
Department of Transportation

By \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_  
Attest \_\_\_\_\_

By \_\_\_\_\_  
Chief, Office of Project Implementation  
Division of Local Assistance  
Date \_\_\_\_\_

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer *Jamie Go* Date 5/29/15 \$1,439,839.50

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT



SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

E. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal

**SPECIAL COVENANTS OR REMARKS**

obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

G. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at [www.sam.gov](http://www.sam.gov).

H. STATE and ADMINISTERING AGENCY agree that any additional funds which are made available for any new phase(s) of work by future Federal obligations will be encumbered on this PROJECT by use of a Federal Highway Administration-approved "Authorization to Proceed" (E-76) STATE Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

2. In the event that right of way acquisition for or construction of this project of the initial federal authorization for preliminary engineering is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the ADMINISTERING AGENCY shall repay the Federal Highway Administration through

SPECIAL COVENANTS OR REMARKS

Caltrans the sum of Federal funds paid under the terms of this agreement.

## AGENDA REPORT

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**SUBJECT:** CONSIDER SUCCESSOR AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 15-03 APPROVING AGREEMENT NO. 15-52 WITH INTEGRA REALTY RESOURCES TO PERFORM AN UPDATE TO THE APPRAISAL OF VACANT PROPERTY LOCATED ON THE SOUTHEAST CORNER OF RAMONA AVENUE AND STATE STREET AND APPROVING A SOLICITATION PROCESS FOR SALE OF THE PROPERTY THROUGH THE ISSUANCE OF A REQUEST FOR PROPOSALS

**DATE:** July 6, 2015

**SECTION:** RESOLUTIONS

**ITEM NO.:** 3

**FILE I.D.:** SAG080/090

**DEPT.:** SUCCESSOR RDA

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**REASON FOR CONSIDERATION:** Successor Agency staff is requesting the Successor Agency Board of Directors' approval of Agreement No. 15-52 and re-engagement of the services of Integra Realty Resources to perform an update of the real property appraisal of the Successor Agency-owned property located on the southeast corner of Ramona Avenue and State Street. In 2013, an original appraisal was performed by Integra Realty Resources associated with completion of the Long-Range Property Management Plan as mandated by Section 34191.5 of the Health and Safety Code.

In addition, staff is requesting authorization to develop a Request for Proposal package to send to developers and other interested parties to solicit proposals for the sale and development of the property located on the southeast corner of Ramona Avenue and State Street.

The property on the southeast corner of Ramona Avenue and State Street is shown on Exhibit A. A copy of the proposal, Agreement No. 15-52, submitted by Integra Realty Resources, is attached for the Successor Agency Board of Directors' review and consideration.

With approval of the Successor Agency and Oversight Board, staff would develop a Request for Proposal package to solicit proposals for the sale of the subject property. Proposals would not be accepted until the updated appraisal was completed.

**BACKGROUND:** One major component of the California Redevelopment Agency Dissolution legislation requires successor agencies to dispose of real property assets. Section 34177(e) of the Health and Safety Code states that the successor agency is required to dispose of assets and "the disposal is to be done expeditiously and in a manner aimed at maximizing value." The legislation further required each successor agency to develop a Long Range Property Management Plan to detail the disposition/use of assets for each former redevelopment agency real property asset

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Prepared by: Marilyn Staats Fiscal Impact Finance Review: Donald L. Parker

Proofed by: Andrea M Phillips Reviewed and Approved By: Marilyn Staats

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after receiving a Notice of Completion. After a successor agency has received its Finding of Completion from the Department of Finance (DOF), the successor agency has six months to submit a Long-Range Property Management Plan to the DOF pursuant to Health and Safety Code Section 34191.5.

The Successor Agency to the City of Montclair Redevelopment Agency received its Notice of Completion from DOF on May 15, 2013. Staff then began working on the Long-Range Property Management Plan. One of the requirements of the Long-Range Property Management Plan is to provide an estimate of current real property values including appraised values.

The Successor Agency to the City of Montclair Redevelopment Agency had three properties appraised for the purpose of establishing value for the Long-Range Property Management Plan. One of the sites appraised was the vacant property located on the southeast corner of Ramona Avenue and State Street. Integra Realty Resources delivered the appraisal of the site to the Successor Agency on October 3, 2013. The Long-Range Property Management Plan identified the site as a property that should be sold. The Successor Agency initially submitted its Long Range Property Management Plan to DOF on November 14, 2013. DOF finally approved the Long Range Property Management Plan on February 12, 2015, and thereby authorized sale of the Ramona Avenue property. It should be noted that DOF must also approve the method of sale, value, and any sale agreement.

As the Successor Agency Board of Directors may recall, the Ramona Avenue property was purchased by the Redevelopment Agency in 1999 for the Ramona Avenue Grade Separation Project. The property was originally approximately 5.4 acres. A portion of the property was sold to Monte Vista Water District for a blending station and a portion of the site was used for the grade separation. As a consequence of the grade separation project and the sale of land to Monte Vista Water District, a remnant parcel of approximately 2.65 acres was created. The property is zoned MIP Manufacturing Industrial.

Staff is aware of several recent property sales in the general vicinity of the Ramona Avenue site which may cause an increase in the value of the property. It is recommended that the Successor Agency Board of Directors authorize an update of the appraisal of the subject site by Integra Realty Resources. The original appraisal was prepared by Integra Realty Resources.

Resolution No. 15-03 would also authorize staff to prepare a Request for Proposal to solicit proposals from developers for their purchase and development of the Ramona Avenue property. Staff anticipates that the Request for Proposals would evaluate proposals based on the following criteria:

- Proposed use and overall design concept that conforms to the General Plan, zoning, and all other applicable law.
- The timeframe for closing a purchase transaction and development of the site.
- The purchase price and financial capacity of the bidder.
- The economic benefit of the development to the city, other taxing entities, and the community including employment generation.

Should the Successor Agency approve Resolution No. 15-03, the Oversight Board and

DOF must also approve the Successor Agency's decision to update of the appraisal for the Ramona Avenue site and the preparation of a Request for Proposal to solicit proposals for the sale and development of the site.

Proposals received for sale and development of the Ramona Avenue site would be submitted to the Successor Agency for consideration. The selection of a developer through the Request for Proposal process would also be subject to action by the Oversight Board and DOF.

**FISCAL IMPACT:** The cost to prepare of an update of the appraisal for the Ramona Avenue property by Integra Realty Resources is \$2,300. Costs incurred for appraisal services would be listed as an expense on the Recognized Obligation Payment Schedule.

Future proceeds of a sale of the Ramona Avenue property would be used to defease Redevelopment Project Area No. V Tax Allocation Bonds.

**RECOMMENDATION:** Staff recommends the Successor Agency Board of Directors adopt Resolution No. 15-03 approving Agreement No. 15-52, a Proposal for Appraisal Services between the Successor Agency to the City of Montclair Redevelopment Agency and Integra Realty Resources to perform an update of the appraisal of vacant property located on the southeast corner of Ramona Avenue and State Street and approving a solicitation process for the sale of the property through the issuance of Request for Proposals.

U.P.R.R. RIGHT OF WAY

STATE STREET

RAMONA AVENUE

44'

35'

44'

35'

701.15'

631.14'

N00°38'45"W

N06°21'32"E 205.10'

N12°20'18"E 218.06'

N01°45'10"N 321.45'

N00°11'10"W 128.40'

158.40'

N89°48'50"E

341.02'

30'

30'

60'

N00°24'27"W

693.55'

PORTION OF LOT 34  
SAN ANTONIO TRACT,  
M.B. 3/16  
AND RE-SUBDIVISION  
OF LOT 34, M.B.  
15/30

115,635 SQ. FT.  
2.65 ACRES

R=50.00  
L=77.61  
Tan=49.08  
Δ=88°56'12"

N37°27'50"W  
23.22'

N88°31'45"E 201.97'

N88°31'45"E

338.16'

N88°31'45"E  
27.35'

**RESOLUTION NO. 15-03**

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AGREEMENT NO. 15-52, A PROPOSAL FOR APPRAISAL SERVICES BETWEEN THE SUCCESSOR AGENCY AND INTEGRA REALTY RESOURCES TO UPDATE THE REAL PROPERTY APPRAISAL OF VACANT PROPERTY LOCATED ON THE SOUTHEAST CORNER OF RAMONA AVENUE AND STATE STREET, AND APPROVING THE SOLICITATION PROCESS FOR THE SALE OF THE PROPERTY THROUGH THE ISSUANCE OF A REQUEST FOR PROPOSALS**

**WHEREAS**, Assembly Bill 1X 26 ("AB 26") was signed by the Governor on June 28, 2011 and upheld as constitutional by the California Supreme Court. On June 27, 2012, the Governor signed Assembly Bill 1484 ("AB 1484"). AB 26 and AB 1484 (together called the "Dissolution Bills") eliminated California redevelopment agencies statewide, established successor agencies to pay, perform, and effectuate the enforceable obligations of the former redevelopment agencies and to wind down the affairs of the former redevelopment agencies; and

**WHEREAS**, the City of Montclair Redevelopment Agency ("Agency") is now a dissolved redevelopment agency pursuant to the Dissolution Bills; and

**WHEREAS**, by Resolution considered and approved by the City Council of the City of Montclair at an open public meeting, the City chose to become and serve as the "Successor Agency" to the dissolved Agency under the Dissolution Act; and

**WHEREAS**, as of and on and after February 1, 2012, the City serves and acts as the Successor Agency and is performing its functions as the successor agency under the Dissolution Act to administer the enforceable obligations of the Agency and otherwise unwind the Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board"); and

**WHEREAS**, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Act; and

**WHEREAS**, pursuant to Section 34179 of the Health and Safety Code, the Successor Agency's Oversight Board was formed and the initial meeting occurred on April 25, 2012; and

**WHEREAS**, pursuant to Section 34191.5 of the Health and Safety Code a Community Redevelopment Property Trust Fund is established to be administered by the successor agency to serve as the repository of a dissolved redevelopment agency's real properties; and

**WHEREAS**, Section 34191.5(b) provides that a successor agency shall prepare a long-range property management plan that addresses the disposition and use of the

real properties of a former redevelopment agency and the report shall be submitted to the oversight board and the Department of Finance (DOF) for approval no later than six months following the issuance of a finding of completion; and

**WHEREAS**, the Successor Agency received a Finding of Completion from DOF on May 15, 2013 and the Successor Agency's deadline for submittal of the Oversight Board-approved Long-Range Property Management Plan was November 14, 2013; and

**WHEREAS**, in order to prepare said Long-Range Property Management Plan, the Successor Agency engaged and the Oversight Board approved the services of an appraisal firm; and

**WHEREAS**, Successor Agency staff submitted Requests for Proposals to appraisal firms and received responses from three appraisal companies; and

**WHEREAS**, the Successor Agency has approved the selection of the firm of Integra Realty Resources to provide appraisal services on August 19, 2013; and

**WHEREAS**, Integra Realty Resources provided the Successor Agency with an appraisal of the property located on the southeast corner of Ramona Avenue and State Street dated October 6, 2013, that was used in the Long-Range Property Management Plan; and

**WHEREAS**, the Successor Agency prepared the Long Range Property Management Plan and it was approved by the Oversight Board on November 13, 2013 and said Long-Range Property Management Plan was submitted to the DOF on November 14, 2013; and

**WHEREAS**, DOF staff requested changes to the Long-Range Property Management Plan, and its amendment, the "Amended Long-Range Property Management Plan," was approved by Oversight Board Resolution No. 14-06 on August 13, 2014; and

**WHEREAS**, DOF staff requested additional changes to Resolution No. 14-06 and the "Amended Long-Range Property Management Plan," and those additional changes were approved pursuant to Oversight Board Resolution No. 15-03 on February 11, 2015; and

**WHEREAS**, on February 12, 2015, the DOF issued its letter approving the transfer of disposition of assets pursuant to the "Amended Long-Range Property Management Plan" as approved by Oversight Board Resolution No. 15-03; and

**WHEREAS**, the Successor Agency is working toward the disposition of assets found indicated in the "Amended Long-Range Property Management Plan"; and

**WHEREAS**, in order to arrive at a fair market value for the property located on the southeast corner of Ramona Avenue and State Street, Successor Agency staff believes the appraisal of this site should be revised because of recent real estate transactions in the general area; and

**WHEREAS**, Successor Agency staff is recommending that a revised appraisal of the southwest corner of Ramona Avenue and State Street be conducted by Integra Realty Resources as the firm that conducted the original appraisal; and

**WHEREAS**, Section 34177(e) of the Health and Safety Code states that a successor agency must ensure "the disposal (of assets) is to be done expeditiously and in a manner aimed at maximizing value;" and

**WHEREAS**, the Successor Agency approves the development of a Request for Proposal package to solicit proposals for the sale and development of the property located on the southeast corner of Ramona Avenue and State Street; and

**WHEREAS**, pursuant to the Dissolution Act, the actions of the Successor Agency must be approved by the Oversight Board; and

**WHEREAS**, the Dissolution Act requires that actions of the Oversight Board to be approved by the DOF, and actions of the Oversight Board do not become effective for five (5) business days pending any request for review by DOF; and if DOF requests review hereof, it will have sixty days from the date of its request to approve this Oversight Board action or return it to the Oversight Board for reconsideration and the action, if subject to review by DOF, would not be effective until approved by DOF.

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

**Section 1.** The above recitals are true and correct and are a substantive part of the Resolution.

**Section 2.** The Successor Agency hereby approves Agreement No. 15-52 to retain the services of Integra Realty Resources to provide an update of the appraisal for the property located on the southeast corner of Ramona Avenue and State Street as a part of the disposition of assets pursuant to the Amended Long-Range Property Management Plan.

**Section 3.** The Successor Agency hereby approves and authorizes the solicitation process for sale of the property on the southeast corner of Ramona Avenue and State Street through the issuance of Request for Proposals.

**Section 4.** The Successor Agency requests the Oversight Board to consider the action of the Successor Agency in retaining the services of Integra Realty Resources to provide appraisal services for the property located on the southeast corner of Ramona Avenue and State Street and to authorize the solicitation process for sale of the property through the issuance of Request for Proposals.

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

**Section 6.** The Secretary of the Successor Agency shall certify to the adoption of this Resolution and shall maintain this Resolution on file as a public record as approved hereby.

**APPROVED AND ADOPTED** this XX day of XX, 2015.

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Chairman

**ATTEST:**

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Secretary

I, Andrea M. Phillips, Secretary of the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 15-03 was duly adopted by the Board of Directors of the Successor Agency to the City of Montclair Redevelopment Agency at a regular meeting thereof held on the XX day of XX, 2015, and that it was adopted by the following vote, to-wit:

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

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Andrea M. Phillips  
Secretary

Agreement No. 15-52



June 29, 2015

Ms. Marilyn J. Staats  
Deputy City Manager/Executive Director  
Office of Economic Development  
City of Montclair  
5111 Benito Street  
Montclair, CA 91763

SUBJECT: Proposal to provide real estate appraisal services

NEC Ramona Avenue and Dale Street  
Montclair, California 91762

APN: 1012-141-18

*Sent via E-mail*

Dear Ms. Staats:

In response to your recent request for proposal, this writing expresses our interest and availability for the completion of appraisal services concerning the property referenced above. The property which is the subject of this proposal includes approximately 2.65 acres of vacant land located at the northeast corner of Ramona Avenue and Dale Street within the City of Montclair.

The purpose is to update a previous appraisal.

**Scope of Services**

Upon receiving authorization to proceed, we would complete a re-inspection of the subject property and review available information about its history and allowable uses. We would conduct an independent investigation of market factors, including investigations into comparable sale properties that would be relevant in the valuation process. We would analyze this data and develop an opinion of the current market value of the subject property.

We could prepare a letter stating our opinion of the current market value of the property, and attach to it a summary of recent comparable land sales along with a map and aerial

photos of the comps. The letter would reference our 2013 appraisal of the property for additional detail.

Our letter would be in full compliance with the *Uniform Standards of Professional Appraisal Practice* (USPAP).

### **Fee and Timing**

For our services as described above, our fee for the completion of an appraisal report is proposed at **\$2,300**. We propose to have our report completed within **2.5 weeks** of receiving notice to proceed.

### **Supplemental Services**

Additional services requested for consultation, special studies, negotiations, preparation of or appearance for testimony, and similar services will be provided upon request and will be billed additionally at the hourly rates set forth as Exhibit A to this proposal. Fees will be billed monthly based on the work actually completed.

### **General Issues**

Payment for the completion of reports will be due upon their completion. To the extent that supplemental services are requested, these will be billed on a monthly basis. For these services, if provided, an advance retainer may be requested. For these services, if provided, payment is due within 30 days of the invoice date. Fees unpaid after 30 days are subject to a finance charge equal to 1.5% per month on all unpaid balances.

This proposal is valid for 45 days.

Our appraisal analysis will incorporate the Assumptions and Limiting Conditions which are attached to this proposal. To the extent that we prepare a written appraisal report, these Assumptions and Limiting Conditions (or a set which is effectively equivalent) will be incorporated into the appraisal report.

Fees quoted herein are for the provision of professional services and are not in any way contingent upon the valuation reported or the outcome of any pending matter for which valuation is required. In the event of any controversy, claim, or dispute between us related to this agreement, or the breach thereof, enforcement of this agreement will be governed by and construed in accordance with the laws of the State of California. The venue for any action to enforce or interpret this agreement shall be in the County of Los Angeles, State of California.

Damages (if any) for which the appraiser and/or appraisal firm would be liable will be limited to the amount of compensation paid as the fee for providing services.

If this proposal meets with your approval, our receipt of a signed copy of this letter will serve as our notice to proceed.



Ms. Marilyn J. Staats  
June 29, 2015  
Page 3

Thank you for the opportunity of submitting this proposal. If you have any questions or comments about it, please call me.

Sincerely,

**Integra Realty Resources – Los Angeles**



John G. Ellis, MAI, CRE, FRICS  
Senior Managing Director

JGE/mt

Enclosures: Exhibit A (Hourly Rates)  
Exhibit B (Assumptions and Limiting Conditions)  
Professional Qualifications of John G. Ellis, MAI, CRE, FRICS

AGREED & ACCEPTED THIS 6th DAY OF JULY, 2015

BY: SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

PAUL M. EATON,  
CHAIR, SUCCESSOR AGENCY BOARD  
NAME (PRINT)

\_\_\_\_\_  
AUTHORIZED SIGNATURE



## Exhibit A

### Schedule of Hourly Rates

John G. Ellis, MAI, CRE, FRICS: (Senior Managing Director)	\$360 per hour for appraisal and consulting \$450 per hour for trial preparation and expert testimony
Beth B. Finestone, MAI, AI-GRS, FRICS: (Managing Director)	\$335 per hour for appraisal and consulting \$375 per hour for trial preparation and expert testimony
Adam M. Bogorad, MAI: (Director)	\$260 per hour for appraisal and consulting \$300 per hour for trial preparation and expert testimony
Other Directors/Senior Consultants:	\$210 to \$260 per hour
Senior Analysts:	\$185 to \$250 per hour
Analysts:	\$140 to \$180 per hour
Researchers:	\$90 to \$135 per hour
Administrative Staff: (For supplemental documentation requests)	\$75 per hour

*Effective for the six-month period starting July 1, 2015*



## Exhibit B

### Assumptions and Limiting Conditions

This appraisal is based on the following assumptions, except as otherwise noted in the report.

1. The title is marketable and free and clear of all liens, encumbrances, encroachments, easements and restrictions. The property is under responsible ownership and competent management and is available for its highest and best use.
2. There are no existing judgments or pending or threatened litigation that could affect the value of the property.
3. There are no hidden or undisclosed conditions of the land or of the improvements that would render the property more or less valuable. Furthermore, there is no asbestos in the property.
4. The property is in compliance with all applicable building, environmental, zoning, and other federal, state and local laws, regulations and codes.
5. The information furnished by others is believed to be reliable, but no warranty is given for its accuracy.

This appraisal is subject to the following limiting conditions, except as otherwise noted in the report.

1. The conclusions stated in our appraisal apply only as of the effective date of the appraisal, and no representation is made as to the effect of subsequent events.
2. No changes in any federal, state or local laws, regulations or codes (including, without limitation, the Internal Revenue Code) are anticipated.
3. No environmental impact studies were either requested or made in conjunction with this appraisal, and we reserve the right to revise or rescind any of the value opinions based upon any subsequent environmental impact studies. If any environmental impact statement is required by law, the appraisal assumes that such statement will be favorable and will be approved by the appropriate regulatory bodies.
4. Unless otherwise agreed to in writing, we are not required to give testimony, respond to any subpoena or attend any court, governmental or other hearing with reference to the property without compensation relative to such additional employment.
5. We have made no survey of the property and assume no responsibility in connection with such matters. Any sketch or survey of the property included in this report is for illustrative purposes only and should not be considered to be scaled accurately for size. The appraisal covers the property as described in this report, and the areas and dimensions set forth are assumed to be correct.
6. No opinion is expressed as to the value of subsurface oil, gas or mineral rights, if any, and we have assumed that the property is not subject to surface entry for the exploration or removal of such materials, unless otherwise noted in our appraisal.
7. We accept no responsibility for considerations requiring expertise in other fields. Such considerations include, but are not limited to, legal descriptions and other legal matters such as legal title, geologic considerations, such as soils and seismic stability, and civil, mechanical, electrical, structural and other engineering and environmental matters.
8. The distribution of the total valuation in the report between land and improvements applies only under the reported highest and best use of the property. The allocations of value for land and improvements must not be used in conjunction with any other appraisal and are invalid if so used. The appraisal report shall be considered only in its entirety. No part of the appraisal report shall be utilized separately or out of context.
9. Except as provided in the Agreement, neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraisers, or any reference to the Appraisal Institute) shall be disseminated through advertising media, public relations media, news media or any other means of communication (including without limitation prospectuses, private offering memoranda and other offering material provided to prospective investors) without the prior written consent of the person signing the report.
10. Any income and expense estimates contained in the appraisal report are used only for the purpose of estimating value and do not constitute predictions of future operating results.
11. If the property is subject to one or more leases, any estimate of residual value contained in the appraisal may be particularly affected by significant changes in the condition of the economy, of the real estate industry, or of the appraised property at the time these leases expire or otherwise terminate.
12. No consideration has been given to personal property located on the premises or to the cost of moving or relocating such personal property; only the real property has been considered.
13. The current purchasing power of the dollar is the basis for the value stated in our appraisal; we have assumed that no extreme fluctuations in economic cycles will occur.
14. The value found herein is subject to these and to any other assumptions or conditions set forth in the body of this report but which may have been omitted from this list of Assumptions and Limiting Conditions.



15. The analyses contained in the report necessarily incorporate numerous estimates and assumptions regarding property performance, general and local business and economic conditions, the absence of material changes in the competitive environment and other matters. Some estimates or assumptions, however, inevitably will not materialize, and unanticipated events and circumstances may occur; therefore, actual results achieved during the period covered by our analysis will vary from our estimates, and the variations may be material.
16. The Americans with Disabilities Act (ADA) became effective January 26, 1992. We have not made a specific survey or analysis of any property to determine whether the physical aspects of the improvements meet the ADA accessibility guidelines. In as much as compliance matches each owner's financial ability with the cost to cure the non-conforming physical characteristics of a property, we cannot comment on compliance to ADA. Given that compliance can change with each owner's financial ability to cure non-accessibility, the value of the subject does not consider possible noncompliance. A specific study of both the owner's financial ability and the cost to cure any deficiencies would be needed for the Department of Justice to determine compliance.
17. Except as provided in the Agreement, the appraisal report is prepared for the exclusive benefit of the Client, its subsidiaries and/or affiliates. Except as provided in the Agreement, it may not be used or relied upon by any other party. Except as provided in the Agreement, all parties who use or rely upon any information in the report without our written consent do so at their own risk.
18. No studies have been provided to us indicating the presence or absence of hazardous materials on the subject property or in the improvements, and our valuation is predicated upon the assumption that the subject property is free and clear of any environment hazards including, without limitation, hazardous wastes, toxic substances and mold. No representations or warranties are made regarding the environmental condition of the subject property and the person signing the report shall not be responsible for any such environmental conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because we are not experts in the field of environmental conditions, the appraisal report cannot be considered as an environmental assessment of the subject property.
19. The person signing the report may have reviewed available flood maps and may have noted in the appraisal report whether the subject property is located in an identified Special Flood Hazard Area. We are not qualified to detect such areas and therefore do not guarantee such determinations. The presence of flood plain areas and/or wetlands may affect the value of the property, and the value conclusion is predicated on the assumption that wetlands are non-existent or minimal.
20. Integra is not a building or environmental inspector. Integra does not guarantee that the subject property is free of defects or environmental problems. Mold may be present in the subject property and a professional inspection is recommended.
21. The appraisal report and value conclusion for an appraisal assumes the satisfactory completion of construction, repairs or alterations in a workmanlike manner.
22. Integra Realty Resources – Los Angeles, an independently owned and operated company shall prepare the appraisal for the specific purpose so stated elsewhere in this proposal. The intended use of the appraisal is stated in the General Information section of the report. Except as provided in the Agreement, the use of the appraisal report by anyone other than the Client is prohibited. Accordingly, except as provided in the Agreement, the appraisal report will be addressed to and shall be solely for the Client's use and benefit.
23. The conclusions of this report are estimates based on known current trends and reasonably foreseeable future occurrences. These estimates are based partly on property information, data obtained in public record, interviews, existing trends, buyer-seller decision criteria in the current market, and research conducted by third parties, and such data are not always completely reliable. Integra Realty Resources, Inc. and the undersigned are not responsible for these and other future occurrences that could not have reasonably been foreseen on the effective date of this assignment. Furthermore, it is inevitable that some assumptions will not materialize and that unanticipated events may occur that will likely affect actual performance. While we are of the opinion that our findings are reasonable based on current market conditions, we do not represent that these estimates will actually be achieved, as they are subject to considerable risk and uncertainty. Moreover, we assume competent and effective management and marketing for the duration of the projected holding period of this property.
24. All prospective value estimates presented in this report are estimates and forecasts which are prospective in nature and are subject to considerable risk and uncertainty. In addition to the contingencies noted in the preceding paragraph, several events may occur that could substantially alter the outcome of our estimates such as, but not limited to changes in the economy, interest rates, and capitalization rates, behavior of consumers, investors and lenders, fire and other physical destruction, changes in title or conveyances of easements and deed restrictions, etc. It is assumed that conditions reasonably foreseeable at the present time are consistent or similar with the future.

As will be determined during the course of the assignment, additional assumptions may be required in order to complete the assignment, which additional assumptions shall be reasonably satisfactory to Client and shall be stated in full in the report. The appraisal shall also be subject to those assumptions.



# John G. Ellis, MAI, CRE, FRICS

## Experience

Mr. Ellis, the Senior Managing Director of INTEGRAL REALTY RESOURCES – LOS ANGELES, has provided real estate appraisal services in Southern California continuously since 1980. Property types which he has appraised include office buildings, shopping centers, industrial buildings, apartment and condominium complexes (including affordable housing projects), subdivisions, mobile home parks, hotels, motels, restaurants, healthcare properties, religious facilities, bowling alleys, golf courses, auto dealerships, gas stations, carwashes, motion picture and performing arts theaters, cold storage and food processing facilities, parking structures, transit-oriented development projects, shipping terminals and other types of waterfront property, industrial, commercial and residential acreage, agricultural land, mountainous and hillside acreage, utility and transportation corridors (in fee and as easements), designated open space, and single-family residences including beachfront homes and major estates.

He has completed a wide range of specialized studies including value diminution (from both internal and external influences), market demand, feasibility, severance damages and project benefits, investment analysis, assessment allocation, reuse analysis, minority interest studies, and the valuation of leasehold, leased fee, and possessory interests. He has also appraised partial interests in real estate and in limited partnerships and holding companies that own real estate. In addition, Mr. Ellis, a past president of the Southern California Chapter of the Appraisal Institute (SCCAI) with more than 20 years of volunteer service to SCCAI, is a published author on appraisal topics. He has given expert testimony in federal and superior courts on more than two dozen occasions. He also provides appraisal reviews and consultation services when needed, and is an experienced arbitrator. Mr. Ellis serves a client base that includes lending institutions, public agencies, corporate and individual property owners, and the legal profession.

From 1980 to 1996 Mr. Ellis was with the Los Angeles-based real estate appraisal firm of Lea Associates, Inc., most recently as Principal and Senior Vice President. He founded the firm of Ellis Group in 1996, which became INTEGRAL REALTY RESOURCES – LOS ANGELES in 1999.

## Professional Activities

- Member: Appraisal Institute (MAI No. 7337)  
(Over 20 years of volunteer work on boards and committees of the Appraisal Institute; past president of the Southern California Chapter of the Appraisal Institute; recognized as "Volunteer of Distinction" for Region VII in 2013)
- Member: The Counselors of Real Estate (CRE No. 11254)
- Fellow: Royal Institution of Chartered Surveyors (FRICS No. 1250862)
- Member: International Right of Way Association
- Licensed: California Certified General Real Estate Appraiser No. AG007279
- Licensed: California Real Estate Broker No. 01213329

## Expert Testimony

Mr. Ellis is qualified as an expert witness in real estate valuation matters and has testified before:

- Superior Courts within the California counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, Kern, and Imperial; and within the Third Judicial District of Alaska
- United States District Court
- United States Bankruptcy Courts: Central, Northern, and Southern Districts of California
- Tax Appeal Boards: Los Angeles, Orange, Riverside, San Bernardino, and Contra Costa counties
- Arbitration testimony at hearings in Los Angeles, Orange, San Diego, and Sacramento counties
- Rent Control Boards: cities of Santa Monica, West Hollywood, and Carson (MRRB)

He has also been appointed by the Superior Court of Los Angeles County on several occasions to assist in reconciling the disparate opinions of opposing, privately retained valuation experts.

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## John G. Ellis, MAI, CRE, FRICS

### Seminar Presentations and Speaking Engagements

- *Which Way Is the Wind Blowing?* (IRWA Chapter 67, Orange County, January 13, 2015)
- *Subdivision Analysis in Southern California: Methodology and Discount Rates* (SCCAI, Subdivision Land Seminar, August 21, 2014)
- Chairman/Moderator of the Annual Litigation Seminar of the Southern California Chapter of the Appraisal Institute (2013, 2005, and 1999)
- *Examination of Appraisal Practices in Tax Appeal Hearings* (SCCAI, 46<sup>th</sup> Annual Litigation Seminar, Los Angeles, November 15, 2013)
- *Real Estate Market Trends: Winter 2013* (IRWA Chapter 67, Orange County, January 8, 2013; SCCAI Market Trends Seminar, January 24, 2013)
- *Current Issues in Real Estate Appraisals* (Lorman Education Services, live audio conference, March 8, 2012)
- *Real Estate Market Trends: Has the Storm Passed?* (IRWA Chapter 67, Orange County, January 10, 2012; IRWA Chapter 57, Inland Empire, February 1, 2012)
- *Underwriting Sustainable Commercial Properties* (2011 National Association of Realtors Conference, November 12, 2011)
- *Commercial Property Valuation Issues and Trends* (2011 IAAO-LA Spring Appraisal Seminar, April 6, 2011)
- *The Assessment Appeals Process: Practical Perspectives* (SCCAI, 43<sup>rd</sup> Annual Litigation Seminar, November 17, 2010)
- *Orange County Real Estate and Economic Trends* (IRWA Chapter 67, September 14, 2010)
- *Legal Issues in Appraisals: What and When to Ask the Attorney* (IRWA Right of Way and the Law Seminar, June 22, 2010)
- *Current Issues in the Economy and Residential and Commercial Real Estate* (The Housing Authority of the City of Los Angeles, May 24, 2010)
- *Current Issues in the Economy, Commercial Real Estate, and Real Estate Appraisals* (MCLE-approved presentation, April 15, 2010)
- *The Role of the Appraiser in Construction Defect Litigation* (MCLE-approved presentations, February 10 and March 4, 2010)
- *Real Estate Values: Have We Hit Bottom Yet?* (IRWA Chapter 1, 2009 Annual Fall Seminar, October 20, 2009)
- *Impact of Use Restrictions in Market Value and Market Rent Appraisals* (SCCAI, Special Purpose Properties Seminar, October 20, 2009)
- *Rent Re-Setting Via Litigation* (Integra Academy, September 14, 2009)
- *Industrial Property Trends: Los Angeles County and the Inland Empire* (SCCAI, 15th Annual Summer Conference, July 16, 2009)
- *Current Issues in the Economy, Commercial Real Estate, and Real Estate Appraisals* (District 7 of California Department of Transportation, March 18, 2009)
- *Industrial Property Trends: Los Angeles County and the Inland Empire* (SCCAI, 14th Annual Summer Conference, July 31, 2008)
- *California School Districts' Property and Acquisition and Disposition Update* (IRWA Chapter 1, Annual Valuation Conference, April 22, 2008)
- *A Market in Flux: Los Angeles and Orange Counties Retail Properties* (Urban Land Institute Conference, Reinventing Retail, February 14, 2008)
- *California Property in a Global Economy* (Global Property Valuation Excellence, Appraisal Institute/RICS Americas Joint Valuation Conference, September 25, 2007)
- *Considering the Contributory Value of Interim Use Improvements* (SCCAI, Special Purpose Properties Seminar, May 25, 2007)
- *Partial Takings in Multi-Property Appraisal Assignments* (IRWA Chapter 1, Annual Valuation Conference, April 26, 2005)
- *Appraiser's Role in Redevelopment* (Appraisal Institute, 1998)
- *Deposition and Cross-Examination Skills* (IRWA, April 1997)
- *Entertainment Properties* (Moderator, 1997)
- *Land Valuation in Southern California* (SCCAI, 1996)

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# John G. Ellis, MAI, CRE, FRICS

## Published Texts and Articles

- "Lease Renewal—The Periodic Setting of Market Rent in a Long-Term Lease," in *Applications in Litigation Valuation: A Pragmatist's Guide* (Chicago: Appraisal Institute, 2012).
- "Los Angeles Industrial Market Highlights," *Western Real Estate Business*, October 2008.
- "Los Angeles Apartment Trends," *Western Real Estate Business*, November 2007.
- "Can Downtown Support Another High-Rise?" *Real Estate Southern California*, March 2007.
- "The Special Nature of Property Tax Appraisals" (co-authored with Kathy Spletter and Cris K. O'Neill), Institute for Professionals in Taxation, June 2006.

## Education

B.A., Business/Economics, University of California, Los Angeles (1981)

Mr. Ellis is currently certified by the Appraisal Institute's program of continuing education for its designated members. He successfully completed the following courses and other requirements of the MAI designation through the Appraisal Institute and American Institute of Real Estate Appraisers:

- Comprehensive Examination
- Income Property Demonstration Report
- Real Estate Investment Analysis
- Case Studies in Real Estate Valuation
- Capitalization Theory and Techniques, Parts I, II, III
- Standards of Professional Practice
- Report Writing and Valuation Analysis
- Basic Valuation Procedures
- Real Estate Appraisal Principles

He has attended (and in some cases participated in) the following courses, seminars, workshops:

- Inland Empire Market Trends Seminar (Appraisal Institute, 2014, 2005, 2000)
- Litigation Seminar (Appraisal Institute, 2014, 2013, 2012, 2011, 2010, 2009, 2008, 2006, 2005, 2004, 2003, 2001, 1999)
- IRS Valuation Summit (Appraisal Institute, 2013)
- Business Practices and Ethics (Appraisal Institute, 2012, 2007)
- Fractional Interests (Appraisal Institute, 2012)
- Annual Summer Conference: Commercial Session (Appraisal Institute, 2011, 2010, 2008)
- Special Purpose Properties Seminar (Appraisal Institute, 2011, 2007, 2005)
- Historic and Notable Homes Tour in the San Gabriel Valley (Appraisal Institute, 2010)
- Mastering Cap Rates in Today's Market (Appraisal Institute, December 2009)
- The Appraiser's Role in Public Acquisitions (Appraisal Institute, February 2009)
- Appraising Distressed Commercial Real Estate (November 2008)
- Private Developers Going Public...Is This a Trend? (January 2008)
- Public Real Estate Education Symposium (IRWA, 2007)
- Uniform Appraisal Standards for Federal Land Acquisitions (Appraisal Institute, 2006)
- Contemporary Approaches to Land Valuation (Appraisal Institute, 2005)
- Operating Expense Seminar (Appraisal Institute, 2005)
- Real Estate Outlook (CSUN Center for Real Estate, 2005)
- Case Studies in Limited Partnership and Common Tenancy Valuation (Appraisal Institute, 2004)
- Market Trends in Ventura and Santa Barbara Counties (Appraisal Institute, 2003)
- Market Rent, Lease Revaluation and Leasehold Interests (Appraisal Institute, 2001)
- Real Estate Capital Markets Symposium (Appraisal Institute, 2001)
- Charitable Gift Giving in Real Estate (Appraisal Institute, 2001)
- Past and Present Building and Land Values Along Ventura Boulevard (Appraisal Institute, 2000)
- Southern California Market Trends Seminar (Appraisal Institute)
- The Entitlement Process (Appraisal Institute)
- Analysis of Retail Properties (Appraisal Institute)
- Appraisal of Residential Subdivisions (Appraisal Institute)
- California Real Estate Law (UCLA)
- Construction Cost Analysis (Appraisal Institute)
- Valuation of Minority Interests (Appraisal Institute)
- Financing for Real Estate Projects (Appraisal Institute)
- Impact of Detrimental Conditions (Appraisal Institute)

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**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON MONDAY,  
JUNE 15, 2015, AT 8:37 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Pro Tem Raft called the meeting to order at 8:37 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 June 1, 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 June 1, 2015.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**

At 8:38 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 9:02 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 9:02 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



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Edward C. Starr  
City Manager

**MINUTES OF THE REGULAR MEETING OF THE PUBLIC  
WORKS COMMITTEE HELD ON THURSDAY, JUNE 18, 2015,  
AT 4:00 P.M. IN THE CITY MANAGER'S CONFERENCE  
ROOM, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Chair Raft called the meeting to order at 4:00 p.m.

**II. ROLL CALL**

Present: Chair Raft; Committee Member Eaton; Deputy City Manager/Director of Economic Development Staats; Office of Public Safety/Police Chief deMoet; Director of Community Development Lustro; Public Works Director/City Engineer Hudson; Public Works Superintendent Mendez; and Facilities and Grounds Superintendent McGehee.

Absent: City Manager Starr

Also Present: Mr. Rick Gomez (regarding Item V.B.1.a)

**III. APPROVAL OF MINUTES**

The Public Works Committee approved the minutes of the Public Works Committee meeting of April 16<sup>th</sup>, 2015.

**IV. PUBLIC COMMENT**

Mr. Rick Gomez was present for the Transportation Development Impact Fees for the Orchard Plaza Project and waited until Public Works Director/City Engineer Hudson discussed this item.

**V. PUBLIC WORKS DEPT. UPDATES/ITEMS**

**A. OPERATION / FACILITIES AND GROUND ITEMS**

**1. MAINTENANCE ACTIVITY REPORTS ATTACHED**

There were no questions or issues with the Maintenance Activities Report. Facilities and Grounds Superintendent McGehee had nothing to add.

**B. ENGINEERING DIVISION ITEMS**

**1. TRANSPORTATION DEVELOPMENT IMPACT FEES**

**a. CONSIDER OFFSETTING FEES WITH IMPROVEMENTS REQUIRED FOR ORCHARD PLAZA**

This project is at the corner of Ramona Avenue and Holt Boulevard, and includes improvements at this intersection and both streets. The improvements will add one additional

lane to Ramona Avenue and will require the relocation and reprogramming of the traffic signal for the intersection. The work will eliminate the split phase signal operation, which is currently used for the north/south direction of travel. The required improvements are estimated at \$284,571.00. In addition to the cost of improvements, the developer would normally be required to contribute \$126,221.60 for the local portion of the Transportation Development Impact Fee based on the magnitude of the project. The developer has asked for some relief of the fees based on the value of the improvements being undertaken. Although the improvements are conditions of approval for the development, the work being performed is included in the list of projects that the local portion of the Transportation Development Impact Fee. Requiring both the work and payment of fee would essentially amount to double billing the developer. Public Works Director/City Engineer Hudson recommends that the local portion of the Transportation Development Impact Fee be waived. The Committee concurred with staff recommendation.

b. CONSIDER OFFSETTING FEES WITH IMPROVEMENTS REQUIRED FOR FRONTIER HOMES TRACT NO. 19943

Frontier Homes purchased land to develop at the southeast corner of Monte Vista Avenue and Howard Street. Tentative Map No. 19943 was previously approved by the Planning Commission and City Council earlier this year. Conditions of approval include widening Monte Vista Avenue through the property frontage and adding curb, gutter, sidewalk, and street lighting. Grading is currently underway. A previous development completed about 20 years ago, Tract No. 15533, constructed these same improvements through its frontage to the south. However, with the completion of Tract No. 19943 improvements, a 150-foot gap will exist between these two developments without the street improvements. The developer has offered to construct all the missing improvements (curb, gutter, sidewalk, and pavement) in exchange for the City waiving the local portion of the Transportation Development Impact Fee. The fee amounts to \$10,728. Public Works Director/City Engineer Hudson recommends that the local portion of the Transportation Development Impact Fee be waived. The Committee concurred with staff recommendation. When these improvements are completed, Monte Vista will have two northbound lanes from Grand Avenue to Mission Boulevard, leaving only the short segment between Grand Avenue and Phillips Boulevard to complete at a later date.

2. CONSIDER REQUIRING ENDOWMENTS FOR LONG-TERM MAINTENANCE OF WATER QUALITY MANAGEMENT PLAN (WQMP) DEVICES

In response to a mini development boom in the early 2000s, the City implemented a landscape endowment fee to help with the maintenance of landscaping associated with new development. In developments with homeowners associations, the association was responsible for maintenance of landscaping walled off from an adjacent street. However, with typical single family residential projects, there was no homeowners association and no way for property owners to access the area beyond their back walls for maintenance purposes. The landscape endowment created a fund to assist the City with the maintenance of this landscaped areas. The endowment amount was based on the present worth of monthly maintenance costs for a 20-year period with an interest rate set at about 5%. This endowment helped reduce the impact on first the General Fund and later the Gas Tax Fund. The endowment is still a requirement today.

About two years ago the requirement for Water Quality Management Plans (WQMP) was expanded from onsite work to offsite work as well. While treatment of storm water runoff from private property development has been required for about the last ten years, until recently treatment of runoff from those new streets created as part of the development was not. The new water regulations and WQMP requirements have created additional maintenance requirements on the City's part. WQMP devices include swales, rain gardens, infiltration basins, underground storage areas and other features within the street rights-of-way that are the City's maintenance responsibilities.

Public Works Director/City Engineer Hudson recommended that the City develop an endowment policy similar to the one already in use for landscape maintenance. As City revenues increase in the future, the City would gradually be able to add the maintenance costs of these devices to the annual maintenance budget. Public Works Director/City Engineer Hudson recommended a 10- to 20-year endowment for future developments. Deputy City Manager/Director of Economic Development Staats added that the City is already doing this in the North Montclair developments for street sweeping, street lights, Police, and Fire costs through the community facilities district process. The Committee directed staff to develop and implement such a WQMP device maintenance plan.

**VI. POLICE DEPARTMENT UPDATES/ITEMS**

**A. MESSAGE BOARD SIGN**

Office of Public Safety/Police Chief deMoet stated on Monday June 8<sup>th</sup>, the Police Department purchased a changeable message board from a vendor in Chino who had the item in stock. The funds used for the purchase were grant funds. The Police Department will be able to use the sign to get the message out about no fireworks in Montclair for the 4<sup>th</sup> of July. Office of Public Safety/Police Chief deMoet said the Police Staff will be strategizing the location of the message board and will be placing anti-theft devices on the unit. The message board will be used for advertising community events, public safety awareness, and driver's license checkpoints. The message board will also be available to other departments.

**B. SPLASH PAD / PARKS OFFICER PRESENCE (ADDED ITEM)**

A reserved officer is assigned to the Splash Pad area on the weekends from 12p.m. - 8p.m. Saturdays and Sundays. Office of Public Safety/Police Chief deMoet stated that for the 4<sup>th</sup> of July, the Police Department will have five additional officers patrolling. Also officers have made more of a presence at Montclair parks with additional drive-throughs and personnel walking the parks more frequently to detour unwanted behavior.

**VII. COMMUNITY DEVELOPMENT DEPARTMENT PROJECT UPDATES/ITEMS**

**A. PROPOSED 31-UNIT RESIDENTIAL CONDOMINIUM PROJECT AT 5165 MISSION BOULEVARD**

Crestwood Communities has approached the City regarding a proposed 31-unit condominium project at 5165 Mission Boulevard on the south side of Mission Boulevard west of Central Avenue. An environmental report is currently being prepared for the project. It will be a gated community with a single entrance from Mission Boulevard and a crash gate will be located at the east end of the project for emergency personnel only. Each unit will be 1,600 to 2,050 square feet with an attached two-car garage. These detached condos are similar to single-family homes. The design includes 42 onsite parking spaces which comply with the new R3 standards. Director of Community Development Lustro hopes that the project will be sent to the Planning Commission by the end of July or beginning of August.

## VIII. CAPITAL PROJECT UPDATES

Public Works Director/City Engineer Hudson reported the status of the following capital improvement projects:

### A. MONTE VISTA AVENUE/UPRR GRADE SEPARATION PROJECT

At the last Council meeting, the Council awarded a design contract to NCM Engineering Corporation to design the Monte Vista Avenue Grade Separation. The City has started the design. The Monte Vista Avenue Grade Separation project should be ready to bid in the spring of 2016 with construction to start in fall to winter of 2016.

### B. CENTRAL AVENUE/UPRR GRADE SEPERATION RECONSTRUCTION

The City is still waiting for the documents to be approved from Caltrans. Public Works Director/City Engineer Hudson was informed by Caltrans that the documents are currently being re-reviewed and the process should be complete by June 22<sup>nd</sup>. The next step is the Request for Authorization (RFA) to award a design contract. The third RFA was also sent to Caltrans. The City is hoping that this submittal will be the last one and Caltrans will give authorization to the City to continue with the project.

### C. RECREATION BUILDING REMODEL-PHASE ONE RESTROOM AND SHOWERS

The remodel is progressing very well, the tiling is complete in the men's locker room and the tiling has started in the women's locker room. The new employee's restroom tiling is almost complete. Grout still needs to be done in all areas and City Staff is expecting the work to be complete within the next two weeks. The next step will be the flooring and installation of the fixtures which should be complete by July and ready to occupy.

### D. RECREATION BUILDING REMODEL-PHASE TWO WEIGHT ROOM

This project is currently at the design phase. The expansion of the weight room will be between the two locker rooms to the starlight patio and will occupy the stage area. The cardiovascular equipment can be placed in the gym, if the City receives grant funds or funding is available. The design work is almost complete and in the next two weeks the designs will be submitted to the Building Division for plan checking.

### E. CENTRAL AVENUE/SAN BERNARDINO STREET TRAFFIC SIGNAL UPGRADE

The project is out to bid and suppose to open bid in the next two weeks. The City extended the bid opening to June 25<sup>th</sup>. The project only had two plan set holders. At the moment there are now seven plan set holders. Public Works Director/City Engineer Hudson believes

the City will see a significant reduction of accidents at the Central Avenue/San Bernardino Street intersection after the signal upgrade.

**F. NORTHEAST RESIDENTIAL STREET RESURFACING PROJECT-PHASE TWO**

The Northwest Montclair Street Rehabilitation Project was completed this week. The street resurfacing project was intended to provide pavement rehabilitation throughout a portion of the Monte Vista Water District recently constructed water mainline and service upgrades. The project limits were from Caroline Street on the north, Central Avenue on the west, Palo Verde Street on the south, and Benson Avenue on the east. Improvements included removal and replacement of damaged curb, gutter, and sidewalk. The work included replacement of non-compliant Americans with Disabilities Act (ADA) pedestrian ramps; grinding of existing asphalt concrete pavement; and new asphalt concrete pavement. In total, 13 streets were resurfaced.

**G. BENSON AVENUE AND CAROLINE/DEODAR CUL-DE-SAC CLOSURES**

The City has awarded a contract and is nearly complete. The old wall has been removed, the footing has been installed, and the blocks are stacked about half way high now. Public Works Director/City Engineer Hudson stated that the project should be completed in a few weeks.

**H. GOLD LINE**

The City Council approved an agreement with San Bernardino Associated Governments (SANBAG) for reimbursement from the Los Angeles County line extension to the San Bernardino County line. SANBAG is obligated to extend the line to Montclair and also reimburse the City for approximately two million dollars, which the City will have to spend on the preliminary design. The City has not been billed by the Construction Authority, but the City has set the money aside.

**IX. OTHER ITEMS**

**A. PINEBROOK APARTMENTS**

Chair Raft had an inquiry for Director of Community Development Lustru. Chair Raft inquired as to when the next insect inspection will be performed at Pinebrook Apartments. Director of Community Development Lustru stated that he will be checking with Code Enforcement and have staff contact the management at Pinebrook Apartments to have the insect issues resolved.

**X. ADJOURNMENT**

**A. DISCUSSION OF TIME OF PUBLIC WORKS COMMITTEE MEETING**

Public Works Director/City Engineer Hudson asked Committee Members if they would like to change the time back to 2:00 p.m. for the Public Works Committee meeting. The reason for the change is that the City Yard closes at 5:00p.m. and a supervisor needs to be present for the closure to answer any questions by employees. The Committee responded with an anonymous No! Public Works Director/City Engineer Hudson stated that he will rotate attendance at this meeting of Public Works Superintendent Mendez and Facilities and Grounds Superintendent McGehee so that a supervisor will be present for the closure of the Yard. The Committee voiced no objection to this proposal.

The next meeting of the Public Works Committee will be at 4:00 p.m. on July 16, 2015, if there are items that need to be discussed.

At 4:34 p.m., Chair Raft adjourned the meeting.

Submitted for Public Works Committee approval,

A handwritten signature in black ink, appearing to read 'Cenica Leonard', written over a horizontal line.

Cenica Leonard  
Transcribing Secretary