

**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 20, 2015

7:00 p.m.

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

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

Page No.

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

II. INVOCATION

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

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

- A. Donation to the Montclair Community Foundation for the 2015 Holiday Food and Toy Drive
- B. 2015 Home Beautification Awards

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. 15-952 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] 5

VIII. CONSENT CALENDAR

- A. Approval of Minutes
 - 1. Minutes of the Regular Joint Council/Successor Agency Board/MHC Board/MHA Commission/MCF Board Meeting of July 6, 2015 [CC/SA/MHC/MHA/MCF]
- B. Administrative Reports
 - 1. Consider Receiving and Filing of Treasurer's Report [CC] 9
 - 2. Consider Approval of Warrant Register and Payroll Documentation [CC] 10
 - 3. Consider Receiving and Filing of Treasurer's Report [SA] 11
 - 4. Consider Approval of Warrant Register [SA] 12
 - 5. Consider Receiving and Filing of Treasurer's Report [MHC] 13
 - 6. Consider Approval of Warrant Register [MHC] 14
 - 7. Consider Receiving and Filing of Treasurer's Report [MHA] 15
 - 8. Consider Approval of Warrant Register [MHA] 16
 - 9. Consider Authorizing the Use of \$2,750 in State Asset Forfeiture Funds to Host the 2015 National Night Out Event [CC] 17
 - 10. Consider Authorizing the Use of up to \$2,000 in Federal Asset Forfeiture Funds to Purchase Courier Delivery Services for Police Department Equipment [CC] 19
 - 11. Consider Authorization to Advertise for Bid Proposals for the Human Services Recreation Building Remodel Phase 2 Project [CC] 20
 - 12. 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 Human Services/Recreation Building Improvement Project [CC]
Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC] 21
 - 13. Consider Approval of the Filing of a Notice of Completion for Construction of the 4811 Canoga Street Garage and Deck Improvement Project [MHC]
Consider Release of Retention 30 Days After Recordation of Notice of Completion [MHC] 23

- 14. Consider Authorizing Funding the Full-Time Position of Assistant Director of Housing for the Fiscal Year 2015-16 Montclair Housing Corporation Budget [MHC] 25

C. Agreements

- 1. Consider Approval of Agreement No. 15-57, a Consultant Services Agreement with Young Electric Sign Company (YESCO) to Draft Standards for Electronic LED Signs Within Specific Commercial Areas [CC]

Consider Appropriation of \$12,000 from Redevelopment Project Area No. IV Tax Allocation Bond Funds [CC] 27
- 2. Consider Approval of Agreement No. 15-59 with Reed & Davidson, LLP, for Advising Services Related to the Recall Petition and Special Election Processes [CC] 45
- 3. Consider Approval of Agreement No. 15-60 with Valued Engineering, Inc., for \$35,000 for On-Call Plan Checking Services for Miscellaneous City Projects [CC] 48
- 4. Consider Approval of Agreement No. 15-62 with the San Bernardino County Sheriff's Department for Pre-Employment Polygraph Services [CC] 60

D. Resolutions

- 1. Consider Adoption of Resolution No. 15-3085 Related to the Collection of Sewer Standby Assessment Fees for Vacant Properties [CC] 65

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney

- 1. Closed Session Pursuant to Government Code Section 54956.9(d)(1) Regarding Pending Litigation
Camou v. Montclair
- 2. Closed Session Pursuant to Government Code Section 54956.9(d)(1) Regarding Pending Litigation
Patton v. Montclair
- 3. Closed Session Pursuant to Government Code Section 54957.6 Regarding Conference with Designated Labor Negotiator Edward C. Starr

Agency: City of Montclair

Employee Organizations: Management
Montclair City Confidential Employees Association
Montclair Fire Fighters Association
Montclair Police Officers Association
San Bernardino Public Employees - Teamsters Local 1932

B.	City Manager/Executive Director	
C.	Mayor/Chairman	
D.	Council/SA Board/MHC Board/MHA Commissioners/MCF Board	
E.	Committee Meeting Minutes <i>(for informational purposes only)</i>	
1.	Minutes of the Personnel Committee Meeting of July 6, 2015	68
2.	Minutes of the Code Enforcement/Public Safety Committee Meeting of July 6, 2015	69
XII.	ADJOURNMENT OF SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS, MONTCLAIR HOUSING AUTHORITY COMMISSIONERS, AND MONTCLAIR COMMUNITY FOUNDATION BOARD OF DIRECTORS	
	<i>(At this time, the City Council will meet in Closed Session regarding pending litigation and labor negotiations.)</i>	
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, August 3, 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 16, 2015.

AGENDA REPORT

SUBJECT: 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

SECOND READING

DATE: July 20, 2015
SECTION: PUBLIC HEARINGS
ITEM NO.: A
FILE I.D.: FLP030
DEPT.: COMMUNITY DEV.

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

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

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

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

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

RECOMMENDATION: Staff recommends the City Council adopt Ordinance No. 15-952 adding Section 10.20.030 to Chapter 10.20 of the Montclair Municipal Code related to the review and permitting process for small residential rooftop solar systems.

Prepared by:

Mary Westerman

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Anna Embree

Reviewed and
Approved By:

Steve Lustris

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

APPROVED AND ADOPTED this XX day of XX, 2015.

Mayor

ATTEST:

Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 15-952 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2015, and finally passed not less than five (5) days thereafter on the XX day of XX, 2015, by the following vote, to-wit:

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

Andrea M. Phillips
Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: July 20, 2015

SECTION: ADMIN. REPORTS

ITEM NO.: 1

FILE I.D.: FIN520

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending June 30, 2015, pursuant to state law.

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

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

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending June 30, 2015.

Prepared by:

Janet Kuelbeck

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION **DATE:** July 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 2
FILE I.D.: FIN540
DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated July 20, 2015, and the Payroll Documentation dated July 12, 2015, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated July 20, 2015, totals \$1,243,392.91. The Payroll Documentation dated July 12, 2015, totals \$544,416.47 gross, with \$373,053.28 net being the total cash disbursement.

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

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: July 20, 2015

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: FIN510

DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending June 30, 2015, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending June 30, 2015.

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

RECOMMENDATION: Staff recommends the City Council acting as Successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending June 30, 2015.

Prepared by:

Michael Piotrowski

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M. Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** July 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 4
FILE I.D.: FIN530
DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending June 30, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 06.01.15-06.30.15 in the amounts of \$18,052.29 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds; \$0.00 from the Tax Exempt Bond Proceeds; and \$0.00 from the Taxable Bond Proceeds and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending June 30, 2015.

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: July 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 5
FILE I.D.: FIN525
DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending June 30, 2015, pursuant to state law.

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

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

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending June 30, 2015.

Prepared by:

Michael Piotrowski

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M. Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** July 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 6
FILE I.D.: FIN545
DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending June 30, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 06.01.15-06.30.15 in the amount of \$105,234.21 for the Montclair Housing Corporation and finds it to be in order.

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

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

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: July 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 7
FILE I.D.: FIN525
DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending June 30, 2015, pursuant to state law.

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

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

RECOMMENDATION: Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending June 30, 2015.

Prepared by:

Michael Piotrowski

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M. Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** July 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 8
FILE I.D.: FIN545
DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending June 30, 2015, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 06.01.15-06.30.15 in the amount of \$3,516.00 for the Montclair Housing Authority and finds it to be in order.

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

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

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

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING THE USE OF \$2,750
IN STATE ASSET FORFEITURE FUNDS TO HOST
THE 2015 NATIONAL NIGHT OUT EVENT

DATE: July 20, 2015

SECTION: ADMIN. REPORTS

ITEM NO.: 9

FILE I.D.: PDT362

DEPT.: POLICE

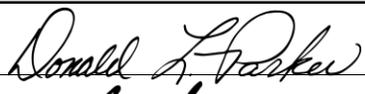
REASON FOR CONSIDERATION: The Police Department, through its Community Relations Division, is coordinating and hosting the 2015 National Night Out community event. The City Council is requested to consider authorizing the use of State Asset Forfeiture funds to purchase goods and services that are essential to its success.

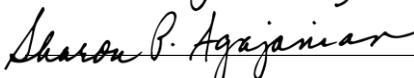
BACKGROUND: The Police Department is dedicated to ensuring the safety of the Montclair community and is committed to engaging residents in dialogue about law enforcement-related responsibilities, concerns, and crime prevention. To that end, the Department, through its Community Relations Division, will coordinate and host this year's National Night Out event in Alma Hofman Park on Tuesday, August 4, 2015. National Night Out is an annual community-building campaign designed to promote police-community partnerships that enhance neighborhood camaraderie and build safer communities.

To encourage community involvement, this year's event will include fun in the Splash Pad, a photo booth, face painting, and a movie in the park, all at no cost to attendees. Popcorn, cookies, nuts, and shaved ice will be available for sale. Montclair Police and Fire Departments will be on hand to speak to the public and provide our youth and the "young at heart" the opportunity to see and handle some of the tools of the trade. A certified child seat installation technician will be available to inspect car seats and provide instruction on proper installation procedures. Child ID/fingerprint kits and a host of educational and promotional materials that help guide, support, motivate, and encourage residents to take an active role in securing a safer community will be available.

Target and ADT®, corporate sponsors of National Night Out, have committed to significant participation. Target staff will be on hand to assist with setup and tear down, and will provide National Night Out promotional gifts and refreshments. Several area representatives have also confirmed their participation in the event.

National Night Out is a perfect opportunity for outreach and interaction with the communities we serve.

Prepared by:  Fiscal Impact Finance Review: 

Proofed by:  Reviewed and Approved By: 

FISCAL IMPACT: Pursuant to Health and Safety Code Section 11489, 15 percent of funds distributed through State Asset Forfeiture shall be deposited in a special fund to be "used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity, and shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers." The City has established Fund 1146 for this purpose.

If authorized by the City Council, funding for the purchase of goods and services for National Night Out would result in an expenditure of \$2,750 from said fund.

RECOMMENDATION: Staff recommends the City Council authorize the use of State Asset Forfeiture funds to host the 2015 National Night Out event.

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING THE USE OF UP TO \$2,000 IN FEDERAL ASSET FORFEITURE FUNDS TO PURCHASE COURIER DELIVERY SERVICES FOR POLICE DEPARTMENT EQUIPMENT	DATE: July 20, 2015
	SECTION: ADMIN. REPORTS
	ITEM NO.: 10
	FILE I.D.: PDT362
	DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to authorize the use of Federal Asset Forfeiture funds to ship weapons to Midwest Distributors, the licensed firearms dealer that purchased the Department's submachine guns and tactical rifles.

BACKGROUND: On May 4, 2015, the City Council authorized the sale/trade-in of the Police Department's existing stock of assault rifles and MP-5 submachine guns to acquire 24 Colt short barrel tactical rifles. All State Police Equipment Company negotiated with Kentucky-based Midwest Distributors to purchase the Department's existing submachine guns and tactical rifles; however, the Department bears the responsibility of packaging and shipping the weapons.

Staff researched the Bureau of Alcohol, Tobacco, Firearms, and Explosives' (ATF) requirements for shipping weapons and found that, aside from the mandated transference of ownership, ATF had no specific shipping requirements. United Parcel Service and FedEx, the two most notable and reputable global courier delivery companies, were also contacted about their capabilities and requirements for shipping weapons. Only FedEx has a policy in place to accept weapons for shipment. The company also vets particular employees to handle these transactions. FedEx has specific facilities that are authorized to ship weapons—one being its Ontario, California facility.

Because of the nature of the items being shipped, FedEx requires they be delivered via overnight service. FedEx is unable to provide the actual freight costs until the weapons are packaged and weighed by the courier. The cost is estimated to be between \$1,500 and \$2,000.

FISCAL IMPACT: If authorized by the City Council, shipping of the weapons would result in expenditure from the Federal Asset Forfeiture account not to exceed \$2,000.

RECOMMENDATION: Staff recommends the City Council authorize the use of up to \$2,000 of Federal Asset Forfeiture funds to purchase courier delivery services for Police Department equipment.

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

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO ADVERTISE FOR BID PROPOSALS FOR THE HUMAN SERVICES RECREATION BUILDING REMODEL PHASE 2 PROJECT	DATE: July 20, 2015 SECTION: ADMIN. REPORTS ITEM NO.: 11 FILE I.D.: CVC060 DEPT.: PUBLIC WORKS
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REASON FOR CONSIDERATION: On April 6, 2015, the City Council approved Agreement No. 15-19 with Frick, Frick & Jetté for architectural design services for the development of plans to remodel the Human Services Recreation Building Remodel Phase 2 Project. The plans are near completion and will be ready to be advertised for bids by August 1, 2015. Advertising for bid proposals is subject to City Council approval.

BACKGROUND: The weight room in the Human Services and Recreation Building has become outdated and noncompliant with Americans with Disabilities Act (ADA) guidelines. The remodel will include the removal of an existing interior corridor hallway as well as the outdoor Starlight Patio stage. These removals will allow for construction that nearly triples the square footage of the existing weight room.

FISCAL IMPACT: The source of funds for the Human Services Recreation Building Remodel Phase 2 Project is Community Development Block Grant funds (CDBG). The Fiscal Years 2015-2019 Capital Improvement Program shows an appropriation of \$410,000 for this project. The cost of advertising this project should not exceed \$3,500.

RECOMMENDATION: Staff recommends the City Council authorize staff to advertise for bid proposals for the Human Services Recreation Building Remodel Phase 2 Project.

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

AGENDA REPORT

SUBJECT: 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 HUMAN SERVICES/RECREATION BUILDING IMPROVEMENT PROJECT	DATE: July 20, 2015
	SECTION: AGREEMENTS
	ITEM NO.: 12
	FILE I.D.: CVC060
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	DEPT.: PUBLIC WORKS

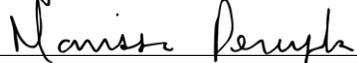
REASON FOR CONSIDERATION: State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a public works project. The City Council is requested to consider approval of the filing of a Notice of Completion with the Office of the San Bernardino County Recorder and related actions concerning the Human Services/Recreation Building Improvement Project.

BACKGROUND: On November 17, 2014, Rasmussen Brothers Construction, Inc., was awarded a contract for construction of the Human Services/Recreation Building Improvement Project and entered into Agreement No. 14-98 with the City. All work required under Agreement No. 14-98 has been satisfactorily completed. The Human Services/Recreation Building Improvement Project included demolition of the existing men's and women's locker rooms, reconstruction, modifications to widen one racquetball court entry, and construction of a new unisex employee restroom. All work was constructed to meet current Americans with Disabilities Act (ADA) requirements.

FISCAL IMPACT: Rasmussen Brothers Construction, Inc., was awarded the construction contract for \$390,808. The City Council also authorized a construction contingency of \$45,000, bringing the total expenditure authorization to \$435,808. During the course of construction, it was necessary to slightly modify the scope of work by way of construction change orders. The changes ultimately increased the total construction cost from the authorized amount of \$390,808 to the final construction cost of \$435,806.23, an increase of \$44,998.23, still keeping the amount within the construction contingency authorized by the City Council at the time of award. The project is funded entirely by Community Development Block Grant Funds.

RECOMMENDATION: Staff recommends the City Council take the following actions related to the Human Services/Recreation Building Improvement Project:

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

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

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:

Human Services/Recreation Building Improvement Project

for the undersigned City of Montclair,
a Municipal Corporation, on the 17th day of July, 2015

The City accepted the job on the 17th day of July, 2015

The Contractor on said job was
Rasmussen Brothers Construction, Inc.
40441 Gavilan Mountain Rd.
Fallbrook, CA. 92028

The improvement consisted of: Building Improvements

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

5111 Benito Street, Montclair, CA. 91763 Human Services/Recreation Building

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 20, 2015 at 5111 Benito Street, Montclair, California

Michael C. Hudson
Public Works Director
City Engineer

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF THE FILING OF A NOTICE OF COMPLETION FOR CONSTRUCTION OF THE 4811 CANOGA STREET GARAGE AND DECK IMPROVEMENT PROJECT	DATE: July 20, 2015
	SECTION: ADMIN. REPORTS
	ITEM NO.: 13
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	FILE I.D.: MHC025
	DEPT.: MHC

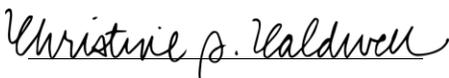
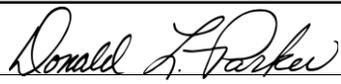
REASON FOR CONSIDERATION: State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a public works project. The Montclair Housing Corporation (MHC) Board of Directors is being asked to approve the Notice of Completion.

BACKGROUND: On April 6, 2015, Jaramillo & Sons Construction was awarded a contract in the amount of \$32,100 for construction of the 4811 Canoga Street Garage and Deck Improvement Project and entered into Agreement No. 15-23 with the MHC. All work required under Agreement No. 15-23 has been satisfactorily completed. The 4811 Canoga Street Garage and Deck Improvement Project included repairs and reconstruction of a portion of both the garage and deck at the 4811 Canoga Street apartment complex. Damage to the garage and deck was a result of years of wear and tear on the deck and from water leaks from the compromised deck area and adjacent pool equipment room. The 4811 Canoga Street Garage and Deck Improvement Project addressed the reconstruction of the garage walls, removal and installation of new support beams, and removal and replacement of the deck area located above the damaged section of the garage.

FISCAL IMPACT: The 4811 Canoga Street Garage and Deck Improvement Project was included in the Montclair Housing Corporation Fiscal Year 2014-15 Budget under Major Repairs. The final cost for the project remained at \$32,100 and the retention amount is \$1,605.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors take the following actions related to completion of the 4811 Canoga Street Garage and Deck Improvement Project:

1. Approve the filing of a Notice of Completion with the Office of the San Bernardino County Recorder.
2. Release retention 30 days after recordation of Notice of Completion.

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

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Montclair, City Clerk's Office
5111 Benito Street/P. O. Box 2308
Montclair, CA 91763

APN NO. : 1009-452-22

(Space above this line for Recorder's Use)

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 Christine S. Caldwell
Montclair Housing Corporation/City of Montclair
5111 Benito Street
Montclair, CA 91763

The work was completed on that certain work known as 4811 Canoga Street Garage and Deck
Improvement Project

for the undersigned City of Montclair Housing Corporation/City of Montclair,
a Municipal Corporation, on the 1st day of July, 2015

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

The Contractor on said job was Jaramillo & Sons Construction
565 West Second St. Loft 9
Pomona CA 91766

The improvement consisted of Work included reconstruction of garage walls, removal and installation of
new support beams, and removal and replacement of deck area located
above the apartment garages.

The property upon which said work of improvement was completed is described as: 4811 Canoga Street

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: _____ at 5111 Benito Street, Montclair, California

Assistant Director of Housing

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZING FUNDING THE FULL-TIME POSITION OF ASSISTANT DIRECTOR OF HOUSING FOR THE FISCAL YEAR 2015-16 MONTCLAIR HOUSING CORPORATION BUDGET

DATE: July 20, 2015
SECTION: ADMIN. REPORTS
ITEM NO.: 14
FILE I.D.: PER597
DEPT.: MHC/ADMIN. SVCS.

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider authorizing the full-time position of Assistant Director of Housing for the Fiscal Year 2015-16 Montclair Housing Corporation budget. The position of Assistant Director of Housing was approved as a part-time position for the Fiscal Year 2015-16 budget on June 15, 2015.

BACKGROUND: On February 17, 2015, Assistant Director of Housing Christine Caldwell submitted her letter of intent to retire from her position with the Montclair Housing Corporation effective April 3, 2015. Upon learning that Housing Associate Fabiola Lizaola would be taking a leave of absence in April 2015, causing a significant void in the day-to-day operations and management of the Montclair Housing Corporation, Assistant Director of Housing Caldwell agreed to return to work in temporary part-time position as a retired annuitant as allowed by the California Public Employees Retirement System (CalPERS). To facilitate her return, staff contacted CalPERS representatives and consulted them regarding the requirements for this type of arrangement. In response to these discussions, Resolution No. 15-3066 was adopted on March 16, 2015, which authorized an exception to CalPERS' 180-day employment separation rule thus allowing Assistant Director of Housing Caldwell to return to work in the temporary part-time position as of April 20, 2015.

On July 1, 2015, a representative from CalPERS contacted City staff by telephone and stated that CalPERS was reinstating Ms. Caldwell's employment back to April 2015, and rescinding her retirement as a result of non-compliance with the Federal regulations which require a 60-day break in employment prior to returning to work as a retired annuitant. These Federal regulations were not addressed by the CalPERS representatives during staff's conversation with them in March 2015. In addition, the notification from CalPERS on July 1, 2015, was the first time that CalPERS raised an objection to Ms. Caldwell working as a retired annuitant even though they received Resolution No. 15-3066 over 3 months prior in March 2015.

The Montclair Housing Corporation Board of Directors is requested to consider authorizing the inclusion of the full-time Assistant Director of Housing position in the Fiscal Year 2015-16 Montclair Housing Corporation budget. Since Ms. Caldwell is no longer allowed to work as a retired annuitant, it is imperative for her to return to the

Prepared by: Gary E. Charlot
Proofed by: Andrea M. Phillips

Fiscal Impact
Finance Review: Ronald L. Parker
Reviewed and
Approved By: [Signature]

full-time Assistant Director of Housing position for the sustainability and stability of the Housing Division. The annual cost for wages and benefits for this full-time position is \$135,568. In addition, as a result of CalPERS rescinding Ms. Caldwell's retirement back to April 2015, a one-time obligation is due to CalPERS in the amount of \$13,755 which represents the pension payments made to Ms. Caldwell.

FISCAL IMPACT: The cost of wages and benefits for the full-time Assistant Director of Housing position is \$135,568 annually. Already approved in the Fiscal Year 2015-16 Montclair Housing Corporation Budget is a part-time Assistant Director of Housing position with a wage of \$48,714 annually. The cost of the one-time payment to CalPERS to reinstate Ms. Caldwell from her retirement is \$13,755. Thus, the total fiscal impact to reinstate Ms. Caldwell to the full-time position of Assistant Director of House is \$100,609 for Fiscal Year 2015-16 to be funded through the Montclair Housing Corporation.

RECOMMENDATION: Staff recommends that Montclair Housing Corporation Board of Directors authorize funding for the full-time position of Assistant Director of Housing for the Fiscal Year 2015-16 budget effective July 13, 2015, and authorize the one-time payment to CalPERS in the amount of \$13,755 required by CalPERS to reinstate Ms. Caldwell from retirement.

Agreement No. 15-57 conforms to the City's standard agreement for Consultant Services as drafted by the City Attorney. A summary of the proposed Scope of Services found in Agreement No. 15-57 includes the following provisions:

- Consultant would draft an ordinance allowing the installation of LED signs by developing design standards for off-freeway locations that include high-quality LED product specifications using state-of-the-art technology to meet the highest LED sign standards. The consultant would also define certain parameters for the operating digital software and define minimum to high-resolution standards and provide examples of both.
- The Consultant would develop standards for the location, land use, minimum lot area and appropriate setbacks from street frontage for LED sign criteria. A criteria for the base and structure of a monument-style LED reader board would also be established.
- A determination would be made as to whether LED signs should be limited to a specific business industry group within a specified commercial area(s) such as auto dealerships that have outdoor storage.
- The consultant would propose standards for height limits for LED signage based on arterial street speed limits and establish sign face area for quick viewing by passing vehicles. Distance standards for LED signs between adjacent business locations to prevent close proximity between business locations would also be developed.
- Time limits on the static LED message would be recommended with change of graphics every 4 to 8 seconds.
- The Consultant would attend up to two meetings public meetings at the City of Montclair.

It is estimated that it will take approximately three months to complete the process to draft an ordinance for review by the City Council and Planning Commission. It is anticipated that it could take up to five additional months to implement an Ordinance if adopted by the Planning Commission and City Council.

FISCAL IMPACT: The base fee for proposed Agreement No. 15-57 would be \$11,521.

The City Council is requested to consider establishing an appropriation of \$12,000 from Redevelopment Project Area No. IV Tax Allocation Bond proceeds to fund the Agreement for Consultant Services with YESCO.

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

1. Approve Agreement No. 15-57, A Consultant Services Agreement with Young Electric Sign Company (YESCO) to draft standards for electronic LED signs within specific commercial areas.
2. Appropriate \$12,000 from Redevelopment Project Area No. IV Tax Allocation Bond proceeds to fund the Agreement for Consultant Services.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

LED SIGN POLICY

THIS AGREEMENT is made and effective as of July 21, 2015, between the City of Montclair, a municipal corporation ("City") and YESCO, LLC, dba, YESCO Signs, LLC, a California Limited Liability Corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on July 21, 2015, and shall remain and continue in effect for a period of eight (8) months to complete the Scope of Services and prepare the draft sign ordinance or until tasks described herein are completed, but in no event later than March 21, 2016, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed \$11,521.00 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Eleven Thousand and Five Hundred Twenty One Dollars (\$11,521.00). Any additional work in excess of this amount shall be approved by the City Council.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

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

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

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

10. INSURANCE

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

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

*Professional Liability applies only to the extent Consultant provides Engineered Stamped Drawings by a licensed Engineer.

Worker's compensation Statutory

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

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

(d) At all times during the term of this Agreement, Consultant shall maintain on file with City a certificate of insurance, in a form acceptable to City showing that the aforesaid policies are in effect in the required amounts. The general liability policy shall contain or be endorsed to contain a provision including the Indemnitees as additional insureds. Consultant shall promptly file with City such certificate or certificates and endorsements if applicable. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

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

16. NOTICES

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

To City: Marilyn Staats
Deputy City Manager, Executive Director,
Office of Economic Development
City of Montclair
5111 Benito
Montclair, CA 91763

To Consultant: YESCO, LLC, dba, YESCO Signs, LLC.
10235 Bellegrave Ave.,
Jurupa Valley, CA 91752

17. ASSIGNMENT

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

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

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

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

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

CITY OF MONTCLAIR

CONSULTANT

By: _____
Paul M. Eaton, Mayor

By: _____
(Title)

Attest:

By: _____
Andrea M. Phillips, Deputy City Clerk

By: _____
(Title)

Approved as to Form:

By: _____
Diane E. Robbins, City Attorney



March 19, 2015

EXHIBIT A

City of Montclair, Office of Economic Development

RE: Scope of Services for Consultant Services
Cost Proposal to Perform Analysis of LED Signs

Dear Consultants,

The City of Montclair, Office of Economic Development, is seeking Proposals from qualified planning/sign consultants to provide technical analysis of LED signs for potential placement in non-freeway-oriented locations in the City.

Please review the Scope of Services listed on page 2 and 3 of this document. If you plan to submit a response to the Scope of Services, please submit three (3) signed proposals to the City by 5:00 PM on April 8, 2015. A digital version of the response may be sent to me by email (mflores@cityofmontclair.org) but the three (3) signed proposals must still be delivered to City Hall at the following address:

City of Montclair, Office of Economic Development
5111 Benito Street
Montclair, CA 91763

ATTN: Melinda Flores, Economic Development Coordinator

The firm's proposal shall include a detailed description of the necessary task to be performed based on the Scope of Services, an analysis of the LED sign standards, an understanding of the requested work, and the cost to perform the services.

Submittals will be rated on technical expertise and knowledge of the overall LED sign standards. A firm may reference similar projects with contact names, telephone numbers, and e-mail addresses. Proposals will be evaluated for technical understanding of the industry, project planning, and related experience of the Consultant.

Any questions regarding submittal requirements should be directed to me at (909) 625-9415 or email to mflores@cityofmontclair.org.

Sincerely,

Melinda Flores
Economic Development Coordinator

City of Montclair, Office of Economic Development
SCOPE OF SERVICES
March 19, 2015

The City of Montclair is seeking Graphic/Planning Consultants to provide professional analyses of LED signs by establishing appropriate standards and criteria for placement in non-freeway-oriented street locations. The following Scope of Services reflects minimum LED sign standards and are presented as a baseline for off-freeway locations for further analysis by consultant:

1. Formulate design standards that include high-quality LED product specifications for LED sign projects.
2. Set reliable specifications and standards for LED signs using state-of-the art technology to meet the highest standards. Recommend best operating digital software and define minimum to high-resolution standards and provide examples of both.
3. Develop maintenance standards for installed signs to include provisions for long-term appearance and functionality of digital sign and hardware. Maintenance includes LED sign, reader board, operating software and structure for digital sign. If sign becomes inoperable, determine appropriate steps to prevent sign from becoming an unattractive nuisance. Example; if reader board becomes dysfunctional, the sign should default to a blank screen within a specified time period. Establish time frame for repairs and/or penalties for repair of digital sign.
4. Develop standards for location, land use, minimum lot area and appropriate setbacks from street frontage for LED sign criteria.
5. Determine whether LED signs should be limited to specific business industry such as auto dealerships that only include vehicles and watercraft that have outdoor storage.
6. Determine whether LED signs can be limited as a stand-alone sign when a business has an existing monument sign.
7. Set standards for height limits based on arterial street speed limits and establish sign face area for quick viewing by passing vehicles. Determine placement of sign on commercial arterials with speed limits averaging 40 to 45 miles per hour.
8. Establish monument-style LED reader board criteria for base and structure.
9. Establish distance standards for LED signs between adjacent business locations. Sign separation from adjacent businesses may require a fixed or set LED sign location to prevent close proximity between business locations.

10. Establish standards for leasing of commercial lots of auto dealerships by reviewing controlling rights to lease by having a minimum five (5) year lease term to authorize LED signage.
11. Signs should be limited to static messaging with change of graphics every 4 to 8 seconds. No provision allowed for flashing, animation or other moveable objects on digital signs.

EXHIBIT B

REVISED PROPOSAL

June 25, 2015

FOR: City of Montclair, Office of Economic Development
Attn: Melinda Flores
5111 Benito Street
Montclair, CA 91763

FROM: YOUNG ELECTRIC SIGN COMPANY
Dave Jones, Account Executive

RE: Cost Proposal to Perform Analysis of LED Signs

Young Electric Sign Company to perform the following scope of work:

YESCO is pleased to offer this proposal for “Analysis of LED Signs” for the City of Montclair. YESCO is comfortable answering and/ or addressing all of your specific Scope of Services. We are simply restating your Scope of Services here below with some commentary at this point.

- 1. Formulate design standards that include high-quality LED product specifications for LED sign projects. This will include sample design drawings for suggested LED signs with recommended dimensions and LED sign sizes.**
- 2. Set reliable specifications and standards for LED signs using state-of-the art technology to meet the highest standards. Recommend best operating digital software and define minimum to high-resolution standards and provide examples of both. This will include suggested software and a range of digital resolution standards with recommended specifications for each level resolution recommended.**
- 3. Develop maintenance standards for installed signs to include provisions for long-term appearance and functionality of digital sign and hardware. Maintenance includes LED sign, reader board, operating software and structure for digital sign. If sign becomes inoperable,**

YESCO Los Angeles

909-923-7668 » Phone

909-923-5015 » Fax

10235 Bellegrave Avenue
Jurupa Valley, CA 91752

determine appropriate steps to prevent sign from becoming an unattractive nuisance. Example; if reader board becomes dysfunctional, the sign should default to a blank screen within a specified time period. Establish time frame for repairs and/or penalties for repair of digital sign. **We will incorporate reasonable LED sign maintenance standards for our proposal.**

4. Develop standards for location, land use, minimum lot area and appropriate setbacks from street frontage for LED sign criteria.
5. Determine whether LED signs should be limited to specific business industry such as auto dealerships that only include vehicles and watercraft that have outdoor storage.
6. Determine whether LED signs can be limited as a stand-alone sign when a business has an existing monument sign.
7. Set standards for height limits based on arterial street speed limits and establish sign face area for quick viewing by passing vehicles. Determine placement of sign on commercial arterials with speed limits averaging 40 to 45 miles per hour.
8. Establish monument–style LED reader board criteria for base and structure. **We will involve our design resources to complete this part.**
9. Establish distance standards for LED signs between adjacent business locations. Sign separation from adjacent businesses may require a fixed or set LED sign location to prevent close proximity between business locations.
10. Establish standards for leasing of commercial lots of auto dealerships by reviewing controlling rights to lease by having a minimum five (5) year lease term to authorize LED signage.
11. Signs should be limited to static messaging with change of graphics every 4 to 8 seconds. No provision allowed for flashing, animation or other moveable objects on digital signs.

YESCO Los Angeles

909-923-7668 » Phone

909-923-5015 » Fax

10235 Bellegrove Avenue
Jurupa Valley, CA 91752

12. Attend up to (2) two staff meetings at the City of Montclair to answer questions provide information to help the City of Montclair establish standards and guidelines for LED proposed LED signs within the City of Montclair.

13. Work shall commence on July 21, 2015, and continue up to a period of eight (8) months to complete the Scope of Services and prepare the draft sign ordinance. All work shall be completed no later than March 21, 2016.

***Price: \$11,521**

***Approximately \$10,500 of the number above is for design time, and consultant's time to prepare the document. The balance of the number is for potential travel for Mike Freeborg. We will document our time any way that you may require.**

Thank you for the opportunity to provide this proposal. Please feel free to contact me with questions or comments after you have had a chance to review the proposal.

Respectfully,

Dave Jones

Senior Account Executive

Young Electric Sign Company

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-59 WITH REED & DAVIDSON, LLP, FOR ADVISING SERVICES RELATED TO THE RECALL PETITION AND SPECIAL ELECTION PROCESSES	DATE: July 20, 2015 SECTION: AGREEMENTS ITEM NO.: 2 FILE I.D.: CCK140-05 DEPT.: ADMIN. SVCS.
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REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-59 with Reed & Davidson, LLP, for advising services related to the recall petition and special election processes.

A copy of proposed Agreement No. 15-59 between the City and Reed & Davidson, LLP, is attached for City Council review and consideration.

BACKGROUND: At the July 6, 2015 City Council meeting, a resident presented Notices of Intention to Circulate a Recall Petition to Mayor Eaton and Council Members Ruh and Martinez. Affidavits of Service were filed the next day with the City Clerk's Office. The filing of Notices of Intention along with Affidavits of Service constitute the first step in initiating the recall election process.

The last time a recall election was held in the City was in 1959; therefore, it is in the City's best interest to retain a law firm that specializes in election and political law so that the procedure is administered properly and in compliance with applicable state law. Reed & Davidson, LLP, is a reputable law firm that has advised many cities, including Newport Beach, Coachella, Vernon, and Walnut, with election law and administrative processes.

The term of proposed Agreement No. 15-59 would continue until advising services related to recall petition and special election processes are no longer required and will be considered terminated when more than 12 months pass since the last request for advising services occurs.

FISCAL IMPACT: The current attorney rate set by the law firm is \$350 per hour for government jurisdictions. Costs incurred would be charged to City Attorney Legal Services (cost of services performed by outside attorneys and consultants), Account No. 1001-4801-52990-400-00000.

RECOMMENDATION: Staff recommends that the City Council approve Agreement No. 15-59 with Reed & Davidson, LLP, for advising services related to the recall petition and special election processes.

Prepared by: <u>Andrea M Phillips</u>	Fiscal Impact Finance Review:	<u>Donald L Parker</u>
Proofed by: <u>M [Signature]</u>	Reviewed and Approved By:	<u>[Signature]</u>

ROBERT H. BURNHAM
CARY DAVIDSON
RYAN HUGHES
STUART L. LEVITON
DANA W. REED
JERRY MARGARET SIMMONS
ELISE N. WEINBERG
DARRYL R. WOLD*
FLORA S. YIN

REED & DAVIDSON, LLP
ATTORNEYS AT LAW

515 SOUTH FIGUEROA STREET
SUITE 1110
LOS ANGELES, CA 90071
TELEPHONE (213) 624-6200
FACSIMILE (213) 623-1692
politicallaw.com

*ALSO ADMITTED IN THE DISTRICT OF COLUMBIA

Agreement No. 15-59

July 13, 2015

Ms. Andrea Phillips
Deputy City Clerk
City of Montclair
5111 Benito Street
Montclair, CA 91763

Re: Retention of Reed & Davidson, LLP

Dear Ms. Phillips:

Thank you for asking Reed & Davidson to perform legal services on behalf of the City of Montclair. The purpose of this letter is to outline the nature of the services we will provide and our fees.

Under this agreement, we will assist the City of Montclair with legal issues related to the impending potential recall election.

We will provide the above services at our regular hourly rates for government jurisdictions, which is currently \$350 per hour for attorneys. We will also bill you for expenses such as postage, photocopies, and courier charges. We will submit bills on a monthly basis and expect to receive payment within 30 days.

As you know, Reed & Davidson, LLP specializes in election and political law and represents a large number of organizations and individuals involved in the political process, including a wide variety of political interests. From time to time, we may represent the political interests of persons with whom you may not agree. We do not consider those conflicting political interests, however, to be conflicting legal interests subject to the prohibitions and requirements for disclosure by the Rules of Professional Conduct applicable to California attorneys. If we become aware of a conflict between your interests and those of another client, we will notify you as soon as we become aware of the conflict. In addition, we agree to keep confidential any confidential information you provide, and we will not share any confidential information we have obtained in representing other clients.

You may cancel this agreement at any time, with or without cause, and we will be entitled to receive only those fees earned or costs incurred as of the termination date. We reserve the right to terminate our representation, with or without cause, so long as we provide reasonable notice

Ms. Andrea Phillips
City of Montclair
July 13, 2015
Page 2

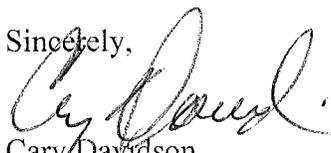
that would avoid prejudice to your legal rights.

Our attorney-client relationship will be considered terminated if more than 12 months have elapsed from the last time you requested and we furnished any billable services to you. If you later retain us to perform further or additional services, our attorney-client relationship will be revived, subject to these and any supplemental terms of engagement.

If the terms of this letter meet with your approval, please sign and date below, where indicated, and return a copy to our office.

We look forward to working with you. Please do not hesitate to contact us if we may provide any further information.

Sincerely,



Cary Davidson

To: Reed & Davidson, LLP

We have read and understand the foregoing letter consisting of two (2) pages. On behalf of the City of Montclair, we consent to your firm's representation on the terms and conditions stated in this letter.

CITY OF MONTCLAIR

Date

Edward C. Starr, City Manager

Paul M. Eaton, Mayor

APPROVED AS TO FORM:

Diane E. Robbins, City Attorney

ATTEST:

Andrea M. Phillips, Deputy City Clerk

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 15-60 WITH VALUED ENGINEERING, INC., FOR \$35,000 FOR ON-CALL PLAN CHECKING SERVICES FOR MISCELLANEOUS CITY PROJECTS	DATE: July 20, 2015 SECTION: AGREEMENTS ITEM NO.: 3 FILE I.D.: PUB115 DEPT.: PUBLIC WORKS
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REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 15-60 with Valued Engineering, Inc., to provide on-call plan checking services. Awards of contracts and agreements with the City require City Council approval.

BACKGROUND: The City requires plan checking services for development projects submitted to the City, for City-initiated projects, and other miscellaneous engineering services as may be required from time to time. The City currently has one other service contract with an engineering firm for plan checking services. A backup plan checker is necessary.

FISCAL IMPACT: This agreement is written for an amount not to exceed \$35,000 and will cover a three-year period, terminating June 30, 2018. The current budget includes an appropriation of \$60,000 for plan check services.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-60 with Valued Engineering, Inc., for \$35,000 for on-call plan checking services for miscellaneous City projects.

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

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

PLAN CHECKING SERVICES

THIS AGREEMENT is made and effective as of July 1, 2015, between the City of Montclair, a municipal corporation ("City") and Valued Engineering, Inc., a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on July 1, 2015, and shall remain and continue in effect for a period of 36 months until tasks described herein are completed, but in no event later than June 30, 2018, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

Consultant shall perform plan check services for development projects submitted to the City for plan checking, for City-initiated projects, and other miscellaneous engineering services as may be required by the City. Consultant shall complete the tasks according to the schedule of performance established for each individual project and according to the rates set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full.

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed \$35,000 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

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

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

Consultant, or Consultant's employees or agents, are considered to be employees of the City or are entitled to any employee benefits from City, including but not limited to those available under Public Employees Retirement Law.

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

10. INSURANCE

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

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

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

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

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

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

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement City shall not pay salaries, wages, or other compensation to

Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no

obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

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

16. NOTICES

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

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

To Consultant: Jeff Meiter
Valued Engineering, Inc.
180 N. Benson Avenue, Suite "A"
Upland, CA 91786

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. NOT USED

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

Signatures on following page

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

CITY OF MONTCLAIR

City of Montclair
5111 Benito Street
Montclair, CA 91763

CONSULTANT

Valued Engineering, Inc.
180 N. Benson Avenue, Suite "A"
Upland, CA 91786

By: _____
Paul M. Eaton, Mayor

By: _____
Jeff Meiter, President

Attest:

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

By: _____
(Title)

Approved as to Form:

By: _____
Diane Robbins, City Attorney

EXHIBIT A



May 12, 2015

Mr. Michael C. Hudson, Public Works Director City of Montclair
5111 Benito Street
Montclair, CA 91763

RE: Request for Proposal for Plan Checking Services

Dear Mr. Hudson:

Valued Engineering, Inc. (VEI) is a full-service engineering firm with the ability to provide a broad range of services to the City of Montclair. Located less than five minutes away in Upland, VEI brings a comprehensive staff with large company experience functioning as a small, nimble business. Working as an extension of your staff, VEI will provide timely response to perform plan checks for projects located within the City of Montclair limits.

VEI has great depth of experience in improvement plans. Our staff is experienced in a vast array of underground utility design and review. Our water quality management plan (WQMP) reviewers are experienced in both water quality issues and hydrology/hydraulics calculations. This plan checking team will be led by Jeff Meiter, RCE, LS, who has 16 years of experience supporting engineering and mapping projects in the Inland Empire. Jeff continues to be an integral part of the VEI plan check team, reviewing plans and maps for the cities of Ontario, Highland, Rialto and San Bernardino. Supporting Jeff will be David Hwan, RCE, as civil engineering lead, Shawn Stone, RCE, as mechanical / piping lead and Kar Ban Leung, RCE, SE as structural lead. All four have extensive experience in reviewing plans and reports on a variety of projects, including public and private projects throughout the local Inland Empire.

On behalf of VEI, thank you for this opportunity to present our proposal to provide plan checking services for the City. The commitment of our team and our stable presence within the Inland Empire confirm our ability to successfully render these services to you. Please feel free to call me at (909) 982-4601 if you have any questions regarding this proposal. We look forward to the opportunity to assist the City.

Sincerely,

Jeff Meiter, LS,
RCE President
Valued Engineering, Inc.

EXHIBIT B

Plan Checking Services



Hourly Rates

Hourly rates for staff members are provided below. Individual task proposal can be provided for each item.

Staff Name	Assignment	Rate
Jeff Meiter	Project Manager	\$140
David Hwan	Civil Lead	\$100
Shaun Stone	Mechanical / Piping Lead	\$150
Kar Ban Leung	Structural	\$210
Belinda Meiter	Senior Administrative	\$60
Kim Gonzales	Administrative	\$40
Mileage	IRS Standard Rate (\$0.575 / mile as of January 1, 2015)	
Reproduction	\$5.00 per sheet	

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 15-62 WITH THE SAN BERNARDINO
COUNTY SHERIFF'S DEPARTMENT FOR
PRE-EMPLOYMENT POLYGRAPH SERVICES

DATE: July 20, 2015
SECTION: AGREEMENTS
ITEM NO.: 4
FILE I.D.: PDT175
DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to approve Agreement No. 15-62 with the San Bernardino County Sheriff's Department (Sheriff's Department) to administer pre-employment polygraph examinations for employment applicants.

Proposed Agreement No. 15-62 has been approved by the City Attorney and is attached for the City Council's review and consideration.

BACKGROUND: The Police Department has contracted with the Sheriff's Department to provide pre-employment polygraph examinations for employment candidates for many years. Because the City regularly utilizes an alternative vendor for pre-employment polygraph examinations, the services of the Sheriff's Department are rarely used. However, should the need arise, polygraph services provided by the Sheriff's Department would be utilized on an as-needed-basis to complete the pre-employment background investigation process in a timely manner. The Sheriff's Department provides fully qualified and licensed polygraphists to perform the examinations.

FISCAL IMPACT: The Sheriff's Department charges \$150 per examination. Should the City Council approve Agreement No. 15-62, costs incurred per examination would be charged to the City Manager's Fiscal Year 2015-16 Budget under the Personnel/Risk Management Program.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 15-62 with the San Bernardino County Sheriff's Department for pre-employment polygraph services.

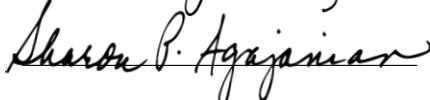
Prepared by:



Fiscal Impact
Finance Review:



Proofed by:



Reviewed and
Approved By:



FOR COUNTY USE ONLY



F A S

STANDARD CONTRACT

<input checked="" type="checkbox"/> New	FAS Vendor Code		SC	Dept. SHR	A	Contract Number	
<input type="checkbox"/> Change							
<input type="checkbox"/> Cancel							
ePro Vendor Number					ePro Contract Number		
County Department			Dept. SHR	Orgn. SHR	Contractor's License No.		
SHERIFF/CORONER/PA							
County Department Contract Representative				Telephone		Total Contract Amount	
SHANNON DICUS, CAPTAIN				(909) 387-0640			
Contract Type							
<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:							
If not encumbered or revenue contract type, provide reason:							
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount		
			06/30/20	\$			
Fund AAA	Dept. SHR	Organization SHR	Appr.	Obj/Rev Source 9800	GRC/PROJ/JOB No. POLYGR	Amount \$	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$	
Project Name			Estimated Payment Total by Fiscal Year				
Pre-Employment Polygraph Services 2015-20 (Template Type 1)			FY	Amount	I/D	FY	Amount I/D

Name City of Montclair hereinafter called CONTRACTOR

Address Montclair Police Department

4870 Arrow Highway

Montclair, CA 91763

Telephone (909) 448-3600 Federal ID No. or Social Security No. _____

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, CONTRACTOR desires to contract for polygraph services; AND

WHEREAS, COUNTY can provide said service through the Sheriff's Department (hereinafter referred to as "SHERIFF");

NOW, THEREFORE, the parties mutually agree as follows:

A. SCOPE OF AGREEMENT

- A.1 SHERIFF shall administer pre-employment polygraph examinations for CONTRACTOR's employment applicants, as requested by CONTRACTOR.
- A.2 SHERIFF will supply to CONTRACTOR pre-polygraph questionnaires to be completed by each subject prior to the polygraph examination.

Auditor-Controller/Treasurer/Tax Collector Use Only		CAO Use Only	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS	Not required for mid fiscal year cancellations	
Input Date	Keyed By	Effective Date	Analyst Initials

- A.3 Upon receipt, by Sheriff, of completed questionnaire, each subject will be scheduled for a pre-examination interview and polygraph examination. If during the examination any deception is noted, the examiner will conduct a post-examination interview in an attempt to obtain admissions by subject.
- A.4 Upon completion of the polygraph examination, a written report will be submitted to CONTRACTOR by SHERIFF, within five (5) working days.
- A.5 If audio/video records are required, CONTRACTOR shall provide to SHERIFF all digital video discs (DVD) required for examination purposes.
- A.6 The Sheriff of San Bernardino County, or his duly authorized designee, shall control the assignment of polygraph examiners under this Agreement, at his sole discretion. In all instances, a fully qualified and licensed polygraphist shall be assigned.
- A.7 Normal duty hours of polygraph examiners for purposes of this Agreement shall be Monday through Friday from 8:00 a.m. until 6:00 p.m.

B. TERM AND TERMINATION

The term of this Agreement shall be for a period commencing on July 1, 2015, or upon the date of approval by the SHERIFF, whichever is later, and ending on June 30, 2020. Notwithstanding the foregoing, this Agreement may be terminated at any time, with or without cause, by CONTRACTOR or by COUNTY, upon written notice given to the other party at least thirty (30) days prior to the date specified for said termination. In the event of such termination, each party shall fully pay and discharge all obligations in favor of the other, accruing prior to the date of such termination, and each party shall be released from all obligations or performance which would otherwise accrue subsequent to the date of termination. Notwithstanding the foregoing, COUNTY may terminate this Agreement at any time, without advance notice to CONTRACTOR, in the event CONTRACTOR fails to comply with any term of this Agreement.

SHERIFF shall have the authority to exercise the COUNTY's rights and authority under this Agreement, including the right to give notice of termination of this Agreement, at his sole discretion.

C. FISCAL PROVISIONS

- C.1 In consideration for services performed by SHERIFF, CONTRACTOR agrees to pay a sum of \$150 per examination, or the most current rate established by the COUNTY, updated July 1 of each year. CONTRACTOR will be invoiced monthly for all examinations administered during the prior month.
- C.2 CANCELLATION POLICY: CONTRACTOR agrees to pay the full cost of any scheduled polygraph examination unless the appointment has been cancelled within twenty-four (24) hours prior to the scheduled time, by calling the SHERIFF's Specialized Investigations Division at (909) 387-0625.

D. INDEMNIFICATION AND INSURANCE REQUIREMENTS

D.1 Mutual Indemnification

The CONTRACTOR agrees to indemnify, defend, and hold harmless the COUNTY and its authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising from CONTRACTOR's negligent acts, errors or omissions, including, but not limited to, acts, errors or omissions concerning referral for polygraph testing, obtaining any necessary consent for the procedures to be performed under this Agreement, and/or the use or dissemination of the polygraph, interview, or pre-polygraph questionnaire results, and for any costs or expenses incurred by COUNTY on account of any claim therefor, except where such indemnification is prohibited by law.

The COUNTY agrees to indemnify and hold harmless the CONTRACTOR and its authorized agents, officers, volunteers, and employees against any and all claims or actions arising from COUNTY's negligent acts or omissions in administering the polygraph tests, interviews, and pre-polygraph questionnaires and for any costs or expenses incurred by CONTRACTOR on account of any claim therefor. Notwithstanding the above indemnity, in no event will the COUNTY be in any way responsible

or liable for the acts, errors, or omissions of the persons referred for polygraph testing, nor will COUNTY be in any way responsible or liable for CONTRACTOR's use or dissemination of any data or reports provided to the CONTRACTOR regarding the polygraph testing and/or interviewing or failure to obtain any required consent to the polygraph testing or use or dissemination of test, interview, or questionnaire results.

D.2 Comparative Fault

In the event that the COUNTY and/or CONTRACTOR are determined to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this Agreement, the COUNTY and/or CONTRACTOR shall indemnify the other to the extent of its comparative fault.

D.3 Self-Insurance

COUNTY and CONTRACTOR are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.

E. NOTICES

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County Sheriff's Department
Bureau of Administration 010
655 East Third Street
San Bernardino, CA 92415-0061
Fax Number: (909) 387-3444

City of Montclair
Montclair Police Department
4870 Arrow Highway
Montclair, CA 91763

Notice shall be deemed communicated two (2) COUNTY working days from the time of mailing if mailed as provided in this paragraph.

F. ENTIRE AGREEMENT

This Agreement represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promise, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will. Any amendment to this Agreement shall be in writing signed by both parties.

IN WITNESS WHEREOF, San Bernardino County and the Contractor have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

City of Montclair
Montclair Police Department

San Bernardino County Sheriff's Department

Contractor Authorized Signature

Sheriff-Coroner Authorized Signature

Name of person signing agreement (print or type)

Name of person signing agreement (print or type)

Title

Title

Date

Date

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 15-3085 RELATED TO THE COLLECTION
OF SEWER STANDBY ASSESSMENT FEES FOR
VACANT PROPERTIES

DATE: July 20, 2015

SECTION: RESOLUTIONS

ITEM NO.: 1

FILE I.D.: SEW125

DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Ordinance No. 84-592 requires the collection of Sewer Standby Assessment Fees on vacant properties. The fees are collected through an assessment on the vacant parcel by the County Treasurer-Tax Collector's Office. The City Council is requested to adopt Resolution No. 15-3085 in order to reevaluate the list of vacant properties.

BACKGROUND: In 1984, the City Council adopted Ordinance No. 84-592, requiring collection of Sewer Standby Assessment Fees from owners of vacant properties adjacent to the City Sewer System. Sections 9.20.400 and 9.20.410 of the City of Montclair Municipal Code dictate that a list of vacant properties be prepared and that Sewer Standby Assessment Fees be calculated for each parcel annually. Increases in the cost of the Sewer Standby Assessment Fees are not being proposed.

The assessment is \$2.35 monthly or \$28.20 annually, per vacant lot. The charges listed on Resolution No. 15-3085 are the annual charges for each listed parcel. The fees are collected by the San Bernardino County Treasurer-Tax Collector's Office on the property tax bill for each parcel. The Sewer Standby Assessment Fees are collected to cover the capital costs, cost of maintenance, and cost of operation of the City of Montclair Sewer System.

Staff has prepared Resolution No. 15-3085, setting Sewer Standby Assessment Fees on an updated list of vacant properties with access to the City Sewer System. Upon adoption, the Resolution would be forwarded to the San Bernardino County Treasurer-Tax Collector's Office so these fees may be included in the Fiscal Year 2015-16 tax billing.

FISCAL IMPACT: Adoption of Resolution No. 15-3085 would permit the City to collect the outstanding amount of \$874.20 in revenue for the Sewer Fund.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 15-3085 related to the collection of Sewer Standby Assessment Fees for vacant properties.

Prepared by:

Nicole deMoet

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Manissa Peruph

Reviewed and
Approved By:

Mr. J. H. K.

RESOLUTION NO. 15-3085

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR SETTING
SEWER STANDBY ASSESSMENTS ON
VACANT PROPERTIES HAVING ACCESS
TO THE CITY SEWER SYSTEM**

WHEREAS, the City Council of the City of Montclair has adopted Ordinance No. 84-592 establishing Sewer Standby Assessments to be collected from vacant properties having access to the City Sewer System; and

WHEREAS, the City Council has determined the Sewer Standby Assessment should be collected as part of the annual general County tax bill; and

WHEREAS, the Sewer Standby Assessments are collected to exclusively finance the capital costs, cost of maintenance, and cost of operation for the City Sewer System.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Montclair hereby establishes Sewer Standby Assessments on the following vacant properties:

<i>Assessor's Parcel Number</i>	<i>Sewer Standby Assessment</i>		<i>Assessor's Parcel Number</i>	<i>Sewer Standby Assessment</i>
1007-393-04	\$28.20		1010-621-07	\$28.20
1008-011-14	\$28.20		1011-011-01	\$28.20
1008-011-15	\$28.20		1011-011-03	\$28.20
1008-011-16	\$28.20		1011-011-04	\$28.20
1008-021-01	\$28.20		1011-052-25	\$28.20
1008-021-02	\$28.20		1009-521-01	\$28.20
1008-171-02	\$28.20		1011-333-69	\$28.20
1008-171-03	\$28.20		1011-334-03	\$28.20
1008-171-04	\$28.20		1011-334-05	\$28.20
1008-171-05	\$28.20		1011-621-02	\$28.20
1008-371-03	\$28.20		1011-621-06	\$28.20
1008-601-69	\$28.20		1012-021-03	\$28.20
1008-601-70	\$28.20		1012-021-28	\$28.20
1009-021-07	\$28.20		1012-101-16	\$28.20
1009-021-12	\$28.20		1012-101-18	\$28.20
1009-471-06	\$28.20			

Total Number of Parcels: 31
Total Assessment: \$874.20

BE IT FURTHER RESOLVED that the City Council of the City of Montclair, by adoption of this Resolution, requests the San Bernardino County Treasurer-Tax Collector's Office to collect the Sewer Standby Assessment listed at the time of collection of the Fiscal Year 2015-16 taxes.

BE IT FURTHER RESOLVED that the Deputy City Clerk shall send a certified copy of this Resolution to the Treasurer-Tax-Collector's Office of San Bernardino County requesting collection of the Sewer Standby Assessment.

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. 15-3085 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2015, and that it was adopted by the following vote, to-wit:

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

Andrea M. Phillips
Deputy City Clerk

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
JULY 6, 2015, AT 9:21 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem Raft called the meeting to order at 9:21 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 15, 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 15, 2015.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

At 9:22 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 9:38 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 9:38 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager

**MINUTES OF THE MEETING OF THE MONTCLAIR
CODE ENFORCEMENT/PUBLIC SAFETY COMMITTEE
HELD ON MONDAY, JULY 6, 2015, AT 6:00 P.M. IN
THE CITY HALL CONFERENCE ROOM, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Council Member Dutrey called the meeting to order at 6:00 p.m.

II. ROLL CALL

Present: Council Member Dutrey; Mayor Pro Tem Raft; City Manager Starr; Deputy City Manager/Executive Director, Office of Economic Development Staats; Police Chief/Executive Director, Office of Public Safety deMoet; Community Development Director Lustro; City Attorney Robbins.

Also Present: Mayor Eaton; Mark Kinsey, General Manager, Monte Vista Water District; and Justin Scott-Coe, Public Affairs Director, Monte Vista Water District

III. APPROVAL OF MINUTES

A. Minutes of Code Enforcement Committee Meeting of April 20, 2015

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of April 20, 2015.

IV. PUBLIC COMMENT

None.

V. OLD BUSINESS

None.

VI. NEW BUSINESS

1. Discussion regarding drought, landscape maintenance and MVWD policies (CE)

City Manager Starr conveyed that a memo was submitted to City Council regarding the direction that the City should choose

regarding the drought and guidelines for the community to follow. Discussion followed regarding expanding the purple pipe system to the medians when the turf is removed, choosing a landscape company to do the work or the possibility of Cal Poly landscape architecture students designing the project, preparing and submitting applications for grants to expand the purple pipe system, getting the purple pipe system into as many of the parks as possible, and CE being vigilant about getting residents to keep yards trimmed and weeded.

The City communicates bi-monthly to residents through the trash billing and once the City website is redeveloped, there will be a section devoted to water conservation, letting the public know about available rebates and alternative landscape measures.

Mark Kinsey, General Manager of MVWD, stated that the City has already met a 24% reduction for June and they are hoping to achieve 30% over last year. Their concern is "user fatigue," where residents and businesses tire of conserving and revert to previous behavior, but so far, people are responding and June's significant reduction meets the reduction mandate.

Justin Scott-Coe, Director of Public Affairs at MVWD, distributed a MVWD folder to each of the Committee members as a sample of what gets handed out to the public. The folder contained a letter with the requirements to be met, information regarding the turf rebate program, drought response clinic, a billing insert, Water Line newsletter, information on enhanced rebates and a sample of a door hanger that is left for a violator.

Councilmember Raft asked if MVWD rechecked an address after it has been warned of a violation. Director Scott-Coe stated they do keep track of the addresses because if they keep violating, they will eventually be fined through their water bill. He felt watering three times per week at 15 minutes per station should be adequate.

Mr. Kinsey stated they are updating their tiered rates to comply with the San Juan Capistrano court case and that the state is trying to apply standards statewide, but in their case, they have some flexibility in who they buy water from. He felt this was the beginning of change in modern/popular landscaping. He also stated that the City has applications pending for turf rebates for the medians and the City should hear something by the end of July (after the 4-5 week wait). They want to do a joint informational newsletter between MVWD and the City.

City Manager Starr stated that residents will be upset because they will be cutting back on water consumption, but the water district still has operating costs and will have to raise the rates to meet

those operating costs. For consideration in the near future are whether a residential gray water system allowing washing machine water to be used for flower beds would be allowed and assessment of a development impact fee for purple pipe expansion allowing developers to tap into that system.

Mr. Kinsey stated that IEUA will use recycled water mostly to recharge ground water and to landscape. Agriculture is using a lot now. The plan is to come up with a Recycled Water Master Plan but the challenge is to make the economics work so that the recycling plan pays for itself. The State has money available for borrowing at 1% and debt forgiveness of 35% and MVWD would definitely be interested in getting development impact fees. They also plan on attending Council meetings at least once per month to give information to any residents in attendance.

City Manager Starr commented that Central Avenue is scheduled to be resurfaced and the City would be interested in extending the purple pipe system along Central before the resurfacing occurs.

2. July 4 Public Awareness/Enforcement (PS)

Police Chief/Executive Director, Office of Public Safety deMoet stated that even with an aggressive campaign against fireworks utilizing flyers, banners, message trailer in two locations and scheduling five additional officers, all riding separate, all the efforts to warn the public fell short as there still were still a lot of illegal fireworks, but it was better than last year. There were two large confiscations: one of 2,000 pounds of fireworks on Silicon Avenue and one of 600 pounds at the Pinebrook Apartments. He felt it was a difficult thing for officers to detect and enforce. It's still easy to obtain fireworks; all varieties of fireworks are sold in Nevada and "safe and sane" fireworks are sold in nearby cities, such as Fontana and Chino.

3. National Night Out - August 4 (PS)

Police Chief/Executive Director, Office of Public Safety deMoet stated that National Night Out was previously conducted at Target, but because Target is not as involved anymore, they chose to have the event at Alma Hofman Park with a big screen showing of the Lego Movie, face painting, etc. Target is still interested in participating, along with the Senior Center and the Fire Department.

4. Parking and Parking Safety Issues

Councilmember Raft commented she received complaints from La Costa Auto Sales and Liberty Motors regarding the parking problem on Holt Boulevard and asked if staff could check out the

problem. She stated they are parking legally, but residents are taking up all the available street parking.

Councilmember Raft commented that a safety hazard exists where vehicles are parked along the curb radius on Amherst Avenue where it intersects the alley between Holt Boulevard and Bandera Street.

Councilmember Raft stated that a resident is requesting a stop sign at Yale Street and Vernon Avenue because she was almost hit twice.

5. Street Sweeping

Councilmember Dutrey asked if the PD was still enforcing no parking on street sweeping days. Police Chief/Executive Director, Office of Public Safety deMoet replied that two cadets are being hired to help with that.

VII. DISTRIBUTION OF LIST OF PROBLEM PROPERTIES / Q&A

The list was updated and included with the agendas for the Committee's review and follow-up discussion at the August meeting.

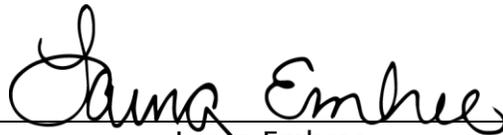
VIII. NEXT MEETING

The next meeting is scheduled for Monday, August 17, 2015, at 6:00 p.m. in the City Hall Conference Room.

IX. ADJOURNMENT

At 6:55 p.m., Council Member Dutrey adjourned the Code Enforcement/Public Safety Committee.

Submitted for Code Enforcement/
Public Safety Committee approval,



Laura Embree
Recording Secretary