

**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

March 7, 2016

7:00 p.m.

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

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

Page No.

- I. CALL TO ORDER** – City Council, Successor Agency Board of Directors, Montclair Housing Corporation Board 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 endorses any particular religious belief or form of invocation.*

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS** – None

**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. Consider Adoption of Resolution No. 16-3112 Establishing Permit Fees, Appeal Fees, and Other Fees Relating to Massage Establishments and Massage Technicians and Amending the Master User Fee Schedule [CC]

**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 February 16, 2016 [CC/SA/MHC/MHA/MCF]
2. Minutes of the Adjourned City Council Meeting of February 18, 2016 [CC]

**B. Administrative Reports**

1. Consider Setting a Public Hearing for Monday, March 21, 2016, at 7:00 P.M. in the City Council Chambers to Consider the Following:

Adoption of Resolution No. 16-3114 Approving an Amendment to the General Plan Land Use Map for 4.60 Acres at 4975 Mission Boulevard, Modifying the Land Use Designation for the Northerly 2.30 Acres from "General Commercial" to "Medium Density Residential (8-14 Dwelling Units/Acre)," and Modifying the Land use Designation for the Southerly 2.30 Acres from "General Commercial" to "Low Density Residential (3-7 Dwelling Units/Acre)" [CC]

Adoption of Resolution No. 16-3115 Approving an Amendment to the City's Official Zoning Map for 4.60 Acres at 4975 Mission Boulevard, Modifying the Zoning Designation for the Northerly 2.30 Acres from "C-2" (Restricted Commercial) to "R-3" (Medium-High Density Residential), and Modifying the Zoning Designation for the Southerly 2.30 Acres From "C-2" (Restricted Commercial) to "R-1" (Single-Family Residential) [CC]

Approval of Tentative Tract Map No. 19926 for a Single-Lot Subdivision for a 22-Unit Residential Condominium Development, and Tentative Tract Map No. 19926-1 for a Nine-Unit Detached, Single-Family Residential Development at 4975 Mission Boulevard [CC]

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2. Consider Amending the Fiscal Years 2015-2020 Capital Improvement Program, Adding the Zone 3, Eastern Montclair Street Rehabilitation Project [CC]

Consider an Appropriation of \$1,500,000 from 2014 Lease Revenue Bond Proceeds for Costs Related to the Zone 3, Eastern Montclair Street Rehabilitation Project [CC]

Consider Authorizing Staff to Advertise for Bid Proposals for the Zone 3, Eastern Montclair Street Rehabilitation Project [CC]

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3. Consider Authorizing a \$26,152 Appropriation from the Federal Asset Forfeiture Fund to Purchase X26 TASER Batteries and X26P TASER Devices and Related Accessories for Frontline Law Enforcement Use [CC]

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4. Consider Authorizing a \$12,581 Appropriation from the Public Safety Grant Fund to Purchase Mobile Data Computers for Law Enforcement Operations [CC]

(continued on next page)

	<u>Page No.</u>
Consider Authorizing a \$6,799 Appropriation from the Federal Asset Forfeiture Fund to Complete the Purchase of Mobile Data Computers and Associated Equipment and Software [CC]	30
5. Consider Approval of Warrant Register and Payroll Documentation [CC]	32
 C. Agreements	
1. Consider Approval of Agreement No. 16-19 with MIG, Inc., Amending Agreement No. 15-82 for the Conceptual Design of Streetscape and Infrastructure Design for the North Montclair Downtown Specific Plan Project [CC]	33
2. Consider Approval of Agreement No. 16-20 with the County of San Bernardino Amending and Restating a Joint Powers Agreement Creating a County-Wide Transportation Authority to be Known as Omnitrans [CC]	38
3. Consider Approval of Agreement No. 16-22 With Van Lant & Fankhanel, LLP, to Provide Auditing Services to the Successor Agency Related to Bond Transactions [SA]	55
4. Consider Ratification of Agreement No. 15-92, a Memorandum of Understanding Between the City of Montclair and Montclair General Employees Association [CC]	73
 D. Resolutions	
1. Consider Adoption of Resolution No. 16-3113 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges [CC]	75
2. Consider Adoption of Montclair Housing Authority Resolution No. 16-01 Approving and Authorizing the Execution of Agreement No. 16-17, a Housing Agreement by and Between the Montclair Housing Authority and the Montclair Housing Corporation [MHA]	
Consider Adoption of Montclair Housing Corporation Resolution No. 16-01, Approving and Authorizing the Execution of Agreement No. 16-17, a Housing Agreement by and Between the Montclair Housing Authority and the Montclair Housing Corporation [MHC]	82
3. Consider Adoption of Resolution No. 16-3116 Approving and Authorizing the Execution of Agreement No. 16-21, a Cooperation Agreement by and Between the City of Montclair and the Montclair Housing Authority [CC]	
Consider Adoption of Montclair Housing Authority Resolution No. 16-02 Approving and Authorizing the Execution of Agreement No. 16-21, a Cooperation Agreement by and Between the City of Montclair and the Montclair Housing Authority [MHA]	115
4. Consider Adoption of Successor Agency Resolution No. 16-02 Recommending a Proposal by Bill Fox for Purchase and Development of the Successor Agency-Owned Property Located in the Southeast Quadrant of Ramona Avenue and State Street [SA]	125

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. RESPONSE – None**

**XI. COMMUNICATIONS**

**A. City Department Reports**

1. Finance Department
  - a. Financial Audit Report
2. Human Services Department
  - a. Park and Field Availability for Sport Activities

**B. City Attorney**

1. Closed Session Pursuant to Government Code Section 54956.9(d)(1) Regarding Pending Litigation  
*Patton/Cunningham v. Montclair*

**C. City Manager/Executive Director**

**D. Mayor/Chairman**

**E. Council/SA Board/MHC Board/MHA Commissioners/MCF Board**

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

1. Minutes of the Code Enforcement/Public Safety Committee Meeting of February 16, 2016 [CC] 130
2. Minutes of the Personnel Committee Meeting of February 16, 2016 [CC] 132
3. Minutes of the Public Works Committee Meeting of February 18, 2016 [CC] 133

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

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

**XIII. CLOSED SESSION ANNOUNCEMENTS**

**XIV. ADJOURNMENT OF CITY COUNCIL**

*The next regularly scheduled City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation meetings will be held on Monday, March 21, 2016, 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 City Clerk's Office 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 City Clerk's Office 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, 5111, Benito Street, Montclair, California, on March 3, 2016.*

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 16-3112 ESTABLISHING PERMIT FEES, APPEAL FEES, AND OTHER FEES RELATING TO MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS AND AMENDING THE MASTER USER FEE SCHEDULE	<b>DATE:</b> March 7, 2016 <b>SECTION:</b> PUBLIC HEARINGS <b>ITEM NO.:</b> A <b>FILE I.D.:</b> FLP280 <b>DEPT.:</b> ADMIN. SVCS.
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**REASON FOR CONSIDERATION:** In order to effectively implement and administer the purpose and intent of the Master User Fee Schedule, staff annually revises certain portions of the Master User Fee Schedule to provide more accurate user fees. On January 4, 2016, the City Council adopted Resolution No. 16-3107, the most recent review and amendment of the Master User Fee Schedule. It has since come to staff's attention that certain new permit, appeal, and other fees were not included in that amendment.

On July 6, 2015, the City Council approved Ordinance No. 15-951, which requires any individual that owns or manages any massage establishment within the City of Montclair to obtain an operator permit, which is granted by the City. In addition, each massage establishment must apply for a Certificate of Operation. However, Ordinance No. 15-951 does not address the fees associated with the implementation of this new permit process.

These user fees must be approved by the City Council in order to be included into the Master User Fee Schedule so that the City can recover the costs incurred in reviewing and processing applications for Massage Operator Permits and Certificates of Operation for massage establishments.

It should be noted that since proposed Resolution No. 16-3112 was introduced at the last meeting, the City Attorney has modified the effective date of the Resolution, as well as adding explanation that the proposed fees are amendments to an existing massage establishment and massage technical permit application fee that was adopted pursuant to Resolution No. 06-2670.

A copy of proposed Resolution No. 16-3112 establishing permit fees, appeal fees and other fees relating to massage establishments and massage technicians is attached for the City Council's review and consideration. A red-lined version of proposed Resolution No. 16-3112 showing the modifications since its introduction is also attached for review.

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

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**BACKGROUND:** Ordinance No. 15-951 repealed and replaced Chapter 4.56 of the Montclair Municipal Code and provided for regulation of massage establishments. Under the ordinance, each owner and manager of a massage establishment is required to apply for a Massage Operator Permit. The process to obtain such a permit involves the filing of an application, background checks (if the proposed operator is not CAMTC certified), and the issuance of permits and identification. In addition, each massage establishment must apply for a Certificate of Operation.

### ***Master User Fee Schedule and User Fee Cost Recovery Policy***

Ordinance No. 15-951 did not establish the fees associated with the processing of applications and issuance of the Massage Operator Permits and Certificates of Operation. In 2006, the City Council adopted Resolution No. 06-2670 adopting a Master User Fee Schedule as well as a User Fee Cost Recovery Policy. Pursuant to Resolution No. 06-2670, the City Council adopted a Massage Establishment and Massage Technical permit application fee in order to address the processing of applications related to massage establishments and massage technicians. With the adoption of Ordinance No. 15-951 and the implementation of a new massage establishment and massage technical permit application process, it is now necessary to amend the existing fee in order to recover costs borne to the City.

The User Fee Cost Recovery Policy established procedures that produce uniformity in developing City user fees and the consolidation of all City user fees into one Master User Fee Schedule for update and presentation to the City Council for approval on an annual basis.

It is the City's policy that fees be maintained to ensure associated costs for the delivery of specified services are appropriately charged to consumers to limit the cost burden on the City's General Fund. Further, cost-recovery levels for any user fee established by resolution of the City Council shall not exceed 100 percent of the actual cost for the service in question.

User fees represent a significant and growing portion of local government revenue as traditional revenue sources have decreased. As competition for tax resource allocation increases and interest in privatization of public services grows, fees and charges will continue to assume a larger role in the diversification of municipal revenue sources.

User fees are considered "special benefits" which are defined as payments made by consumers in direct exchange for government services rendered. User fees are payments for publicly provided services that benefit a specific individual or group of individuals and exhibit "public good" characteristics. Further, user fees are charged for appropriate services that are of special benefit to individuals or groups.

### ***Implementation of Ordinance No. 15-951***

In implementing Ordinance 15-951, staff has identified several user fees that need to be added in order to provide for recovery of the costs of processing and issuing the respective Massage Operator Permits in accordance with the City's User Fee Cost Recovery Policy. It should be noted that the proposed fees, if adopted, would replace an existing massage establishment and massage technical permit application fee that was adopted pursuant to Resolution No. 06-2670. The respective fees proposed are as follows:

<b>Operator Permit Application Fee:</b>	
with CAMTC Certificate	\$75.00
without CAMTC Certificate	\$275.00
<b>Renewal of Operator Permit Fee:</b>	
with CAMTC Certificate	\$75.00
without CAMTC Certificate	\$275.00
<b>Certificate of Operation Issuance Fee</b>	\$25.00
<b>Appeal Fee</b>	\$200.00
<b>Duplicate/Reissue Operator ID Card</b>	\$50.00

The user fees being proposed fall within the City of Montclair’s statutory authority to impose fees, charges, and rates under its regulatory and police power as authorized pursuant to California Government Code Section 66000. The California Constitution allows municipalities to recover the "costs reasonably borne" for all services provided to the community. It should be further reiterated that the proposed fees are replacing an existing massage establishment and massage technician permit application which was adopted pursuant to Resolution No. 06-2670.

**FISCAL IMPACT:** Pursuant to Resolution No. 06-2670, the City requires that fees be maintained to ensure associated costs for the delivery of specified services are appropriately charged to consumers to limit the cost burden on the General Fund.

If adopted, Resolution No. 16-3112 establishing permit fees, appeal fees and other fees relating to massage establishments and massage technicians and amending the Master User Fee Schedule would have an unknown, but positive fiscal impact related to the amount of revenue received from services for which the City charges fees.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 16-3112 establishing permit fees, appeal fees and other fees relating to massage establishments and massage technicians and amending the Master User Fee Schedule.

RESOLUTION NO. 16-3112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ESTABLISHING PERMIT FEES, APPEAL FEES, AND OTHER FEES RELATING TO MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS AND AMENDING THE MASTER USER FEE SCHEDULE

WHEREAS, the City of Montclair has the statutory authority to impose fees, charges, and rates under its regulatory and police power as authorized pursuant to California Government Code Section 66000; and

WHEREAS, user fees are imposed for services rendered by the City of Montclair that will benefit a specific individual or group of individuals; and

WHEREAS, there is a need for the City of Montclair to recoup reasonable costs related to the provisions of specified services; and

WHEREAS, user fees are imposed to assign the cost of providing services to the specific individual or group of individuals receiving the benefits of said services, rather than funding said services from General Fund revenues; and

WHEREAS, pursuant to Ordinance No. 15-951 the City of Montclair's Municipal Code, requires any individual who owns or manages any massage establishment, in any location, within the City of Montclair to obtain a massage operator permit, and further requires that all massage establishments obtain a certificate of operation. The processing and implementation procedures necessary to grant such permits will impose additional costs on the City of Montclair which should be recovered from those individuals and businesses applying for the permits; and

WHEREAS, it is the City Council's direction that all user fees, to the extent possible, are to be reviewed and amended annually, consistent with the User Fee Cost Recovery Policy; and

WHEREAS, the City of Montclair finds it necessary to amend existing-include fees relating to massage establishments and massage technicians in the Master User Fee Schedule that was adopted pursuant to Resolution No. 16-3107.

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

Section 1. Master User Fee Revisions-Additions. The Master User Fee Schedule is hereby amended to replace the existing massage establishment and massage technician permit application fee with revised to include the following new fees.

<b>Operator Permit Application Fee:</b>	
with CAMTC Certificate	\$75.00
without CAMTC Certificate	\$275.00
<b>Renewal of Operator Permit Fee:</b>	
with CAMTC Certificate	\$75.00
without CAMTC Certificate	\$275.00
<b>Certificate of Operation Issuance Fee</b>	\$25.00
<b>Appeal Fee</b>	\$200.00
<b>Duplicate/Reissue Operator ID Card</b>	\$50.00

Section 2. Master User Fee Revisions-Deletions. The Master User Fee Schedule is hereby amended to remove the following existing massage establishment and massage technician permit application fee

**Public Baths, Massage Parlors, & Massage Therapists:**  
\$50.00 Permit Application Fee

**Section 32.** Effective Date. This Resolution shall be in full force and effect immediately upon adoption.~~thirty (30) days after passage.~~

**APPROVED AND ADOPTED** this XX day of XX, 2016.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 16-3112 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, 2016, 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

**RESOLUTION NO. 16-3112**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ESTABLISHING PERMIT FEES, APPEAL FEES, AND OTHER FEES RELATING TO MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS AND AMENDING THE MASTER USER FEE SCHEDULE**

**WHEREAS**, the City of Montclair has the statutory authority to impose fees, charges, and rates under its regulatory and police power as authorized pursuant to California Government Code Section 66000; and

**WHEREAS**, user fees are imposed for services rendered by the City of Montclair that will benefit a specific individual or group of individuals; and

**WHEREAS**, there is a need for the City of Montclair to recoup reasonable costs related to the provisions of specified services; and

**WHEREAS**, user fees are imposed to assign the cost of providing services to the specific individual or group of individuals receiving the benefits of said services, rather than funding said services from General Fund revenues; and

**WHEREAS**, pursuant to Ordinance No. 15-951 the City of Montclair's Municipal Code, requires any individual who owns or manages any massage establishment, in any location, within the City of Montclair to obtain a massage operator permit, and further requires that all massage establishments obtain a certificate of operation. The processing and implementation procedures necessary to grant such permits will impose additional costs on the City of Montclair which should be recovered from those individuals and businesses applying for the permits; and

**WHEREAS**, it is the City Council's direction that all user fees, to the extent possible, are to be reviewed and amended annually, consistent with the User Fee Cost Recovery Policy; and

**WHEREAS**, the City of Montclair finds it necessary to amend existing fees relating to massage establishments and massage technicians in the Master User Fee Schedule that was adopted pursuant to Resolution No. 16-3107.

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

**Section 1.** Master User Fee Revisions-Additions. The Master User Fee Schedule is hereby amended to replace the existing massage establishment and massage technician permit application fee with the following fees.

<b>Operator Permit Application Fee:</b>	
with CAMTC Certificate	\$75.00
without CAMTC Certificate	\$275.00
<b>Renewal of Operator Permit Fee:</b>	
with CAMTC Certificate	\$75.00
without CAMTC Certificate	\$275.00
<b>Certificate of Operation Issuance Fee</b>	\$25.00
<b>Appeal Fee</b>	\$200.00
<b>Duplicate/Reissue Operator ID Card</b>	\$50.00

**Section 2.** Master User Fee Revisions-Deletions. The Master User Fee Schedule is hereby amended to remove the following existing massage establishment and massage technician permit application fee

**Public Baths, Massage Parlors, & Massage Therapists:**  
\$50.00 Permit Application Fee

**Section 3. Effective Date.** This Resolution shall be in full force and effect immediately upon adoption.

**APPROVED AND ADOPTED** this XX day of XX, 2016.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 16-3112 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, 2016, and that it was adopted by the following vote, to-wit:

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

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

# AGENDA REPORT

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**SUBJECT:** CONSIDER SETTING A PUBLIC HEARING FOR MONDAY, MARCH 21, 2016, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS TO CONSIDER THE FOLLOWING:

ADOPTION OF RESOLUTION NO. 16-3114 APPROVING AN AMENDMENT TO THE GENERAL PLAN LAND USE MAP FOR 4.60 ACRES AT 4975 MISSION BOULEVARD, MODIFYING THE LAND USE DESIGNATION FOR THE NORTHERLY 2.30 ACRES FROM "GENERAL COMMERCIAL" TO "MEDIUM DENSITY RESIDENTIAL (8-14 DWELLING UNITS/ACRE)," AND MODIFYING THE LAND USE DESIGNATION FOR THE SOUTHERLY 2.30 ACRES FROM "GENERAL COMMERCIAL" TO "LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS/ACRE)"

ADOPTION OF RESOLUTION NO. 16-3115 APPROVING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP FOR 4.60 ACRES AT 4975 MISSION BOULEVARD, MODIFYING THE ZONING DESIGNATION FOR THE NORTHERLY 2.30 ACRES FROM "C-2" (RESTRICTED COMMERCIAL) TO "R-3" (MEDIUM-HIGH DENSITY RESIDENTIAL), AND MODIFYING THE ZONING DESIGNATION FOR THE SOUTHERLY 2.30 ACRES FROM "C-2" (RESTRICTED COMMERCIAL) TO "R-1" (SINGLE-FAMILY RESIDENTIAL)

APPROVAL OF TENTATIVE TRACT MAP NO. 19926 FOR A SINGLE-LOT SUBDIVISION FOR A 22-UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT, AND TENTATIVE TRACT MAP NO. 19926-1 FOR A NINE-UNIT DETACHED, SINGLE-FAMILY RESIDENTIAL DEVELOPMENT AT 4975 MISSION BOULEVARD

**DATE:** March 7, 2016  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 1  
**FILE I.D.:** GPL100/LDA300/LDU600  
**DEPT.:** COMMUNITY DEV.

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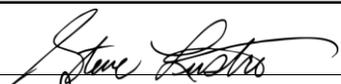
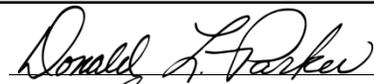
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**REASON FOR CONSIDERATION:** Amendments to the City's adopted General Plan Land Use Map, Official Zoning Map, and approval of tentative maps require public hearing review and approval by the City Council.

**BACKGROUND:** The amendments to the General Plan Land Use Map and Official Zoning Map, and the tentative tract maps, which have been recommended by the Planning Commission, were initiated by Kasner Family Limited Partnership, on behalf of Crestwood Corporation, in connection with its desire to construct a 22-unit residential

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

condominium development on the northerly 2.30 acres, and a nine-unit detached, single-family subdivision on the southerly 2.30 acres at 4975 Mission Boulevard. The applicant intends to construct the condominium portion of the project pursuant to the City's R-3 development standards as set forth in Chapter 11.22 of the Montclair Municipal Code, and the single-family portion of the development pursuant to the City's R-1 standards as set forth in Chapter 11.18 MMC.

The Real Estate Committee considered the project at its meeting on December 21, 2015. After reviewing the project plans and hearing a brief presentation by the developer, the Committee recommended the project move forward for consideration by the Planning Commission and City Council.

The Planning Commission conducted a public hearing on the requests at its regular meeting on February 22, 2016. One member of the public, whose questions about the project were satisfactorily addressed by staff, spoke during the public hearing. The Planning Commission unanimously recommended Council approval of the General Plan Amendment, Official Zoning Map Amendments, and Tentative Tract Maps.

In late 2015, a revised schedule for considering General Plan Amendments on a quarterly basis was recommended by the City Manager and approved by the City Council. The subject schedule limits consideration of General Plan Amendments to the second Council meeting in the months of March, June, September, and December. Consideration of the requested General Plan Amendment at the Council's March 21, 2016 meeting would be in compliance with the approved schedule.

**FISCAL IMPACT:** The cost to publish a Notice of Public Hearing in the *Inland Valley Daily Bulletin* related to Resolution Nos. 16-3114 and 16-3115 should not exceed \$600.

**RECOMMENDATION:** The Planning Commission and staff recommend the City Council set a public hearing for Monday, March 21, 2016, at 7:00 p.m. in the Council Chambers to consider the following:

1. Adoption of Resolution No. 16-3114 approving an amendment to the General Plan Land Use Map for 4.60 acres at 4975 Mission Boulevard, modifying the land use designation for the northerly 2.30 acres from "General Commercial" to "Medium Density Residential (8-14 dwelling units/acre)," and modifying the land use designation for the southerly 2.30 acres from "General Commercial" to "Low Density Residential (3-7 dwelling units/acre)."
2. Adoption of Resolution No. 16-3115 approving an amendment to the City's Official Zoning Map for 4.60 acres at 4975 Mission Boulevard, modifying the zoning designation for the northerly 2.30 acres from "C-2" (Restricted Commercial) to "R-3" (Medium-High Density Residential), and modifying the zoning designation for the southerly 2.30 acres from "C-2" (Restricted Commercial) to "R-1" (Single-Family Residential).
3. Approval of Tentative Tract Map No. 19926 for a single-lot subdivision for a 22-unit residential condominium development on the northerly 2.30 acres at 4975 Mission Boulevard, and Tentative Tract Map No. 19926-1 for a nine-lot subdivision for a nine-unit detached, single-family residential development on the southerly 2.30 acres at 4975 Mission Boulevard.

RESOLUTION NO. 16-3114

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING AN AMENDMENT TO THE GENERAL PLAN LAND USE MAP, MODIFYING THE LAND USE DESIGNATION OF THE NORTHERLY 2.30 ACRES OF LAND AT 4975 MISSION BOULEVARD FROM "GENERAL COMMERCIAL" TO "MEDIUM DENSITY RESIDENTIAL (8-14 DU/AC)," AND MODIFYING THE LAND USE DESIGNATION OF THE SOUTHERLY 2.30 ACRES OF LAND AT 4975 MISSION BOULEVARD FROM "GENERAL COMMERCIAL" TO "LOW DENSITY RESIDENTIAL (3-7 DU/AC)," TO FACILITATE CONSTRUCTION OF A 22-UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT AND A NINE-UNIT DETACHED, SINGLE-FAMILY RESIDENTIAL DEVELOPMENT THEREON (APN 1011-321-13)

A. Recitals.

**WHEREAS**, Kasner Family Limited Partnership (property owner), on behalf of Crestwood Corporation, has filed an application for an amendment to the General Plan Land Use Map under Case No. 2016-2; and

**WHEREAS**, the application for said amendment to the General Plan Land Use Map applies to a 4.60-acre site described as follows:

Lot 2 in Block 22 of Monte Vista Tract No. 2, in the City of Montclair, County of San Bernardino, State of California, as per map recorded in Book 16, Pages 33 and 34 of Maps, in the office of the County Recorder of said County.

The above-referenced property composing the proposed amendment area and also commonly known as 4975 Mission Boulevard, is also indicated on the attached Exhibit "A," a map incorporated herein by reference; and

**WHEREAS**, the subject 4.60-acre site is currently designated by the General Plan as "General Commercial" and is developed with a vacant, 19,000 square-foot commercial building formerly used as a grocery store and Mexican restaurant; and

**WHEREAS**, the applicant submitted concurrent applications requesting a Zoning Map Amendment, Tentative Tract Map, and Precise Plan of Design for the subject site to change the land use designation of the northerly 2.30 acres of the site from "C-2" (Restricted Commercial) to "R-3" (Medium-High Density Residential), to change the southerly 2.30 acres of the site from "C-2" (Restricted Commercial) to "R-1" (Single-Family Residential), and to subdivide the property to construct 22 detached residential condominiums on the northerly portion and nine (9) detached, single-family residences on the southerly portion; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA), the City prepared an Initial Study (IS) for the General Plan Amendment, Zoning Map Amendment, Tentative Tract Maps, and Precise Plan of Design and released it for public review and comment on January 28, 2016. Based on the findings of the Initial Study, staff has determined that, although the proposed project could have a significant effect on the environment, there will not be a significant effect because revisions in the project have been made by or agreed to by the project proponent and/or mitigation measures have been included reducing potential significant effects to less than significant. Therefore, a Mitigated Negative Declaration (MND) is proposed for the project; and

**WHEREAS**, on January 27, 2016, the Notice of Availability of the IS/MND was filed with the San Bernardino County Clerk of the Board; and

**WHEREAS**, the minimum 21-day public review period for the IS/MND commenced on January 28, 2016 and concluded on February 22, 2016; and

**WHEREAS**, copies of the IS/MND were available during the public review period at the Community Development counter at City Hall; and

**WHEREAS**, public notice of this item was advertised as a public hearing before the Planning Commission in the *Inland Valley Daily Bulletin* newspaper on January 29, 2016; and

**WHEREAS**, on February 22, 2016, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with the amendment to the General Plan Land Use Map were heard, and said application was fully studied; and

**WHEREAS**, the Planning Commission reviewed and considered the amendment to the General Plan Land Use Map along with the information contained in the IS/MND, comments received during the public review period, and responses to comments; and

**WHEREAS**, the Planning Commission, as the responsible agency, reviewed and considered the environmental assessment based upon the findings in the Initial Study prepared for the project, and determined that there will be no significant impact on the environment as a result of the proposed amendment to the General Plan Land Use Map; and

**WHEREAS**, the Planning Commission also adopted a Mitigated Negative Declaration and a finding that there will be a DeMinimis impact on fish and wildlife; and

**WHEREAS**, based on its review and independent judgment, the City Council finds that the amendment to the General Plan Land Use Map will not have a significant effect on the environment; and

**WHEREAS**, public notice of this item was advertised as a public hearing before the City Council in the *Inland Valley Daily Bulletin* newspaper on March 11, 2016; and

**WHEREAS**, on March 21, 2016, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the City Council conducted a public hearing at which time all persons wishing to testify in connection with the amendment to the General Plan Land Use Map were heard, and said application was fully studied.

B. Resolution.

**NOW, THEREFORE, BE IT RESOLVED** that it is hereby found, determined, and resolved by the City Council of the City of Montclair as follows:

1. The City Council hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. The City Council hereby approves the amendment to the General Plan Land Use Map associated with Case No. 2016-2, modifying the land use designation of the northerly 2.30 acres of the subject property from "General Commercial" to "Medium Density Residential (8-14 dwelling units/acre)," and modifying the land use designation of the southerly 2.30 acres of the subject property from "General Commercial" to "Low Density Residential (3-7 dwelling units/acre)."

**APPROVED AND ADOPTED** this XX day of XX, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

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

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 16-3114 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, 2016, and that it was adopted by the following vote, to-wit:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

---

Andrea M. Phillips  
Deputy City Clerk

**Exhibit A**  
CASE NUMBER: 2016-2

PROJECT LOCATION: 4975 Mission Boulevard  
 ASSESSOR'S PARCEL NO.: 1011-321-13  
 PROPERTY OWNER: Kasner Family Limited Partnership

<b>General Plan Amendment</b>	
<i>Existing</i>	<i>Proposed</i>
<b>"General Commercial"</b>	<b>"Medium Density Residential (8-14 du/ac)" and "Low Density Residential (3-7 du/ac)"</b>



RESOLUTION NO. 16-3115

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING AN AMENDMENT TO THE OFFICIAL ZONING MAP OF THE CITY OF MONTCLAIR MODIFYING THE ZONING DESIGNATION OF THE NORTHERLY 2.30 ACRES OF LAND AT 4975 MISSION BOULEVARD FROM "C-2" (RESTRICTED COMMERCIAL) TO "R-3" (MEDIUM-HIGH DENSITY RESIDENTIAL), AND MODIFYING THE ZONING DESIGNATION OF THE SOUTHERLY 2.30 ACRES OF LAND AT 4975 MISSION BOULEVARD FROM "C-2" (RESTRICTED COMMERCIAL) TO "R-1" (SINGLE-FAMILY RESIDENTIAL) TO FACILITATE CONSTRUCTION OF A 22-UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT AND A NINE-UNIT DETACHED, SINGLE-FAMILY RESIDENTIAL DEVELOPMENT THEREON (APN 1011-321-13)

A. Recitals.

**WHEREAS**, Kasner Family Limited Partnership (property owner), on behalf of Crestwood Corporation, has filed an application for an amendment to the Official Zoning Map of the City of Montclair under Case No. 2016-2; and

**WHEREAS**, the application for said amendment to the Official Zoning Map applies to a 4.60-acre site described as follows:

Lot 2 in Block 22 of Monte Vista Tract No. 2, in the City of Montclair, County of San Bernardino, State of California, as per map recorded in Book 16, Pages 33 and 34 of Maps, in the office of the County Recorder of said County.

The above-referenced property composing the proposed amendment area and also commonly known as 4975 Mission Boulevard, is also indicated on the attached Exhibit "A," a map incorporated herein by reference; and

**WHEREAS**, the subject 4.60-acre site is currently designated by the Official Zoning Map as "C-2" (Restricted Commercial) and is developed with a vacant, 19,000 square-foot commercial building formerly used as a grocery store and Mexican restaurant; and

**WHEREAS**, the applicant submitted concurrent applications requesting a General Plan Land Use Map Amendment, Tentative Tract Map, and Precise Plan of Design for the subject site to change the General Plan land use designation of the northerly 2.30 acres of the site from "General Commercial" to "Medium Density Residential (8-14 dwelling units/acre)," to change the land use designation of the southerly 2.30 acres of the site from "General Commercial" to "Low Density Residential (3-7 dwelling units/acre)," and to subdivide the property to construct 22 detached residential condominiums on the northerly portion and nine (9) detached, single-family residences on the southerly portion; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA), the City prepared an Initial Study (IS) for the General Plan Amendment, Zoning Map Amendment, Tentative Tract Maps, and Precise Plan of Design and released it for public review and comment on January 28, 2016. Based on the findings of the Initial Study, staff has determined that, although the proposed project could have a significant effect on the environment, there will not be a significant effect because revisions in the project have been made by or agreed to by the project proponent and/or mitigation measures have been included reducing potential significant effects to less than significant. Therefore, a Mitigated Negative Declaration (MND) is proposed for the project; and

**WHEREAS**, on January 27, 2016, the Notice of Availability of the IS/MND was filed with the San Bernardino County Clerk of the Board; and

**WHEREAS**, the minimum 21-day public review period for the IS/MND commenced on January 28, 2016 and concluded on February 22, 2016; and

**WHEREAS**, copies of the IS/MND were available during the public review period at the Community Development counter at City Hall; and

**WHEREAS**, public notice of this item was advertised as a public hearing before the Planning Commission in the *Inland Valley Daily Bulletin* newspaper on January 29, 2016; and

**WHEREAS**, on February 22, 2016, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with the amendment to the Official Zoning Map were heard, and said application was fully studied; and

**WHEREAS**, the Planning Commission reviewed and considered the amendment to the Official Zoning Map along with the information contained in the IS/MND, comments received during the public review period, and responses to comments; and

**WHEREAS**, the Planning Commission, as the responsible agency, reviewed and considered the environmental assessment based upon the findings in the Initial Study prepared for the project, and determined that there will be no significant impact on the environment as a result of the proposed amendment to the Official Zoning Map; and

**WHEREAS**, the Planning Commission also adopted a Mitigated Negative Declaration and a finding that there will be a DeMinimis impact on fish and wildlife; and

**WHEREAS**, based on its review and independent judgment, the City Council finds that the amendment to the Official Zoning Map will not have a significant effect on the environment; and

**WHEREAS**, public notice of this item was advertised as a public hearing before the City Council in the *Inland Valley Daily Bulletin* newspaper on March 11, 2016; and

**WHEREAS**, on March 21, 2016, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the City Council conducted a public hearing at which time all persons wishing to testify in connection with the amendment to the Official Zoning Map were heard, and said application was fully studied.

B. Resolution.

**NOW, THEREFORE, BE IT RESOLVED** that it is hereby found, determined, and resolved by the City Council of the City of Montclair as follows:

1. The City Council hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. The City Council hereby approves the amendment to the Official Zoning Map of the City of Montclair associated with Case No. 2016-2, modifying the zoning designation of the northerly 2.30 acres of subject property from "C-2" (Restricted Commercial) to "R-3" (Medium-High Density Residential), and modifying the zoning designation of the southerly 2.30 acres of the subject property from "C-2" (Restricted Commercial) to "R-1" (Single-Family Residential).

**APPROVED AND ADOPTED** this XX day of XX, 2016.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 16-3115 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, 2016, and that it was adopted by the following vote, to-wit:

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

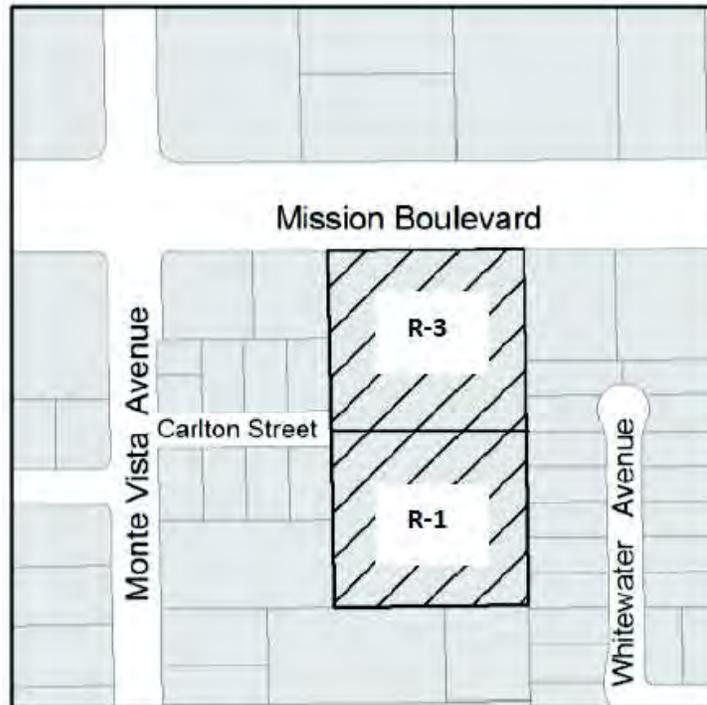
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Andrea M. Phillips  
Deputy City Clerk

**Exhibit A**  
**CASE NUMBER: 2016-2**

PROJECT LOCATION: 4975 Mission Boulevard  
ASSESSOR'S PARCEL NO.: 1011-321-13  
PROPERTY OWNER: Kasner Family Limited Partnership

<b>Official Zoning Map Amendment</b>	
<i>Existing</i>	<i>Proposed</i>
"C-2" (Restricted Commercial)	"R-3" (Medium-High Density Residential) and "R-1" (Single-Family Residential)



**LEGAL DESCRIPTION**  
 LOT 1 & 2, BLOCK 22 OF MONTE VISTA TRACT NO. 2, IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 18, PAGES 23 AND 24 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**NOTES**

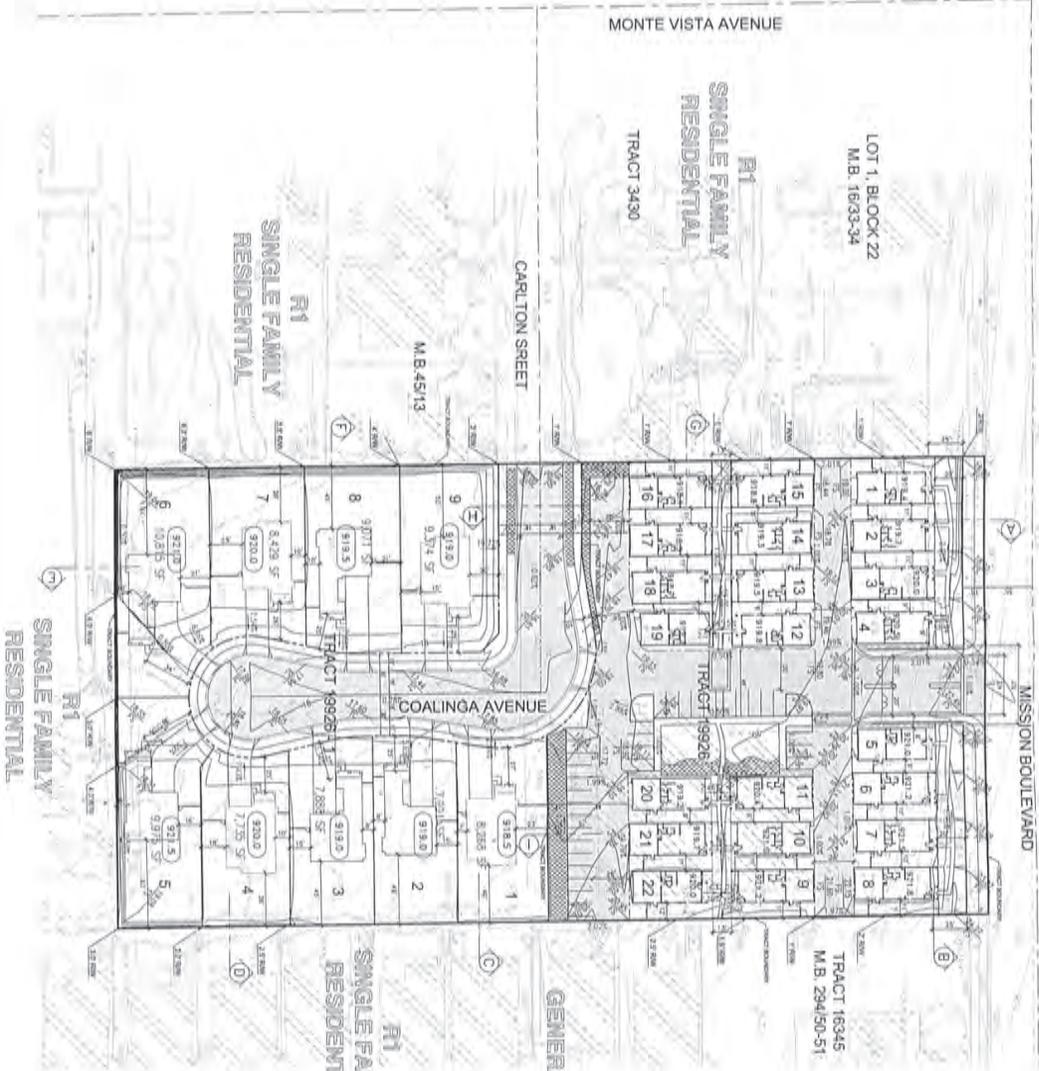
1. ALL DIMENSIONS ARE SHOWN UNLESS OTHERWISE NOTED.
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AUGUST 2015  
 APN 1011-321-13

**TENTATIVE TRACT MAP  
 TENTATIVE TRACT NO. 19926**

10 LOTS AND 22 CONDOMINIUM UNITS FOR RESIDENTIAL CONDOMINIUM PURPOSES  
 IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO STATE OF CALIFORNIA  
 BEING A SUBDIVISION OF LOT 2, IN BLOCK 22 OF MONTE VISTA TRACT NO. 2, AS PER MAP RECORDED IN BOOK 18, PAGES 23-24 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN BERNARDINO

10 LOTS AND 22 CONDOMINIUM UNITS  
 4.71 AC (GROSS)  
 4.80 AC (NET)



**PREPARED BY:** CRESTWOOD CORPORATION  
 530 W. CITRUS EDGE ST.  
 GLENORA, CA 91740  
 626.914.1943/FAX 626.335.9320

**DATE:** AUGUST 2015

**SCALE:** AS SHOWN

**PROJECT:** TENTATIVE TRACT MAP NO. 19926

**OWNER:** CRESTWOOD CORPORATION

**DESIGNER:** [Firm Name]

**ENGINEER:** [Firm Name]

**PLANNING:** [Firm Name]

**CONSULTANTS:** [Firm Name]

**REVIEWERS:** [Firm Name]

**APPROVED:** [Signature]

**SHEET INDEX**  
 1 TENTATIVE TRACT MAP  
 2 DETAILS AND SETTINGS

**LEGEND**

- 1. LOT LINE
- 2. PROPERTY LINE
- 3. EASEMENT
- 4. SETBACK
- 5. CURB
- 6. DRIVE
- 7. SIDEWALK
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**VERSION HISTORY**

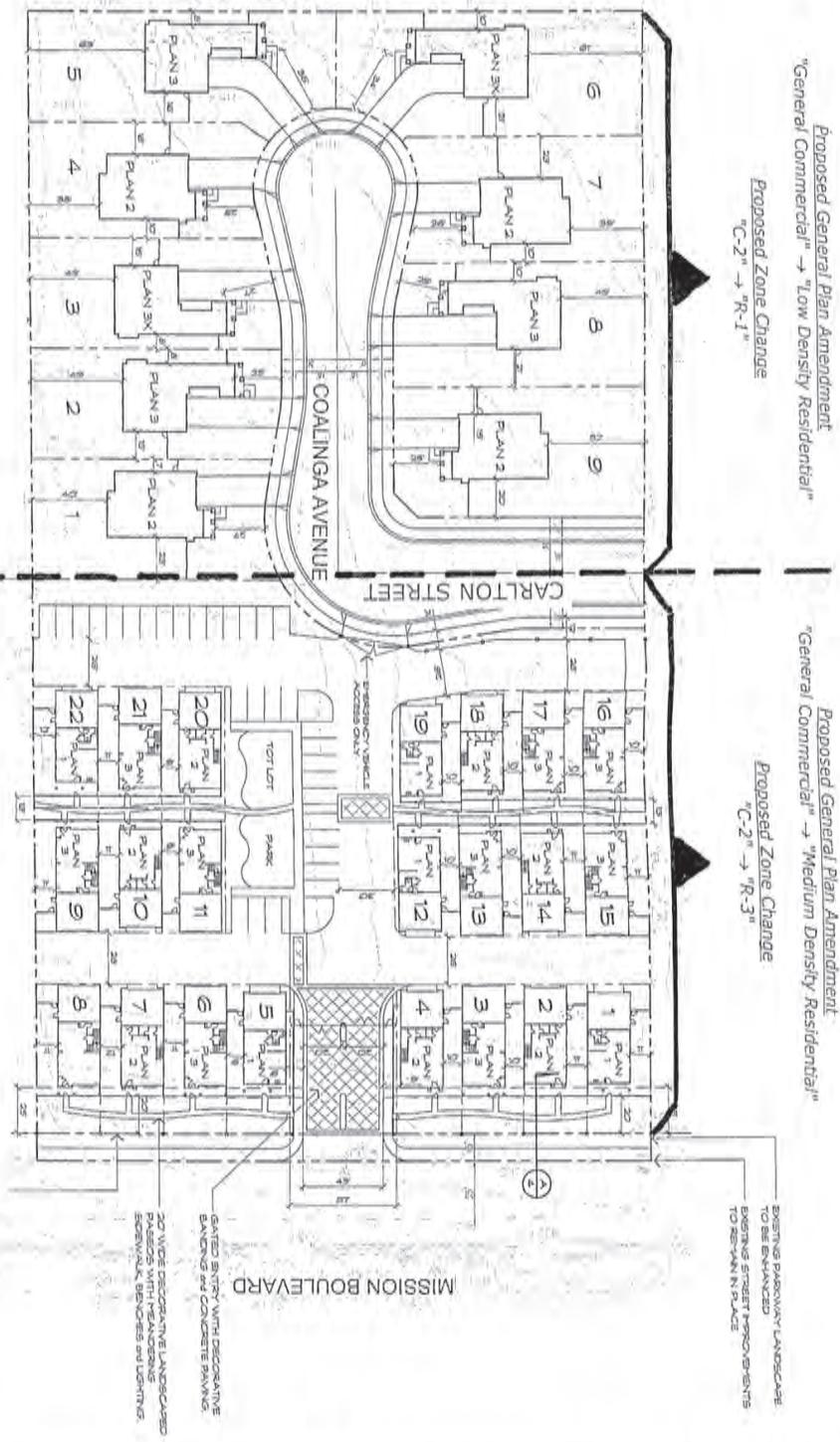
NO.	DATE	DESCRIPTION
1	8/15/15	INITIAL SUBMITTAL
2	8/15/15	REVISED SUBMITTAL
3	8/15/15	FINAL SUBMITTAL

**SHEET OF**  
 1 2

**DEVELOPER**  
**CRESTWOOD CORPORATION**  
 510 W. CITRUS EDGE ST.  
 GLENORA CA 91740  
 626.914.1943/FAX 626.335.9320

**GRAPHIC SCALE**  
 1" = 40' FT

**ENCLOSURE ASSOCIATES, INC.**  
 1000 W. GARDEN ST.  
 GLENORA, CA 91740  
 626.914.1943



PROJECT TITLE <b>Tract 19926 &amp; 19926-1 - Precise Plan of Design</b>	SHEET NO. <b>3</b>	DATE <b>08/18/2014</b>	THESE PLAN DRAWINGS ARE PROPRIETARY DOCUMENTS OF <b>Crestwood Communities</b> THEY ARE NOT TO BE REPRODUCED, PUBLISHED OR REPRODUCED WITHOUT WRITTEN CONSENT. UNAUTHORIZED REPLICATION OF THESE PLANS IN WHOLE OR IN PART IS STRICTLY PROHIBITED.	PROJECT NO. <b>CRESTWOOD COMMUNITIES</b> MICHELLE LAZARUS ARCHITECT 1516 OLIVE ST. SUITE 100 BERKELEY CA 94704 (925) 834-1900	DESIGNER BY RECORD <b>MIKE YECMAN</b> CIVIL ENGINEER 331 ALABAMA STREET, SUITE F RINDLAND, CALIFORNIA 92373 (951) 748-0888	CLIENT <b>Montclair 20 TRACT 19926</b> <b>CRESTWOOD COMMUNITIES</b> 4525 MISSION BLVD MONTCLAIR, CA 91702 (925) 514-1943	REVISION DATE COMMENTS PER CITY PLAN CHECK
	PROJECT SITE PLAN						

## AGENDA REPORT

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**SUBJECT:** CONSIDER AMENDING THE FISCAL YEARS 2015-2020 CAPITAL IMPROVEMENT PROGRAM, ADDING THE ZONE 3, EASTERN MONTCLAIR STREET REHABILITATION PROJECT

CONSIDER AUTHORIZING AN APPROPRIATION OF \$1,500,000 FROM 2014 LEASE REVENUE BOND PROCEEDS FOR COSTS RELATED TO THE ZONE 3, EASTERN MONTCLAIR STREET REHABILITATION PROJECT

CONSIDER AUTHORIZING STAFF TO ADVERTISE FOR BID PROPOSALS FOR THE ZONE 3, EASTERN MONTCLAIR STREET REHABILITATION PROJECT

**DATE:** March 7, 2016

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 2

**FILE I.D.:** STA650

**DEPT.:** PUBLIC WORKS

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**REASON FOR CONSIDERATION:** It is proposed that the Capital Improvement Program (CIP) be amended to reflect the project name change and additional funding required for the Zone 3, Eastern Montclair Street Rehabilitation Project. Amendments to the CIP and appropriations require City Council's approval.

**BACKGROUND:** On June 15, 2015, the City Council adopted the Fiscal Years 2015-2020 Capital Improvement Program (CIP), which included a project titled, East Montclair Pavement Rehab. Since the approval of the 2015-2020 Capital Improvement Program, staff has created a grid system that breaks the City down into six zones from north to south and three subzones, western, central, and eastern. The attached map identifies all future pavement rehabilitation projects specifically by zone and subzone.

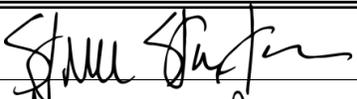
The proposed Zone 3, Eastern Montclair Street Rehabilitation Project will increase the size of the previously identified project. The project limits will be from San Bernardino Street on the north, Benson Avenue on the east, Orchard Street on the south, and Central Avenue on the west.

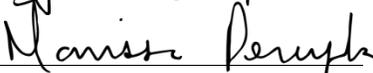
Over the years, City tree roots have caused uplifting of curbs, gutters, and sidewalks, creating tripping hazards and unsafe conditions for residents. As part of this project, several City trees will be removed and replaced. Proposed improvements include removal and replacement of damaged curb, gutter, and sidewalk; replacement of non-compliant Americans with Disabilities Act (ADA) pedestrian ramps; grinding of existing asphalt concrete pavement; and new asphalt concrete pavement overlays.

**FISCAL IMPACT:** The 2015-2020 CIP did not include a funding source for the East Montclair Pavement Rehabilitation, however, it did identify an estimated construction cost of \$500,000. The proposed Zone 3, Eastern Montclair Street Rehabilitation Project

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Prepared by:  Fiscal Impact Finance Review: 

Proofed by:  Reviewed and Approved By: 

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is estimated at \$1,500,000. Staff recommends the use of 2014 Lease Revenue Bond Proceeds be used for the project.

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

1. Consider amending the fiscal years 2015–2020 Capital Improvement Program, adding the Zone 3, Eastern Montclair Street Rehabilitation Project.
2. Consider an appropriation of \$1,500,000 from 2014 Lease Revenue Bond Proceeds for costs related to the Zone 3, Eastern Montclair Street Rehabilitation Project.
3. Consider authorizing staff to advertise for bid proposals for the Zone 3, Eastern Montclair Street Rehabilitation Project.





## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER AUTHORIZING A \$26,152 APPROPRIATION FROM THE FEDERAL ASSET FORFEITURE FUND TO PURCHASE X26 TASER BATTERIES AND X26P TASER DEVICES AND RELATED ACCESSORIES FOR FRONTLINE LAW ENFORCEMENT USE	<b>DATE:</b> March 7, 2016 <b>SECTION:</b> ADMIN. REPORTS <b>ITEM NO.:</b> 3 <b>FILE I.D.:</b> PDT362/PDT825 <b>DEPT.:</b> POLICE
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**REASON FOR CONSIDERATION:** The City Council is requested to authorize the use of Federal Asset Forfeiture Funds to purchase new TASER Conducted Electrical Weapons (CEWs), accessories, and batteries, as the model currently in use is discontinued by the manufacturer and more than half are not serviceable.

**BACKGROUND:** The Police Department first began providing X26 TASER devices to sworn personnel in 2003 as an alternative to lethal force. TASER International, the sole manufacturer of TASER devices and accessories, has upgraded the device over the years to include "Smart Technology." These new advances enable the device to measure and deliver the amount of electric charge necessary to maximize safety and effectiveness and record every user action, such as: safety activation; trigger duration with times, dates, and battery life; and a pulse-by-pulse record of the charge output.

Although more modern devices became available, Department staff supported the continued use of the original model because the devices were still serviceable and repairing them was a more cost-effective option than purchasing new units. Over the years, however, many of the devices have fallen into a state of disrepair, as they have been discontinued by TASER International and are irreparable.

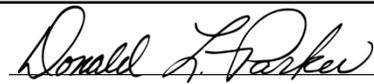
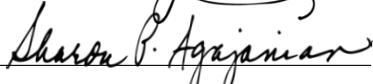
Of the 55 TASER devices originally purchased, only 15 are serviceable; however, the batteries are approximately 10 years old, will not hold a charge, and are in need of replacement. Staff proposes to purchase 25 new X26P devices (batteries included) and holsters, one USB data port, and 15 batteries for the existing X26 models still in use. The Department will receive a \$2,750 trade-in credit from TASER International in exchange for the broken TASER devices.

TASER International is the sole manufacturer of TASER devices and accessories nationwide, making it a sole source vendor.

**FISCAL IMPACT:** The cost to purchase 25 X26P TASER devices with batteries, holsters, and a USB data port is \$25,521, including the trade-in credit. The cost to replace 15 batteries for the existing X26 models is \$631. If authorized by the City Council, funding to purchase the TASER products would result in an appropriation from the Federal Asset Forfeiture Fund (1144) in the amount of \$26,152.

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

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**RECOMMENDATION:** Staff recommends the City Council authorize a \$26,152 appropriation from the Federal Asset Forfeiture Fund to purchase X26 TASER batteries and X26P TASER devices and related accessories for frontline law enforcement use.

## AGENDA REPORT

<p><b>SUBJECT:</b> CONSIDER AUTHORIZING A \$12,581 APPROPRIATION FROM THE PUBLIC SAFETY GRANT FUND TO PURCHASE MOBILE DATA COMPUTERS FOR LAW ENFORCEMENT OPERATIONS</p> <p>CONSIDER AUTHORIZING A \$6,799 APPROPRIATION FROM THE FEDERAL ASSET FORFEITURE FUND TO COMPLETE THE PURCHASE OF MOBILE DATA COMPUTERS AND ASSOCIATED EQUIPMENT AND SOFTWARE</p>	<p><b>DATE:</b> March 7, 2016</p> <p><b>SECTION:</b> ADMIN. REPORTS</p> <p><b>ITEM NO.:</b> 4</p> <p><b>FILE I.D.:</b> PDT362</p> <p><b>DEPT.:</b> POLICE</p>
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**REASON FOR CONSIDERATION:** The Police Department has been awarded a grant from the FY2015 Homeland Security Grant Program (HSGP) to purchase equipment in furtherance of emergency preparedness. The City Council is requested to consider a \$12,581 appropriation from the Public Safety Grant Fund to purchase five Mobile Data Computers (MDCs) for use by Detective Bureau personnel during routine and critical incidents. The cost of the purchase would be fully reimbursed by the FY2015 HSGP.

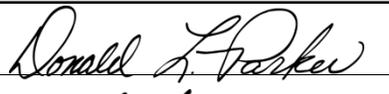
Because the HSGP award is insufficient to cover the entire cost of the MDCs and related equipment and software, the City Council is also requested to authorize use of Federal Asset Forfeiture Funds to supplement the grant award.

**BACKGROUND:** The HSGP is designed to assist organizations, government agencies, and communities in implementing programs and measures to prevent, protect against, mitigate, respond to, and recover from threats, hazards, acts of terrorism, and other catastrophic events that pose a significant risk to local communities and the nation.

On February 1, 2016, the City Council approved Agreement No. 16-12 with the San Bernardino County Fire Protection District (SBCFPD) to receive approximately \$22,593 from the FY2015 HSGP. Since receiving City Council approval, staff learned that this award amount was an estimation based on previous awards from the State—the actual FY2015 grant award is \$12,581.

Staff proposes to use HSGP and Federal Asset Forfeiture funds to purchase five Getac MDCs, adapters, software, and site licenses for use in the Detective Bureau vehicles. Getac rugged notebook computers are currently used in the Department’s Patrol fleet. Equipment allocations are as follows:

Mobile Data Computers (5)	\$ 16,512
NetMotion Wireless Software	1,943
Vehicle Adapters (5)	625
2FA Site Licenses (5)	<u>300</u>
<b>TOTAL</b>	<b><u>\$ 19,380</u></b>

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

Multiple bid quotations were not solicited for the Getac rugged notebook because the equipment is proprietary, and the company controls its resale pricing. CDCE, Inc. is an authorized vendor of Getac products and is the vendor of choice for this purchase because of its extensive working relationship with the City, fast and reliable response times, and ability to consistently meet the City's needs.

**FISCAL IMPACT:** If approved by the City Council, the purchase of five Mobile Data Computers and related equipment and software would result in an appropriation from the Public Safety Grant Fund (1163) in the amount of \$12,581, as well as an appropriation from the Federal Asset Forfeiture Fund (1141) in the amount of \$6,799. The City would receive full reimbursement in the amount of \$12,581 from the FY2015 HSGP.

Two-factor authentication and VPN software site licensing, software maintenance, and modem connectivity would result in a recurring annual expenditure of \$3,668. Because connectivity and software requirements for the new MDCs would be the same as that used for the Department's Patrol fleet, the annual cost would be incorporated into the existing maintenance contract for MDC connectivity, which is customarily allocated in the Information Technology Services Budget.

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

1. Authorize a \$12,581 appropriation from the Public Safety Grant Fund to purchase Mobile Data Computers for law enforcement operations.
2. Authorize a \$6,799 appropriation from the Federal Asset Forfeiture Fund to complete the purchase of Mobile Data Computers and associated equipment and software.

# AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION      **DATE:** March 7, 2016  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 5  
**FILE I.D.:** FIN540  
**DEPT.:** ADMIN. SVCS.

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

**BACKGROUND:** Mayor Pro Tem Raft has examined the Warrant Register dated March 7, 2016, and the Payroll Documentation dated February 21, 2016, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated March 7, 2016, totals \$2,136,552.26. The Payroll Documentation dated February 21, 2016, totals \$580,616.42 gross, with \$406,726.65 net being the total cash disbursement.

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

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

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# AGENDA REPORT

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<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 16-19 WITH MIG, INC., AMENDING AGREEMENT NO. 15-82 FOR THE CONCEPTUAL DESIGN OF STREETScape AND INFRASTRUCTURE DESIGN FOR THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN PROJECT	<b>DATE:</b>	March 7, 2016
		<b>SECTION:</b>	AGREEMENTS
		<b>ITEM NO.:</b>	1
		<b>FILE I.D.:</b>	RDA560
		<b>DEPT.:</b>	PUBLIC WORKS

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**REASON FOR CONSIDERATION:** On September 8, 2015, the City entered into Agreement No. 15-82 with Moore, Iacofano, and Goltsman, Inc. (MIG, Inc.) for engineering services required for the development of conceptual plans for streetscape and infrastructure design for the North Montclair Downtown Specific Plan area. After reviewing preliminary work by MIG, Inc., the City desires to modify the limits of the study area. The additional work requires an amendment to Agreement No. 15-82. City Council approval is required for approval of Amendment No. 1 to Agreement No. 15-82.

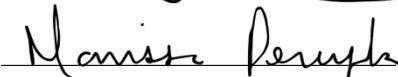
**BACKGROUND:** In 2005, the City began work on the development of a specific plan for an area that came to be known as North Montclair Downtown Specific Plan. The North Montclair Downtown Specific Plan is a major land-use plan prepared by Moule & Polyzoides Architects and Urbanists in concert with City staff to provide master planning services on approximately 150 acres in North Montclair.

The adopted land-use plan creates the framework for new development opportunities for a mixed-use, transit-oriented district between the Montclair Transcenter, which is currently a stop on Metrolink's San Bernardino line and will eventually be the easterly terminus of the Foothill Gold Line light rail, and the Montclair Place regional shopping center.

The Plan envisions a walkable, vibrant Town Center that includes multiple uses and activities that take advantage of the major transit amenities. The Plan would implement a transit-oriented, mixed-use development that links land use and transit as mutually supportive through a unified approach to development. The Plan's goal is to establish livable neighborhoods based upon the concept of traditional town centers by creating mixed-density housing types (townhouses, condominiums, apartments, live/work lofts, and courtyard housing) above retail and office space. The Plan was adopted by the City Council on May 15, 2006.

After beginning work on the study, City staff requested MIG, Inc., to expand the study limits to include additional area along Central Avenue. MIG, Inc., has presented a proposal for the additional work acceptable to the City and has requested additional compensation of \$12,175 for the expanded work effort.

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

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**FISCAL IMPACT:** The original contract was for \$225,000 with a contingency approved by the City Council of \$25,000. The fee increase request of \$12,175 is well within the \$25,000 contingency and total appropriation of \$250,000 authorized by the City Council.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No 16-19 with MIG, Inc., amending Agreement No. 15-82 for the Conceptual Design of Streetscape and Infrastructure Design for the North Montclair Downtown Specific Plan project.

**CITY OF MONTCLAIR**

**AMENDMENT NO. 1 TO AGREEMENT NO. 15-82**  
**FOR CONSULTANT SERVICES**

**FOR**

**NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN**

**STREETSCAPE AND INFRASTRUCTURE DESIGN PROJECT**

THIS AMENDMENT NO. 1 to Agreement No. 15-82 is made and effective as of January 18, 2016, between the City of Montclair, a municipal corporation ("City") and Moore, Iacofano, and Goltsman, Inc., a California corporation ("Consultant"), hereinafter sometimes called MIG, Inc., or MIG.

**WHEREAS**, MIG and City entered into Agreement No. 15-82 effective October 1, 2015, for study and design services related to the North Montclair Downtown Specific Plan Streetscape and Infrastructure Design Project; and

**WHEREAS**, MIG and City desire to modify the limits of said project; and

**WHEREAS**, City is willing to pay MIG additional compensation in connection with the proposed modifications.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions set forth herein, the parties agree to amend Agreement No. 15-82 as follows:

1. Section 2 shall be amended as follows:

Consultant shall perform the services as described in Agreement No. 15-82 except that Exhibit D thereto shall be replaced with Exhibit D-1 attached hereto.

2. Section 5(a) shall be amended as follows:

(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 of Agreement No. 15-82. This amount shall not exceed the Agreement No. 15-82 amount of \$225,000 plus Amendment No. 1 increase of \$12,175, for a total not to exceed amount of \$237,175, for the total term of the Agreement unless additional payment is approved as provided in Agreement No. 15-82.

3. Except as modified above, all other terms and provisions of Agreement No. 15-82 shall remain in full force and effect as previously approved by both parties.

4. 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:

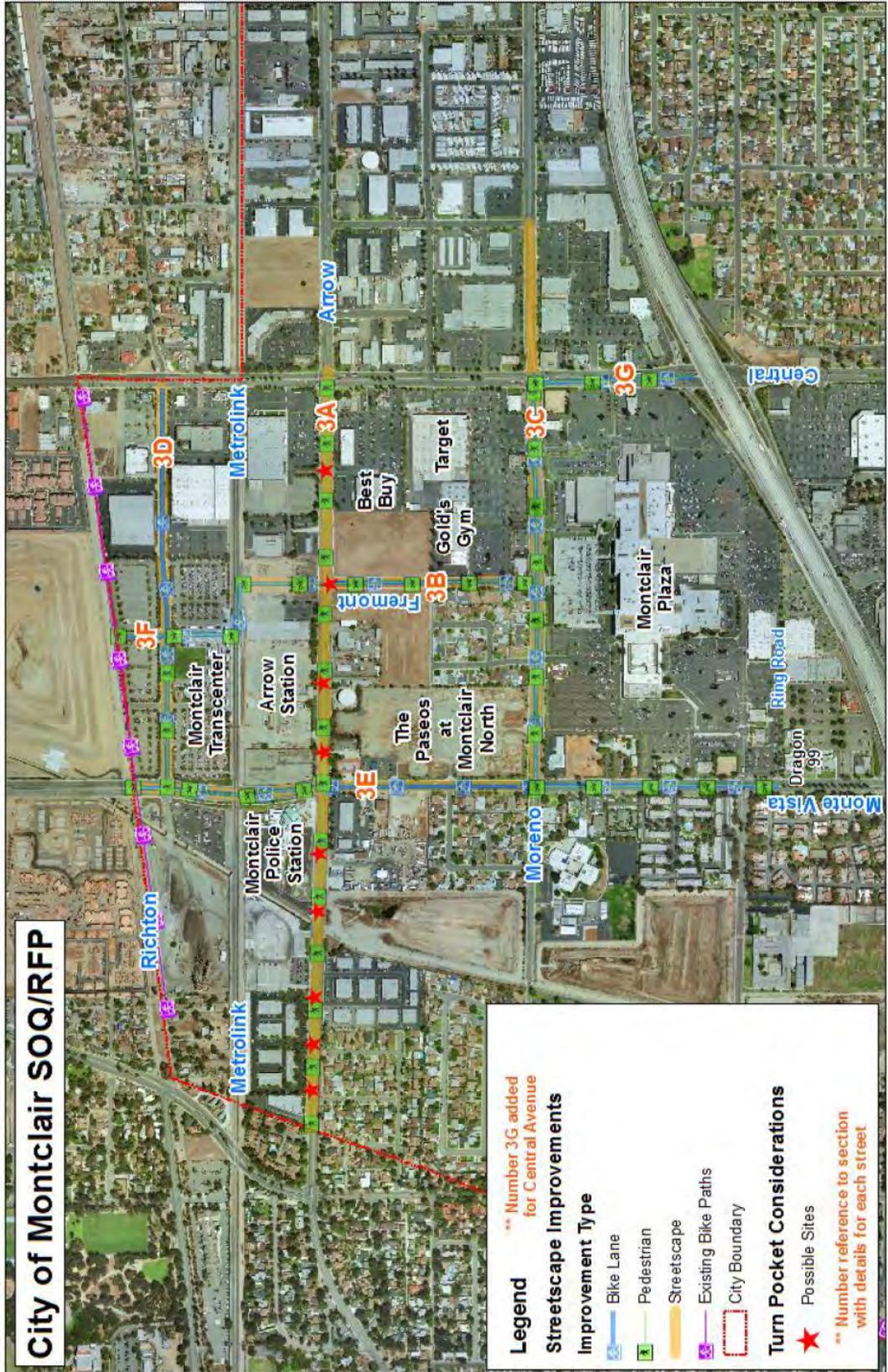
By: \_\_\_\_\_  
Andrea M. Phillips, Deputy City Clerk

By: \_\_\_\_\_  
(Title)

Approved as to Form:

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

# EXHIBIT D STUDY AREA



# AGENDA REPORT

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<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 16-20 WITH THE COUNTY OF SAN BERNARDINO AMENDING AND RESTATING A JOINT POWERS AGREEMENT CREATING A COUNTY-WIDE TRANSPORTATION AUTHORITY TO BE KNOWN AS OMNITRANS	<b>DATE:</b>	March 7, 2016
		<b>SECTION:</b>	AGREEMENTS
		<b>ITEM NO.:</b>	2
		<b>FILE I.D.:</b>	TRN250
		<b>DEPT.:</b>	ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** On February 3, 2016, the San Bernardino County Public Transit Agency (Omnitrans) Board of Directors elected to adopt a proposed agreement amending and restating a joint powers agreement between the County of San Bernardino and the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa, creating a county-wide transportation authority known as Omnitrans. The proposed Agreement would amend and restate Agreement No. 76-254 between the City of Montclair and the County of San Bernardino.

A copy of proposed Agreement No. 16-20 is attached for the City Council's review and consideration.

**BACKGROUND:** In May 2015, the Omnitrans Board of Directors authorized Omnitrans staff to begin the process of amending a Joint Powers Agreement (JPA) between the County of San Bernardino and the fifteen cities that make up the member agencies of the Omnitrans JPA. The ultimate goal of the Omnitrans Board of Directors was to update the existing Omnitrans JPA allowing for a more streamlined version of the agreement in order to better serve member agencies, the public, and address limitations of the original agreement. The existing Omnitrans JPA was adopted countywide on March 8, 1976.

In early October 2015, a copy of the existing Omnitrans JPA, along with a redlined copy of proposed changes to the agreement, and a draft clean copy of the proposed agreement were distributed to the Omnitrans Board of Directors, the San Bernardino County Chief Executive Officer, and the City Managers of each member agency for review and comment.

After a period of review and comment by all member agencies, the Omnitrans Board Executive Committee convened in order to compile concerns and questions raised by member agencies. As a result, the Omnitrans Board Executive Committee recommended additional language be incorporated in the proposed changes to the existing Omnitrans JPA prior to submittal to the Board of Directors for adoption. At the February 3, 2016 Omnitrans Board of Directors meetings, the Omnitrans Board of

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

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Directors elected to adopt the proposed changes to the existing Omnitrans JPA. The following is a list of the changes included in the proposed new Omnitrans JPA.

- Inclusion of language related to indemnity by Omnitrans of member agencies and adoption of sound risk management and insurance practices;
- Elimination of weighted voting entitlements of member agencies, adoption of a one vote per member agency provision on the Board of Directors, and requirement of a majority vote to issue bond debt;
- Inclusion of language allowing for the levying of fees, assessments, or taxes, and the power of eminent domain by Omnitrans;
- Requirement that all revenues and expenditures be reported to the Omnitrans Controller on a quarterly basis unless otherwise required by the Board of Directors and the requirement that books and records of Omnitrans be open to inspection at all times by any representative of a member of the Board of Director's or designee;
- Requirement that the Omnitrans Chief Executive Officer prepare and submit to the Board of Directors an annual budget for adoption prior to July 1 of each year and all expenditures of Omnitrans be within the approved annual budget and in accordance with the bylaws and all applicable rules, policies, and procedures adopted by the Board of Directors;
- Requirement that all financial records of Omnitrans be audited annually, or biennially if so authorized by the Board of Directors, by an independent certified public accountant; and
- Inclusion of language stating that during the budgeting process the Omnitrans Board shall consider the amount of financial support to be allocated by the San Bernardino Associated Governments (SANBAG) on behalf of their member agencies. SANBAG as the Transportation Planning Agency for San Bernardino County, on behalf of their member agencies, will be responsible for allocating their member agencies' portion of Transportation Development Act funding for transit and non-transit related purposes to Omnitrans.

### ***Omnitrans***

Omnitrans is a public transit agency serving the San Bernardino Valley, providing safe, reliable, affordable, friendly, and environmentally responsible transportation to residents. Omnitrans currently operates local and express bus routes as well as sbX rapid bus transit service, OmniGo hometown shuttle service, and Access, a paratransit service for the disabled.

Established in 1976, Omnitrans carries approximately 16 million passengers each year throughout its 480-square mile service area, covering fifteen cities, and portions of the unincorporated areas of San Bernardino County. Major destinations within the Omnitrans service area include transportation centers, medical centers, educational facilities, shopping malls, business parks, and community centers.

### ***Board of Directors***

Omnitrans is administered by a Board of Directors, made up of the Mayor or Council Member from each member agency and all five Supervisors of the County of San Bernardino.

Board meetings are presided by the Board-appointed Chair. In addition, a Vice-Chair is elected by the Board. The CEO/General Manager is the Secretary to the Board of Directors. The Board of Directors is responsible for such acts as adopting the budget, appointing the CEO/General Manager, appointing a technical committee, establishing policy, and adopting rules and regulations for the conduct of business.

**FISCAL IMPACT:** Adoption of proposed Agreement No. 16-20 amending and restating a joint powers agreement with the County of San Bernardino creating a county wide transportation authority known as Omnitrans would have no direct fiscal impact to the City's General Fund should the City Council approve the proposed Agreement.

**RECOMMENDATION:** Staff recommends the City Council adopt Agreement No. 16-20 with the County of San Bernardino amending and restating a joint powers agreement creating a county wide transportation authority known as Omnitrans.

**AMENDED AND RESTATED JOINT POWERS AGREEMENT BETWEEN THE COUNTY OF SAN BERNARDINO AND THE CITIES OF CHINO, CHINO HILLS, COLTON, FONTANA, GRAND TERRACE, HIGHLAND, LOMA LINDA, MONTCLAIR, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, UPLAND, AND YUCAIPA CREATING A COUNTY WIDE TRANSPORTATION AUTHORITY TO BE KNOWN AS “OMNITRANS”**

**THIS AGREEMENT**, originally dated for convenience on the 8<sup>th</sup> day of March, 1976, is hereby amended and restated on \_\_\_\_\_, 2016, is entered into by and between the COUNTY OF SAN BERNARDINO and the Cities of CHINO, CHINO HILLS, COLTON, FONTANA, GRAND TERRACE, HIGHLAND, LOMA LINDA, MONTCLAIR, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, UPLAND and YUCAIPA, all of which are bodies politic in the STATE OF CALIFORNIA;

**WITNESSETH:**

**WHEREAS**, the County of San Bernardino (hereinafter sometimes referred to as “County”) and the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa (hereinafter sometimes referred to as “Cities”) have a mutual interest in deciding upon and implementing a public transit system to serve all the parties, and

**WHEREAS**, previously certain transit service authorities served sub-areas of the County, utilizing either the County of San Bernardino or San Bernardino Transit System as transit operators; and

**WHEREAS**, the parties now wish to continue to better coordinate transit efforts by amending and restating the agreement used in creating a single umbrella agency which will provide transit services as requested by the transit service authorities, and will serve the transit needs of the San Bernardino Valley and other areas as required.

**NOW, THEREFORE**, the County and Cities above mentioned, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

**SECTION 1. PURPOSE.**

Each party to this Agreement has the power to own, maintain, and operate a public transportation system. Under authority of Title I, Division 7, Chapter 5, as amended, of the Government Code of the State of California, the parties desire by joint exercise of their common power, to create and constitute a public transportation entity separate and distinct from each of the parties to be known as “Omnitrans”, which will own, maintain, operate and administer a public transportation system. This transportation system will serve as a unifying umbrella agency to coordinate service desires of the various transit service authorities throughout the San Bernardino Valley, and to provide such service either directly or through subcontract with other operators. The transportation system initially absorbed the public transportation operations of the San Bernardino Transit System, and the County of San Bernardino Transportation Department’s Public Transit Division. Omnitrans will provide a standardized system of fares, a universal system of transfers, and expanded transit services and facilities for the benefit of the citizens of the parties.

**SECTION 2. CREATION OF AUTHORITY.**

Omnitrans was created pursuant to Section 6506 of the California Government Code and said Authority is a public entity separate and apart from the Cities and County which are parties to this Agreement.

**SECTION 3. GOVERNING BOARD.**

A. Membership.

The Authority (Omnitrans) shall be administered by a Board of Directors. The membership of the Board of Directors shall consist of an officially designated Mayor or Council Member from each member City and four seats to be officially designated members from the Board of Supervisors who currently hold the office of Supervisor of the County of San Bernardino. Each City representative may have one alternate who shall be a Mayor or City Council Member officially designated by the City Council. The County representatives may have one alternate who shall be a County Supervisor. The alternates shall serve in an official capacity and be entitled to vote only in the absence of the official representatives.

B. Voting.

Each member of the Board of Directors shall have one vote. A quorum shall consist of a majority of the membership of the Board of Directors, except that all County representatives on the Board of Directors shall be counted as one for the purpose of establishing a quorum. Less than a quorum may adjourn from time to time. All actions taken by the Board shall require a majority vote of the members present, with a quorum in attendance, provided, however, that adoption of By-laws, Amendment of By-laws, adoption of an annual budget and such other matters as the Board may designate shall require a majority vote of the entire membership of the Board. An abstention shall be considered neither an affirmative nor a negative vote, but the presence of the member abstaining shall be counted in determining whether or not there is a quorum in attendance.

Votes to issue bonded debt shall require a majority vote of the total membership.

C. Meetings.

(1) Regular Meetings.

The Board of Directors shall provide for its regular meetings; provided, however, it shall hold at least one (1) regular meeting during each quarter of each fiscal year. The dates, hour, and place of the holding of the regular meetings shall be fixed by the Board by resolution.

(2) Ralph M. Brown Act.

All meetings of the Governing Board, including, without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code).

(3) Minutes.

The Secretary of the Board shall cause to be kept minutes of regular, adjourned regular, and special meetings of the Governing Board, and shall cause a copy of the minutes to be forwarded to each member of the Board and to each of the parties hereto.

D. Officers.

The Board shall select a Chairman, a Vice Chairman, and other necessary officials. The Secretary shall be the Chief Executive Officer of Omnitrans. The Treasurer of the Authority shall be the Chief Executive Officer of Omnitrans who shall be the depositary and have custody of all money of the Authority from whatever sources. Omnitrans' Director of Finance shall be the Controller of the Authority and shall draw all warrants to pay demands against the Authority. The Attorney for the Authority shall be designated by the Board. The public officers or persons who have charge of, handle or have access to any property of the Authority shall file an official bond in accordance with Section 6505.1 of the California Government Code. The Authority shall have the authority to appoint or employ such other officers, employees, consultants, advisors, and independent contractors as it may deem necessary.

E. Functions.

The Board of Directors shall perform the following functions:

- (1) Adopt the budget;
- (2) Appoint a Chief Executive Officer;
- (3) Appoint a technical committee;
- (4) Establish policy, including but not limited to:
  - (a) Uniform fares;
  - (b) Procurement Policies;
  - (c) Personnel Policies
- (5) Adopt rules and regulations for the conduct of business; and
- (6) Perform such other functions as are required to accomplish the purposes of this Agreement.

**SECTION 4. POWERS.**

Omnitrans shall have the common power of the parties to own, operate and maintain a public transit system; and, in the exercise of the power under this Agreement, Omnitrans is authorized in its own name to:

- (1) Sue and be sued;
- (2) Employ agents and employees and contract for professional services;

- (3) Make and enter contracts;
- (4) Acquire, convey, construct, manage, maintain and operate buildings and improvements;
- (5) Acquire and convey real and personal property;
- (6) Incur debts, obligations and liabilities, provided, however, the debts, obligations and liabilities incurred by Omnitrans shall not be, nor shall they be deemed to be, debts, obligations, or liabilities of any party;
- (7) Levy a fee, assessment or tax;
- (8) Power of eminent domain
- (9) Invest funds not required for immediate use as the Board determines advisable -  
- in the same manner and upon the same conditions as other local entities in accordance with Section 53601 of the Government Code; and
- (10) Do all other acts reasonable and necessary to carry out the purpose of this Agreement;
- (11) Obtain insurance;
- (12) Apply for grants under federal, state and local programs.

Such powers are subject to the statutory restrictions upon the manner of exercising the powers of the County of San Bernardino.

**SECTION 5. FISCAL YEAR.**

For the purposes of this Agreement, the term “Fiscal Year” shall mean the twelve (12) month period from July 1 to and including the following June 30.

**SECTION 6. FINANCIAL SUPPORT.**

At the time of preparing Omnitrans annual proposed operating budget and proposed capital expenditure budget, the Board shall consider the amount of financial support to be allocated by the San Bernardino Associated Governments (SANBAG) on behalf of members’ jurisdictions. SANBAG as the Transportation Planning Agency for San Bernardino County, and acting as the County Transportation Commission, is responsible for allocating Transportation Development Act (TDA) funding sources for transit and non-transit related purposes that comply with regional transportations plans.

The TDA provides two funding sources:

1. Local Transportation Fund (LTF), which is derived from a ¼ cent of the general sales tax collected statewide.
2. State Transit Assistance fund (STA), which is derived from the statewide sales tax on gasoline and diesel fuel.

**SECTION 7. CHIEF EXECUTIVE OFFICER.**

The Chief Executive Officer of Omnitrans shall serve at the pleasure of and upon the terms prescribed by the Board of Directors.

The Chief Executive Officer shall be responsible for carrying out the policy and directives of the Board of Directors. The duties of the Chief Executive Officer shall include:

1. The preparation and submission to the Board of Directors of the annual operating and capital improvement budgets;
2. The appointment, assignment, direction, supervision, and subject to the personnel rules adopted by the Board of Directors, the discipline or removal of Omnitrans employees;
3. Advising the Board of Directors concerning all matters relating to the operation of Omnitrans and the various programs of work, promotion and expansion;
4. Providing periodic financial reports covering Omnitrans and its operations in the manner and at the times determined by the Board of Directors; and
5. Approving for payment, under the procedure adopted by the Board of Directors, all valid demands against Omnitrans.

**SECTION 8. TREASURER.**

The Treasurer of the Authority shall receive, have custody of, and disburse Authority funds pursuant to the accounting procedures developed by the Authority Board in conformance with Government Accounting Standards, and shall make disbursements required by this Agreement to carry out any of the provisions or purposes of this Agreement.

**SECTION 9. CONTROLLER.**

The Director of Finance, as Controller, shall issue checks to pay demands against Omnitrans, which have been approved by the Chief Executive Officer. He shall be responsible on his official bond for his approval for the disbursement of Omnitrans money.

The Controller shall keep and maintain records and books of accounts on the basis of the uniform classification of accounts adopted by the State Controller. The books of accounts shall include records of assets and liabilities.

There shall be strict accountability of all funds by the Controller. All revenues and expenditures shall be reported by the Controller to the Board of Directors on a quarterly basis, unless otherwise required by the Board of Directors.

Books and records of the Authority shall be open to inspection at all times during normal business hours by any representative of a member of the Board of Directors, or by any accountant or other person authorized by a member of the Board of Directors to inspect said books or records.

**SECTION 10. BUDGET AND ACCOUNTING.**

The Chief Executive Officer shall prepare and submit to the Board of Directors in sufficient time for revision and adoption prior to July 1 of each year, the annual budget of the Authority for the next succeeding Fiscal Year.

All expenditures of the Authority shall be within the approved annual budget and in accordance with the bylaws of the Authority and all applicable rules, policies, and procedures adopted by the Board of Directors. No expenditures in excess of those budgeted shall be made without the approval of the Board of Directors.

The books of account and other financial records of the Authority shall be audited annually, or biennially if so authorized by the Board of Directors, by an independent certified public accountant and any cost of the audit shall be paid by the Authority. The minimum requirements shall be those prescribed by the State Controller under California Government Code Section 26909 and in conformance with generally accepted auditing standards. The annual audit, or biennial as the case may be, shall be submitted to the Board of Directors when completed.

## **SECTION 11. PARTIES' LIABILITY.**

Each party to this Agreement, whether individually or collectively, does not assume, nor shall a party be deemed to assume, liability for:

- (1) Any act of Omnitrans or for any act of Omnitrans agents or employees;
- (2) The payment of wages, benefits, or other compensation of officers, agents or employees of Omnitrans; or
- (3) The payment of workmen's compensation or indemnity to agents or employees of Omnitrans for injury or illness arising out of performance of this Agreement.

Indemnity by Authority: Provided that a party has acted in good faith and in accordance with this Agreement, the Authority shall defend, indemnify and hold such party free and harmless from any loss, liability or damage incurred or suffered by such party by reason of litigation arising from or as a result of any of the following: the party's participation in the Authority, or any other act performed or to be performed by the party pursuant to this Agreement, provided, however, that such indemnification or agreement to hold harmless pursuant to this Section shall be recoverable only out of Authority assets (including insurance proceeds) and not from other parties to this Agreement.

Risk Management and Insurance: The Authority shall employ the principles of sound risk management in its operations. Risks shall be identified, evaluated, and treated in a manner that protects the Authority and each party to this Agreement. The Authority shall acquire and maintain throughout the term of this Agreement insurance in the amounts and types necessary and sufficient to protect the interest of the Authority and each party to this Agreement. Unless otherwise agreed upon by the Board of Directors, each party hereto shall be named as an additional insured on the Authority's liability coverage.

## **SECTION 12. ASSIGNABILITY.**

With the unanimous approval of, and upon the terms agreed upon by the parties hereto, all or any of the rights and property subject to this Agreement may be assigned to facilitate, under the direction of another, the purpose of this Agreement, provided, however, no right or property of Omnitrans shall be assigned without compliance with all conditions imposed by any State or Federal entity from whom Omnitrans has procured financial assistance.

**SECTION 13. ADDITIONAL PARTIES.**

Any general purpose local public jurisdiction may join Omnitrans. Any such jurisdiction so joining shall become a member subject to:

- (1) Approval of the Board of Directors;
- (2) Execution of this Joint Powers Agreement.

Any such agency meeting the above conditions shall be entitled to appropriate representation on the Board of Directors as provided in Section 3.

**SECTION 14. TERM.**

This original Agreement become effective on March 3, 1976, and this Amended and Restated Agreement shall become effective on \_\_\_\_\_, and shall continue in force until terminated by mutual agreement of the parties.

**SECTION 15. WITHDRAWAL OF PARTY.**

Any party may withdraw from this Agreement as of the first day of July of any year following six (6) months' notice to the other parties by resolution of intent to withdraw adopted by the legislative body of the party. A withdrawing party shall be compensated for its total capital asset value contributed less appreciation, by return of capital assets and/or cash payment, over a period not to exceed five (5) years, the method to be determined by the Board of Directors.

**SECTION 16. DISSOLUTION PROCEDURES.**

A. General Provision.

If this Agreement is terminated, assigned, or transferred in whole or in part, except as provided in subsection B., all assets owned by Omnitrans shall be distributed to the parties. Distribution to each party shall be made in the same proportion as that reflected in the parties' accumulated capital contribution accounts as shown in the Controller's books of accounts. Cash may be distributed in lieu of property or equipment.

If the parties cannot agree as to the valuation of property or to the manner of its distribution, the distribution or valuation shall be made by a panel of three (3) referees. One (1) referee shall be appointed by the objecting entity(ies) and one (1) referee shall

be selected and appointed by the Board of Directors, and those referees shall appoint a neutral referee.

This Agreement shall not terminate until all property has been distributed in accordance with this provision; and the winding up and property distribution hereunder shall be effected in the manner calculated to cause the least disruption to existing public transportation service.

- B. In the event that Omnitrans opts to dissolve for purposes of changing its governance structure, all assets and liabilities will transfer to the successor agency.

**SECTION 17. PARTIAL INVALIDITY.**

If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a Court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

**SECTION 18. SUCCESSORS.**

This Agreement shall be binding upon and inure to the benefit of the successors of the parties.

**SECTION 19: MULTIPLE COUNTERPARTS.**

This Agreement may be executed in multiple counterparts and a copy may be used as an original.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

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

COUNTY OF SAN BERNARDINO

ATTEST:

\_\_\_\_\_  
Clerk of the Board Laura Welch

\_\_\_\_\_  
Chairman, Board of Supervisors James Ramos

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

CITY OF CHINO

ATTEST:

\_\_\_\_\_  
City Clerk Angela Robles

\_\_\_\_\_  
Mayor Dennis R. Yates

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

CITY OF CHINO HILLS

ATTEST:

\_\_\_\_\_  
City Clerk Cheryl Balz

\_\_\_\_\_  
Mayor Cynthia Moran

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

CITY OF COLTON

ATTEST:

\_\_\_\_\_  
City Clerk Carolina R. Padilla

\_\_\_\_\_  
Mayor Richard A. DeLaRosa

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

CITY OF FONTANA

ATTEST:

\_\_\_\_\_  
City Clerk Tonia Lewis

\_\_\_\_\_  
Mayor Aquanetta Warren

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

CITY OF GRAND TERRACE

ATTEST:

\_\_\_\_\_  
City Clerk Pat Jacquez-Nares

\_\_\_\_\_  
Mayor Darcy McNaboe

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

CITY OF HIGHLAND

ATTEST:

\_\_\_\_\_  
City Clerk Betty Hughes

\_\_\_\_\_  
Mayor Larry McCallon

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

CITY OF LOMA LINDA

ATTEST:

\_\_\_\_\_  
City Clerk Pamela Byrnes-O’Camb

\_\_\_\_\_  
Mayor Rhodes Rigsby

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

CITY OF MONTCLAIR

ATTEST:

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

\_\_\_\_\_  
Mayor Paul M. Eaton

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

CITY OF ONTARIO

ATTEST:

\_\_\_\_\_  
City Clerk Mary E. Wirtes

\_\_\_\_\_  
Mayor Paul S. Leon

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

CITY OF RANCHO CUCAMONGA

ATTEST:

\_\_\_\_\_  
City Clerk Janice C. Reynolds

\_\_\_\_\_  
Mayor L. Dennis Michael

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

CITY OF REDLANDS

ATTEST:

\_\_\_\_\_  
City Clerk Sam Irwin

\_\_\_\_\_  
Mayor Paul W. Foster

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

CITY OF RIALTO

ATTEST:

\_\_\_\_\_  
City Clerk Barbara A. McGee

\_\_\_\_\_  
Mayor Deborah Robertson

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

CITY OF SAN BERNARDINO

ATTEST:

\_\_\_\_\_  
City Clerk Georgeann Hanna

\_\_\_\_\_  
Mayor R. Carey Davis

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

CITY OF UPLAND

ATTEST:

\_\_\_\_\_  
Deputy City Clerk Debbi Covington

\_\_\_\_\_  
Mayor Ray Musser

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

CITY OF YUCAIPA

ATTEST:

\_\_\_\_\_  
City Clerk Jennifer Shankland

\_\_\_\_\_  
Mayor Dennis Hoyt

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## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 16-22 WITH VAN LANT & FANKHANEL, LLP, TO PROVIDE AUDITING SERVICES TO THE SUCCESSOR AGENCY RELATED TO BOND TRANSACTIONS	<b>DATE:</b> March 7, 2016 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 3 <b>FILE I.D.:</b> SAG060 <b>DEPT.:</b> SUCCESSOR RDA
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**REASON FOR CONSIDERATION:** Staff is requesting the City Council, acting as the Successor to the City of Montclair Redevelopment Agency (Successor Agency) Board of Directors, approve Agreement No. 16-22 with Van Lant & Fankhanel, LLP, Certified Public Accountants, to perform an audit of financial statements of the Successor Agency covering bonding requirements and related financial disclosures.

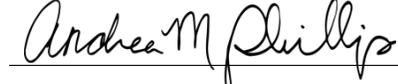
**BACKGROUND:** Prior to the dissolution law, the Health and Safety Code required all redevelopment agencies to have an annual financial audit. Additionally, this audit was utilized to comply with the continuing annual financial disclosure requirements present in redevelopment bond issues, which are still outstanding today.

As part of the dissolution law, Section 34177(n) of the Health and Safety Code was established to replace this annual audit requirement indicating that Successor Agencies were to have an annual "post audit" of its financial transactions. Since "post audit" was not defined, the Department of Finance (DOF) issued its interpretation that inclusion of the Successor Agency operations within the financial audit of the City would meet the minimum requirements of this section but additionally they noted that "Oversight Board can specifically require a separate audit of the Successor Agency as a matter of best practice, if they believe that a more focused audit is warranted, or if a separate audit is required by bond covenants".

The inclusion of the Successor Agency's financial transactions within the City's annual financial audit, while meeting the minimum requirements of the Health and Safety Code, does not provide sufficient information for the bonding community to determine the amounts of pledged revenues by redevelopment project area and how those revenues compare to debt service. To provide specific information on pledged revenues and debt servicing, Successor Agency staff have prepare financial statements specifically covering only bond transactions. These statements have been audited, as part of an annual engagement agreement, by the City's auditing firm and filed with the annual bond continuing disclosure reports with the bonding community for redevelopment bond issues still outstanding.

DOF, as part of its review of our current Redevelopment Obligation Payment Schedule (ROPS), is now indicating that the annual engagement agreement is not, in its opinion,

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

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sufficient documentation of the contractual obligation to conduct this audit. They have indicated that a specific agreement between the Successor Agency and the auditing firm of Van Lant & Fankhanel, LLP, Certified Public Accountants, needs to be obtained.

To satisfy DOF's need for specific documentation, Successor Agency staff has obtained a professional services agreement between the Successor Agency and Van Lant & Fankhanel, LLP, Certified Public Accountants, to continue to perform existing auditing services in the same manner and amount as specified in the previous annual engagement agreements.

**FISCAL IMPACT:** There is no additional fiscal impact to the Successor Agency as a result of entering into this separate agreement. As indicated, this agreement continues the existing annual auditing services of bond-related transactions in the same manner and amount as they currently exist.

**RECOMMENDATION:** Successor Agency staff recommends the Successor Agency Board of Directors approve Agreement No. 16-22 with Van Lant & Fankhanel, LLP, to provide auditing services for the Successor Agency related to bond transactions.

**CITY OF MONTCLAIR**  
**AGREEMENT FOR CONSULTANT SERVICES**  
**Annual Audit Services**

THIS AGREEMENT is made and effective as of March 1, 2016 between the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency, ("Successor Agency") and Van Lant & Fankhanel, LLP, Certified Public Accountants, a California Partnership ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on March 1, 2016 and shall remain and continue in effect for a period of 48 months until tasks described herein are completed, but in no event later than March 1, 2020, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

Consultant shall perform the tasks described and set forth in Engagement Services and Responsibilities, 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 Successor Agency 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 Successor Agency'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 Successor Agency 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 \$40,000 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Ten Thousand Dollars (\$10,000.00). Any additional work in excess of this amount shall be approved by the Successor Agency.

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The Successor Agency 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 Successor Agency 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 Successor Agency 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 Successor Agency. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the Successor Agency 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 Successor Agency 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 Successor Agency 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 Successor Agency or its designees at reasonable times to such books and records; shall give Successor Agency the right to examine and audit said books and records; shall permit Successor Agency 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 available to the Successor Agency and may not be used, reused, or otherwise disposed of by the Consultant without the permission of the Successor Agency. With respect to computer files, Consultant shall make available to the Successor Agency, at the Consultant's office and upon reasonable written request by the Successor Agency, 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 Successor Agency 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 Successor Agency, and any and all of its employees, officials, and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant. Said indemnification shall include any claim that Consultant, or Consultant's employees or agents, are considered to be employees of the Successor Agency or are entitled to any employee benefits from Successor Agency, 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 Successor Agency to monitor compliance with these requirements imposes no additional obligations on Successor Agency and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend Successor Agency 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 Successor Agency 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 Successor Agency may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, Successor Agency 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 Successor Agency a certificate of insurance, in a form acceptable to Successor Agency 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 Successor Agency 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 of Montclair 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 Successor Agency and Successor Agency's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by Successor Agency; and (3) they cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to Successor Agency by certified mail. Consultant shall furnish Successor Agency 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 Successor Agency 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 Successor Agency for any purpose, including eligibility under Public Employees Retirement Law. Neither Successor Agency 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 Successor Agency. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against Successor Agency, or bind Successor Agency 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 Successor Agency shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for Successor Agency. Successor Agency 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 Successor Agency, 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 Successor Agency 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 Successor Agency 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 Successor Agency to any and all remedies at law or in equity.

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of Successor Agency, 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 Successor Agency'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 Successor Agency. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives Successor Agency notice of such court order or subpoena.

(b) Consultant shall promptly notify Successor Agency 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 Successor Agency. Successor Agency 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 Successor Agency and to provide the opportunity to review any response to discovery requests provided by Consultant. However, Successor Agency's right to review any

such response does not imply or mean the right by Successor Agency 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 Successor Agency 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 Successor Agency 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 Successor Agency:

Donald L. Parker, CPA, Finance Director  
 City of Montclair  
 5111 Benito  
 Montclair, CA 91763

To Consultant:

Greg Fankhanel, CPA, Partner  
 Van Lant & Fankhanel, LLP  
 25901 Kellogg Street  
 Loma Linda, CA 92354

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 Successor Agency. Because of the personal nature of the services to be rendered pursuant to this Agreement, only Greg Fankhanel (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 Successor Agency fourteen (14) days' notice prior to the departure of the responsible employee from Consultant's employ. Should he leave Consultant's employ, the Successor Agency 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 Successor Agency and the Consultant.

17. 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.

18. GOVERNING LAW

The Successor Agency 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 ENGAGEMENT REQUIREMENTS

Consultant is bound by the contents of Engagement Services and Responsibilities attached hereto as Exhibit A and incorporated herein by this reference for performance of procedures and the indication of responsibilities between the parties to this agreement. The nature of future services shall be the same as specified in Exhibit A unless such cannot be accomplished and then services will be subject to renegotiation between the parties.

22. CONFIDENTIALITY

Information and materials obtained by the Consultant from Successor Agency 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 AS SUCCESSOR  
AGENCY FOR THE CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

**VAN LANT & FANKHANEL, LLP**

By: \_\_\_\_\_  
Chairman

By: \_\_\_\_\_  
Partner

Attest:

By: \_\_\_\_\_  
Secretary

**EXHIBIT A****Engagement Services and Responsibilities****Services to be Provided**

Van Lant & Fankhanel, LLP (Consultant) will audit the financial statements of the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency (Successor Agency), which comprise the bonding financial disclosure basis project area balance sheet, all debt services funds and the bonding financial disclosure basis project area revenues, expenditures and changes in fund balances, all debt service funds and the related notes to the financial statements.

The financial statements will be prepared by the Successor Agency on the basis of the financial reporting provisions of bonding financial disclosure requirements, which is a basis of accounting other than accounting principles generally accepted in the United States of America, to comply with the financial disclosure provisions of the bonding contractual relationships referred to above.

**Audit Objectives**

The objective the audit is the expression of an opinion as to whether the financial statements referred to above are fairly presented, in all material respects, in conformity with the financial reporting disclosure provisions applicable to the outstanding bond issues.

The audit report will include a paragraph describing that the financial statements are prepared on the basis of the financial reporting provisions of bonding financial disclosure requirements, which is a basis of accounting other than accounting principles generally accepted in the United States of America. As a result, Consultant's audit report will include an adverse opinion on the financial statements in accordance with U.S. generally accepted accounting principles. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America, and will include tests of accounting records, and other procedures Consultant consider necessary to enable Consultant to express an opinion and to render the required reports. Consultant cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for Consultant to modify their opinions or add emphasis-of-matter or other-matter paragraphs. If Consultant's opinions on the financial statements are other than unmodified, Consultant will discuss the reasons with Successor Agency in advance. If, for any reason, Consultant are unable to complete the audit or are unable to form or have not formed opinions, Consultant may decline to express opinions or to issue a report as a result of this engagement.

**Management Responsibilities**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the financial reporting provisions of bonding financial disclosure requirements. Management is also responsible for the design, implementation,

and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Management is also responsible for including all informative disclosures that are appropriate for the special purpose framework used to prepare the entity's financial statements, including:

- a. a description of the special purpose framework, including a summary of significant accounting policies, and how the framework differs from GAAP.
- b. informative disclosures similar to those required by GAAP, in the case of special purpose financial statements that contain items that are the same as, or similar to, those in financial statements prepared in accordance with GAAP.
- c. a description of any significant interpretations of the contract on which the special purpose financial statements are based, in the case of special purpose financial statements prepared in accordance with a contractual basis of accounting.
- d. additional disclosures beyond those specifically required by the framework that may be necessary for the special purpose financial statements to achieve fair presentation.

As part of the audit, Consultant will assist with preparation of Successor Agency financial statements, and related notes. Successor Agency will be required to acknowledge in the written representation letter Consultant's assistance with preparation of the financial statements and that Successor Agency have reviewed and approved the financial statements, and related notes prior to their issuance and have accepted responsibility for them. Successor Agency agree to assume all management responsibilities for any nonaudit services Consultant provide; oversee the services by designating an individual, preferably from senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. Successor Agency is also responsible for the selection and application of accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts.

Management is also responsible for making all financial records and related information available to Consultant and for ensuring that management is reliable and financial

information is reliable and properly recorded. Successor Agency is also responsible for providing Consultant with (1) access to all information of which Successor Agency is aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that Consultant may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom Consultant determine it necessary to obtain audit evidence.

Successor Agency responsibilities also include identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Successor Agency responsibilities include adjusting the financial statements to correct material misstatements and confirming to Consultant in the written representation letter that the effects of any uncorrected misstatements aggregated by Consultant during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Successor Agency is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing Consultant about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Successor Agency responsibilities include informing Consultant of its knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, Successor Agency is responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for Consultant previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to Consultant corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. Successor Agency is also responsible for providing management's views on Consultant's current findings, conclusions, and recommendations, as well as any planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on Successor Agency's website, Electronic sites are a means to distribute information and, therefore, Consultant are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

**Audit Procedures—General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, Consultant's audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. Consultant will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because Consultant will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by Consultant, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements.

However, Consultant will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to Consultant's attention. Consultant will also inform the appropriate level of management of any violations of laws or governmental regulations that come to Consultant's attention, unless clearly inconsequential, and of any material abuse that comes to Consultant's attention. Consultant's responsibility as auditors is limited to the period covered by Consultant's audit and does not extend to any later periods for which Consultant are not engaged as auditors.

Consultant's procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. Consultant will request written representations from Successor Agency's attorneys as part of the engagement, and they may bill Successor Agency for responding to this inquiry. At the conclusion of Consultant's audit, Consultant will require certain written representations from Successor Agency about the financial statements and related matters.

**Audit Procedures—Internal Control**

Consultant's audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control

or to identify deficiencies in internal control. However, during the audit, Consultant will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

### **Audit Procedures—Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, Consultant will perform tests of the entity's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of Consultant's audit will not be to provide an opinion on overall compliance and Consultant will not express such an opinion.

### **Engagement Administration, Fees, and Other**

Consultant's understand that Successor Agency employees will prepare all cash, accounts receivable, or other confirmations Consultant requests and will locate any documents selected by Consultant for testing.

Mr. Greg Fankhanel, CPA, Partner is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Consultant's fee for these services will not exceed \$40,000 for the term of Consultant's engagement. Consultant's invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with Consultant's policies, work may be suspended if Successor Agency's account becomes 30 days or more overdue and may not be resumed until the account is paid in full. If Consultant elect to terminate Consultant's services for nonpayment, Consultant's engagement will be deemed to have been completed upon written notification of termination, even if Consultant has not completed Consultants' report(s). Successor Agency will be obligated to compensate Consultant for all time expended and to reimburse Consultant for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from Successor Agency personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, Consultant will discuss it with Successor Agency and arrive at a new fee estimate before Consultant incur the additional costs.

**EXHIBIT B**

**Schedule of Payment:**

As work progresses Successor Agency agrees to pay Consultant monthly for actual time spent on the various engagements priced out utilizing the hours performed by the various professional staff working on such engagements.

# AGENDA REPORT

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**SUBJECT:** CONSIDER RATIFICATION OF AGREEMENT NO. 15-92, A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MONTCLAIR AND MONTCLAIR GENERAL EMPLOYEES ASSOCIATION

**DATE:** March 7, 2016

**SECTION:** AGREEMENTS

**ITEM NO.:** 4

**FILE I.D.:** MGE500

**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider ratification of Agreement No. 15-92, a Memorandum of Understand (MOU) between the City of Montclair and Montclair General Employees Association (MGEA).

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

**BACKGROUND:** The City of Montclair and MGEA have reached agreement on the provisions related to the terms and conditions of employment. The proposed MOU shall be effective upon date of ratification by the City Council for the period July 1, 2015, through June 30, 2018. After June 30, 2018, the existing terms, conditions, and provisions of the proposed MOU shall remain in effect; and City and employees agree to abide by those terms, conditions, and provisions unless otherwise altered by the meet-and-confer process or unless otherwise indicated in the proposed MOU.

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

- Article 8 (Section 8.01): This change relates to the cost of living salary adjustments provided to employees represented by MGEA during fiscal years 2015-16 (2 percent), 2016-17 (3 percent), and 2017-18 (2 percent).
  - Article 8 (Section 8.04): The change relates to an increase in the reimbursable amount under the Education Grant Program (from \$1,400 to \$2,000 per fiscal year) effective January 2016 for employees represented by MGEA.
  - Article 9 (Section 9.01): The change relates to an increase in the benefit fund contribution for employees represented by MGEA from \$900 to \$975 per month effective December 2015, and from \$975 to \$1,050 per month effective July 2017.
  - Article 12: The change relates to an increase in the CalPERS member contribution paid by employees represented by MGEA. Effective July 2016 members will pay up to the full 8 percent of the CalPERS member contribution.
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Prepared by:



Fiscal Impact  
Finance Review:



Proofed by:



Reviewed and  
Approved By:



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- Article 14 (Section 14.02): The change relates to an increase in the amount of vacation leave that can be converted to reportable compensation on an annual basis for employees represented by MGEA. Effective July 2016 the amount will be increased from 40 hours annually to 80 hours annually.
- Article 32 (Section 32.02): The change relates to an amendment of the awards provided to employees represented by MGEA under the Service Award Program:

**Service Award Program**

<b>Years of Service</b>	<b>Current Award</b>	<b>Amended Award</b>
5	\$ 200	\$ 500
10	\$ 400	\$1,000
15	\$ 600	\$1,500
20	\$ 800	\$2,000
25	\$1,000	\$2,500
30	\$1,000	\$2,500
35	\$1,000	\$2,500
40	\$1,000	\$2,500

- Article 44: The change relates to the term of the Agreement.

**FISCAL IMPACT:** There is no fiscal impact associated with ratifying the proposed MOU between the City of Montclair and MGEA other than what has been included in the Fiscal Year 2015-16 Budget, and what will be included in the 2016-17 and 2017-18 Budgets.

**RECOMMENDATION:** Staff recommends the City Council ratify Agreement No. 15-92, a Memorandum of Understanding between the City of Montclair and Montclair General Employees' Association.

# AGENDA REPORT

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**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION  
NO. 16-3113 AUTHORIZING PLACEMENT  
OF LIENS ON CERTAIN PROPERTIES FOR  
DELINQUENT SEWER AND TRASH CHARGES

**DATE:** March 7, 2016

**SECTION:** RESOLUTIONS

**ITEM NO.:** 1

**FILE I.D.:** STB300-17

**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** Staff has identified 239 sewer and trash accounts in the odd-numbered-month billing cycle that are more than three billing periods delinquent. Pursuant to Montclair Municipal Code Chapter 1.12, these properties are subject to lien.

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

The 239 liens presented for approval are for accounts that are at least 90 days delinquent.

**FISCAL IMPACT:** Recoverable amount is \$65,556.00, plus \$5,019.00 for release of lien fees, plus \$11,950.00 in lien fees, for a total of \$82,525.00.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 16-3113 authorizing placement of liens on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

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

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RESOLUTION NO. 16-3113

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MONTCLAIR  
AUTHORIZING PLACEMENT OF LIENS ON  
CERTAIN PROPERTIES FOR DELINQUENT  
SEWER AND TRASH ACCOUNTS

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

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

WHEREAS, it has been determined that there are 239 sewer and/or trash accounts on which there are delinquencies in excess of 90 days; and

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

WHEREAS, the owners of these properties were notified on February 4, 2016, that their delinquent accounts are subject to causing a lien to be placed on their properties for settlement of such delinquencies; and that such liens would be considered for approval by the Montclair City Council on Monday, March 7, 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair approves the placement of liens on the properties and in the amounts specified in Exhibit A, entitled *Report of Delinquent Civil Debts - March 2016*, attached hereto.

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

APPROVED AND ADOPTED this XX day of XX, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

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

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 16-3113 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, 2016, and that it was adopted by the following vote, to-wit:

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

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

Exhibit A to Resolution No. 16-3113  
Report of Delinquent Civil Debts – March 2016

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
4334	Alamitos St	Residential	\$ 236.72	\$ 50.00	\$ 21.00	\$ 307.72
5634	Alamitos St	Residential	347.70	50.00	21.00	418.70
5356	Alamitos St	Residential	236.72	50.00	21.00	307.72
4575	Allesandro St	Residential	253.18	50.00	21.00	324.18
4667	Allesandro St	Residential	236.72	50.00	21.00	307.72
9910	Amherst Av	Residential	236.72	50.00	21.00	307.72
9934	Bel Air Av	Senior	215.42	50.00	21.00	286.42
9982	Bel Air Av	Residential	236.72	50.00	21.00	307.72
10036	Bel Air Av	Residential	259.59	50.00	21.00	330.59
9939	Bel Air Av	Residential	236.42	50.00	21.00	307.42
10045	Bel Air Av	Residential	236.69	50.00	21.00	307.69
5389	Benito St	Senior	237.06	50.00	21.00	308.06
4814	Benito St	Senior	293.44	50.00	21.00	364.44
4400	Benito St	Residential	236.72	50.00	21.00	307.72
4979	Benito St	Residential	331.61	50.00	21.00	402.61
5429	Benito St	Residential	236.90	50.00	21.00	307.90
4460	Benito St	Residential	236.72	50.00	21.00	307.72
5138	Benito St	Residential	211.51	50.00	21.00	282.51
9590	Benson Av	Residential	236.72	50.00	21.00	307.72
9656	Benson Av	Residential	329.05	50.00	21.00	400.05
10044	Benson Av	Residential	246.88	50.00	21.00	317.88
4843	Berkeley St	Residential	246.88	50.00	21.00	317.88
4596	Berkeley St	Residential	322.27	50.00	21.00	393.27
5382	Berkeley St	Residential	236.72	50.00	21.00	307.72
4797	Berkeley St	Residential	233.95	50.00	21.00	304.95
5606	Berkeley St	Residential	205.39	50.00	21.00	276.39
9598	Bolton Av	Residential	236.72	50.00	21.00	307.72
9512	Bolton Av	Residential	246.88	50.00	21.00	317.88
4541	Bonnie Brae St	Residential	237.89	50.00	21.00	308.89
4810	Brooks St	Commercial	370.63	50.00	21.00	441.63
5051	Brooks St	Commercial	317.85	50.00	21.00	388.85
4610	Brooks St	Commercial	226.84	50.00	21.00	297.84
4382	Brooks St #A	Commercial	272.36	50.00	21.00	343.36
9851	Camarena Av	Commercial	236.72	50.00	21.00	307.72
9784	Camarena Av	Residential	377.44	50.00	21.00	448.44
5458	Cambridge St	Residential	233.95	50.00	21.00	304.95
5448	Cambridge St	Residential	236.72	50.00	21.00	307.72
5471	Cambridge St	Residential	422.86	50.00	21.00	493.86
4853	Cambridge St	Residential	236.72	50.00	21.00	307.72
5470	Cambridge St	Residential	398.30	50.00	21.00	469.30
5606	Cambridge St	Residential	329.05	50.00	21.00	400.05
9606	Camulos Av	Residential	236.72	50.00	21.00	307.72
9547	Camulos Av	Residential	259.67	50.00	21.00	330.67
9511	Camulos Av	Residential	236.72	50.00	21.00	307.72
9757	Camulos Av	Residential	237.85	50.00	21.00	308.85
9737	Camulos Av	Residential	236.72	50.00	21.00	307.72
9243	Camulos Av	Residential	236.72	50.00	21.00	307.72
9530	Camulos Av	Residential	236.72	50.00	21.00	307.72
9577	Camulos Av	Residential	210.72	50.00	21.00	281.72
9252	Camulos Av	Residential	236.68	50.00	21.00	307.68
9426	Camulos Av	Residential	255.41	50.00	21.00	326.41

Exhibit A to Resolution No. 16-3113  
Report of Delinquent Civil Debts – March 2016

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
9242	Camulos Av	Residential	\$ 327.34	\$ 50.00	\$ 21.00	\$ 398.34
5666	Caroline St	Residential	311.43	50.00	21.00	382.43
9454	Carrillo Av	Residential	237.85	50.00	21.00	308.85
9588	Carrillo Av	Residential	264.67	50.00	21.00	335.67
10067	Carrillo Av	Residential	242.29	50.00	21.00	313.29
10050	Carrillo Av	Residential	211.51	50.00	21.00	282.51
9921	Central Av	Residential	233.95	50.00	21.00	304.95
9566	Central Av	Residential	246.88	50.00	21.00	317.88
9845	Central Av	Residential	237.84	50.00	21.00	308.84
9556	Central Av	Residential	236.54	50.00	21.00	307.54
9795	Coalinga Av	Residential	236.72	50.00	21.00	307.72
9824	Coalinga Av	Senior	411.37	50.00	21.00	482.37
9875	Coalinga Av	Residential	237.85	50.00	21.00	308.85
9775	Coalinga Av	Residential	253.79	50.00	21.00	324.79
9380	Columbine Av	Residential	365.46	50.00	21.00	436.46
9341	Del Mar Av	Residential	211.51	50.00	21.00	282.51
4286	Denver St	Residential	211.51	50.00	21.00	282.51
4401	Denver St	Senior	211.51	50.00	21.00	282.51
5626	Denver St	Residential	264.11	50.00	21.00	335.11
5616	Denver St	Residential	236.72	50.00	21.00	307.72
4416	Denver St	Residential	236.75	50.00	21.00	307.75
4254	Denver St	Residential	246.88	50.00	21.00	317.88
5381	Denver St	Residential	252.97	50.00	21.00	323.97
5579	Denver St	Residential	277.12	50.00	21.00	348.12
4571	Denver St	Residential	211.51	50.00	21.00	282.51
4324	Denver St	Residential	211.51	50.00	21.00	282.51
5168	El Morado St	Residential	236.72	50.00	21.00	307.72
5387	El Morado St	Residential	329.05	50.00	21.00	400.05
9463	Exeter Av	Residential	421.80	50.00	21.00	492.80
9355	Felipe Av	Residential	240.44	50.00	21.00	311.44
9410	Felipe Av	Residential	360.12	50.00	21.00	431.12
9567	Fremont Av	Residential	262.68	50.00	21.00	333.68
9823	Fremont Av	Residential	236.72	50.00	21.00	307.72
9847	Fremont Av	Residential	416.26	50.00	21.00	487.26
9020	Fremont Av	Senior	257.72	50.00	21.00	328.72
9712	Fremont Av	Residential	211.51	50.00	21.00	282.51
9805	Fremont Av	Residential	246.88	50.00	21.00	317.88
9060	Fremont Av	Residential	233.56	50.00	21.00	304.56
9771	Galena Av	Residential	209.17	50.00	21.00	280.17
9802	Galena Av	Residential	422.02	50.00	21.00	493.02
10037	Geneva Av	Residential	236.85	50.00	21.00	307.85
10047	Geneva Av	Residential	396.69	50.00	21.00	467.69
9985	Geneva Av	Residential	236.72	50.00	21.00	307.72
4328	Granada St	Residential	236.72	50.00	21.00	307.72
5628	Granada St	Residential	236.72	50.00	21.00	307.72
4277	Granada St	Residential	236.72	50.00	21.00	307.72
4947	Granada St	Residential	274.04	50.00	21.00	345.04
5422	Granada St	Residential	236.72	50.00	21.00	307.72
9783	Greenwood Av	Residential	236.72	50.00	21.00	307.72
5141-43	Harvard St	Multifamily	658.11	50.00	21.00	729.11
4418	Harvard St	Residential	236.72	50.00	21.00	307.72

Exhibit A to Resolution No. 16-3113  
Report of Delinquent Civil Debts – March 2016

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
4430	Harvard St	Residential	\$ 236.42	\$ 50.00	\$ 21.00	\$ 307.42
4785	Harvard St	Senior	211.63	50.00	21.00	282.63
4883	Harvard St	Residential	211.91	50.00	21.00	282.91
4386	Harvard St	Residential	236.88	50.00	21.00	307.88
5527	Harvard St	Residential	329.05	50.00	21.00	400.05
5462	Harvard St	Residential	239.20	50.00	21.00	310.20
4391	Harvard St	Residential	239.12	50.00	21.00	310.12
5596	Hawthorne St	Residential	599.29	50.00	21.00	670.29
5553	Hawthorne St	Residential	272.94	50.00	21.00	343.94
4568	Hawthorne St	Residential	329.05	50.00	21.00	400.05
9607	Helena Av	Residential	233.95	50.00	21.00	304.95
9587	Helena Av	Residential	327.90	50.00	21.00	398.90
9660	Helena Av B	Residential	236.69	50.00	21.00	307.69
4864	Highland St	Residential	262.68	50.00	21.00	333.68
4581	Highland St	Residential	271.00	50.00	21.00	342.00
4370	Holt Bl	Residential	443.57	50.00	21.00	514.57
5630	Holt Bl	Commercial	363.54	50.00	21.00	434.54
4666	Holt Bl	Residential	324.67	50.00	21.00	395.67
5110	Holt Bl	Commercial	326.07	50.00	21.00	397.07
5190	Howard St A & B	Multifamily	531.26	50.00	21.00	602.26
5144	June Mountain Dr	Residential	246.88	50.00	21.00	317.88
10735	Kadota Av	Commercial	605.26	50.00	21.00	676.26
9725	Kimberly Av	Residential	329.05	50.00	21.00	400.05
5564	La Deney St	Residential	236.75	50.00	21.00	307.75
9744	Lehigh Av	Residential	247.79	50.00	21.00	318.79
10041	Lindero Av	Residential	236.85	50.00	21.00	307.85
9024	Lindero Av	Residential	266.21	50.00	21.00	337.21
9958	Lindero Av	Residential	236.72	50.00	21.00	307.72
9812	Lindero Av	Residential	211.51	50.00	21.00	282.51
9864	Mammoth Dr	Residential	236.74	50.00	21.00	307.74
9862	Mammoth Dr	Residential	271.34	50.00	21.00	342.34
9547	Marion Av	Residential	287.09	50.00	21.00	358.09
9527	Marion Av	Residential	236.72	50.00	21.00	307.72
9537	Marion Av	Residential	257.77	50.00	21.00	328.77
9751	Mills Av	Residential	236.08	50.00	21.00	307.08
9969	Mills Av	Residential	236.87	50.00	21.00	307.87
9335	Mills Av	Multifamily	947.86	50.00	21.00	1,018.86
10082	Monte Vista Av	Residential	255.44	50.00	21.00	326.44
9066	Monte Vista Av	Residential	262.68	50.00	21.00	333.68
9775	Monte Vista Av	Residential	246.88	50.00	21.00	317.88
9056	Monte Vista Av	Residential	236.89	50.00	21.00	307.89
9608	Monte Vista Av	Residential	236.80	50.00	21.00	307.80
5082	Moreno St	Residential	236.72	50.00	21.00	307.72
4872	Olive St	Residential	236.72	50.00	21.00	307.72
4644	Olive St	Residential	244.77	50.00	21.00	315.77
4852	Olive St	Residential	415.42	50.00	21.00	486.42
5690	Orchard St	Residential	236.72	50.00	21.00	307.72
4322	Orchard St	Residential	262.68	50.00	21.00	333.68
5512	Orchard St	Residential	283.53	50.00	21.00	354.53
5596	Orchard St	Residential	233.63	50.00	21.00	304.63
4382	Orchard St	Residential	240.00	50.00	21.00	311.00

Exhibit A to Resolution No. 16-3113  
Report of Delinquent Civil Debts – March 2016

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
5640	Orchard St	Residential	\$ 240.41	\$ 50.00	\$ 21.00	\$ 311.41
5257	Palo Verde St	Senior	211.63	50.00	21.00	282.63
5405	Palo Verde St	Residential	246.88	50.00	21.00	317.88
9585	Poulsen Av	Residential	236.72	50.00	21.00	307.72
9935	Poulsen Av	Residential	236.72	50.00	21.00	307.72
10043	Poulsen Av	Residential	236.72	50.00	21.00	307.72
9633	Poulsen Av	Residential	236.32	50.00	21.00	307.32
10063	Pradera Av	Residential	335.17	50.00	21.00	406.17
9375	Pradera Av	Multifamily	1,061.29	50.00	21.00	1,132.29
10085	Pradera Av	Residential	211.51	50.00	21.00	282.51
4426	Princeton St	Residential	233.95	50.00	21.00	304.95
4438	Princeton St	Residential	251.12	50.00	21.00	322.12
4467	Princeton St	Residential	222.55	50.00	21.00	293.55
4833	Princeton St	Residential	233.95	50.00	21.00	304.95
5451	Princeton St	Residential	310.22	50.00	21.00	381.22
9223	Ramona Av	Residential	211.51	50.00	21.00	282.51
9151	Ramona Av	Residential	329.05	50.00	21.00	400.05
9060	Ramona Av	Residential	246.88	50.00	21.00	317.88
9529	Ramona Av	Residential	260.90	50.00	21.00	331.90
9551	Ramona Av	Residential	236.42	50.00	21.00	307.42
9595	Ramona Av	Residential	236.72	50.00	21.00	307.72
9080	Ramona Av	Residential	320.84	50.00	21.00	391.84
9434	Rose Av	Residential	236.72	50.00	21.00	307.72
9352	Rose Av	Residential	236.72	50.00	21.00	307.72
9413	Rose Av	Residential	288.63	50.00	21.00	359.63
9944	Rose Av	Residential	252.12	50.00	21.00	323.12
9866	Rose Av	Senior	211.63	50.00	21.00	282.63
9720	Rose Av	Residential	262.68	50.00	21.00	333.68
9966	Rose Av	Residential	249.89	50.00	21.00	320.89
9734	Rose Av	Residential	329.05	50.00	21.00	400.05
9441	Rose Av	Residential	211.51	50.00	21.00	282.51
9472	Rose Av	Residential	329.05	50.00	21.00	400.05
5361	Rosewood St	Residential	236.72	50.00	21.00	307.72
4683	Rosewood St	Residential	236.74	50.00	21.00	307.74
4560	Rosewood St	Residential	236.72	50.00	21.00	307.72
5419	Rosewood St	Residential	272.15	50.00	21.00	343.15
4903	Rosewood St	Residential	328.44	50.00	21.00	399.44
4164	Rudisill St	Residential	236.72	50.00	21.00	307.72
5360	Rudisill St	Residential	262.68	50.00	21.00	333.68
5409	Rudisill St	Residential	262.62	50.00	21.00	333.62
5421	Rudisill St	Residential	262.68	50.00	21.00	333.68
5489	San Bernardino St	Residential	268.58	50.00	21.00	339.58
4749	San Bernardino St	Residential	247.32	50.00	21.00	318.32
4711	San Bernardino St	Residential	236.72	50.00	21.00	307.72
5133	San Bernardino St	Residential	236.72	50.00	21.00	307.72
4844	San Bernardino St	Residential	262.64	50.00	21.00	333.64
4843	San Bernardino St	Residential	236.74	50.00	21.00	307.74
5452	San Bernardino St	Residential	206.00	50.00	21.00	277.00
4285	San Bernardino St	Residential	236.74	50.00	21.00	307.74
4834	San Bernardino St	Residential	341.98	50.00	21.00	412.98
4805	San Bernardino St	Residential	222.96	50.00	21.00	293.96

Exhibit A to Resolution No. 16-3113  
Report of Delinquent Civil Debts – March 2016

Street No.	Street	Account type	Delinquency	Lien Fee	Release of Lien Fee	Total Lien Amount
5446	San Jose St	Residential	\$ 236.75	\$ 50.00	\$ 21.00	\$ 307.75
5533	San Jose St	Residential	211.51	50.00	21.00	282.51
4594	San Jose St	Residential	273.22	50.00	21.00	344.22
4485	San Jose St	Residential	262.68	50.00	21.00	333.68
5422	San Jose St	Residential	273.98	50.00	21.00	344.98
5593	San Jose St	Residential	395.62	50.00	21.00	466.62
4595	San Jose St	Residential	203.31	50.00	21.00	274.31
5390	San Jose St	Residential	211.51	50.00	21.00	282.51
5543	San Jose St	Residential	380.14	50.00	21.00	451.14
4424	San Jose St #10	Residential	236.72	50.00	21.00	307.72
4424	San Jose St #11	Residential	211.51	50.00	21.00	282.51
4424	San Jose St #14	Residential	413.09	50.00	21.00	484.09
4424	San Jose St #18	Residential	236.72	50.00	21.00	307.72
4424	San Jose St #24	Residential	235.27	50.00	21.00	306.27
4424	San Jose St #27	Residential	237.01	50.00	21.00	308.01
9946	Santa Anita Av	Residential	258.32	50.00	21.00	329.32
10016	Santa Anita Av	Residential	251.10	50.00	21.00	322.10
9860	Steamboat Dr	Residential	330.29	50.00	21.00	401.29
9817	Sun Valley Dr	Residential	448.67	50.00	21.00	519.67
5134	Sundance Dr	Residential	309.62	50.00	21.00	380.62
9617	Surrey Av	Residential	236.72	50.00	21.00	307.72
5135	Taos Dr	Residential	207.02	50.00	21.00	278.02
9834	Tudor Av	Residential	236.72	50.00	21.00	307.72
9846	Tudor Av	Residential	201.44	50.00	21.00	272.44
9824	Tudor Av	Residential	236.72	50.00	21.00	307.72
9532	Tudor Av	Residential	247.52	50.00	21.00	318.52
9829	Vail Dr	Residential	236.39	50.00	21.00	307.39
9806	Vernon Av	Residential	234.39	50.00	21.00	305.39
9231	Vernon Av	Residential	344.34	50.00	21.00	415.34
9863	Vernon Av	Residential	246.88	50.00	21.00	317.88
9942	Vernon Av	Residential	228.91	50.00	21.00	299.91
9222	Vernon Av	Residential	329.05	50.00	21.00	400.05
9350	Vernon Av	Residential	233.92	50.00	21.00	304.92
5447	Yale St	Residential	262.64	50.00	21.00	333.64
4878	Yale St	Residential	211.51	50.00	21.00	282.51
			\$65,556.00	\$11,950.00	\$5,019.00	\$82,525.00

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF MONTCLAIR HOUSING AUTHORITY RESOLUTION NO. 16-01 APPROVING AND AUTHORIZING THE EXECUTION OF AGREEMENT NO. 16-17, A HOUSING AGREEMENT BY AND BETWEEN THE MONTCLAIR HOUSING AUTHORITY AND THE MONTCLAIR HOUSING CORPORATION  CONSIDER ADOPTION OF MONTCLAIR HOUSING CORPORATION RESOLUTION NO. 16-01, APPROVING AND AUTHORIZING THE EXECUTION OF AGREEMENT NO. 16-17, A HOUSING AGREEMENT BY AND BETWEEN THE MONTCLAIR HOUSING AUTHORITY AND THE MONTCLAIR HOUSING CORPORATION	<b>DATE:</b> March 7, 2016 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 2 <b>FILE I.D.:</b> MHA050/MHC025 <b>DEPT.:</b> MHA/MHC
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**REASON FOR CONSIDERATION:** The Montclair Housing Authority is requested to consider adoption of Resolution No. 16-01 approving and authorizing the execution of Agreement No. 16-17, a Housing Agreement by and between the Montclair Housing Authority and the Montclair Housing Corporation. The Montclair Housing Corporation is requested to consider adoption of Resolution No. 16-01 approving and authorizing the execution of Agreement No. 16-17, a Housing Agreement by and between the Montclair Housing Authority and Montclair Housing Corporation. The purpose of the agreement is to provide for the ongoing services by the Montclair Housing Corporation in connection with the maintenance and operation of the Montclair Housing Authority-owned properties.

Copies of proposed Montclair Housing Authority (MHA) Resolution No. 16-01, proposed Montclair Housing Corporation (MHC) Resolution No. 16-01, and Agreement No. 16-17 are attached for the MHA Commissioners' and MHC Board of Directors' review and consideration.

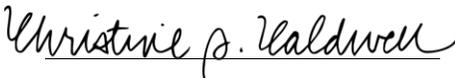
**BACKGROUND:** The City of Montclair activated the Montclair Housing Authority on July 18, 2011. The MHA is a separate and independent governmental agency and is authorized pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (the "Housing Authorities Law").

Following the enactment of ABX1 26 on June 28, 2011 (the "Dissolution Act"), the City Council designated the Montclair Housing Authority to receive housing assets which had been held by the Montclair Redevelopment Agency. The housing assets of the former Redevelopment Agency were transferred to the Montclair Housing Authority by operation of law on February 1, 2012.

The MHC has operated the former Agency-owned properties since June 1994 pursuant

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

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to the first executed agreement between the MHC and the former Montclair Redevelopment Agency. At the time, the only properties owned by the Agency were the Canoga Street apartments located at 4811 and 4820 Canoga Street. The 1994 Housing Agreement required the MHC lease the properties from the former Redevelopment Agency for a Base Rent of \$1 payable annually. The lease extended through July 2, 2026, which was the termination date of the Redevelopment Plan for Redevelopment Project Area No. V.

The creation of the Montclair Housing Corporation stems from the Housing Strategy Plan adopted by the Redevelopment Agency Board of Directors in 1992 to identify projects for use of Low to Moderate Income Housing Fund monies to comply with State mandates. Specifically, the 1992 Housing Strategy Plan called for creation of a housing corporation as a resource for the Agency to meet some of its housing requirements. In addition, pursuant to State law disposition of agency-owned units was required once rehabilitation of the units was complete. When rehabilitation of the Canoga Street apartments were completed, it was legally time for the Agency to consider a method of disposition of the units. Because a housing corporation could legally acquire, own, manage, and dispose of properties in a more expeditious manner than a redevelopment agency, the Agency Board of Directors approved the formation of the MHC on June 6, 1994.

Between the years of 1997 through 2011, the MHC and the Agency entered into 22 Housing Rehabilitation Agreements for acquisition, rehabilitation, lease, and management of 70 additional units. The total amount of MHC-operated units reached 98 units, including 17 single-family units. Affordability Covenants are recorded on all the properties and do not expire until the year 2066.

The MHA Commissioners are asked to now consider entering into a Housing Agreement with the MHC for the ongoing provision of services in connection with the maintenance, operation, and development of affordable housing in Montclair. It is important to note that management of the properties by the MHC provides an additional layer of liability protection for the MHA in that it becomes the Operator for the properties. The MHC is a nonprofit 501(C) 3 housing corporation and has proven to be qualified to be the operator for the MHA. The MHC will be responsible for, but is not limited to, the Annual Income Certification of existing tenants, renting the units, income-qualifying prospective tenants, collection of rent, making repairs, maintaining, the properties, evictions, when necessary, and other duties related to the day-to-day management of the units. The MHC has managed the Agency-owned properties for more than 20 years without incident and has proven financially prudent in its operations.

**FISCAL IMPACT:** The aggregate amount of loans made by the former Redevelopment Agency from 1994 through 2011 totals \$5,613,500. These loans were made with Low to Moderate Income House Fund monies. It is essential to note that the monies loaned to the MHC with Low to Moderate Income Housing Fund monies are funds that could only be used for the furtherance of low to moderate income housing programs in the City. The loans by the Agency to the MHC were used for acquisition costs, rehabilitation, and long-term maintenance including capital improvements of the properties. It should be further noted that Health and Safety Code Section 33413(b) required the Agency to provide at least 30 percent of all new or rehabilitated housing be available at affordable housing costs to low and moderate-income households in a redevelopment project area. Through the purchases and subsequent rehabilitation and recordation of long-term affordability covenants on the properties, the Agency was

able to satisfy many its Inclusionary Housing requirements through this process.

With the dissolution of redevelopment pursuant to ABX1 26, the MHC no longer has the ability to obtain moneys from the Agency for long-term projects and can only rely on the rental income generated by the properties. Because the properties are rented below current market rents (substantially below current market rent for the very low and lower income rental units), it will be very difficult for the MHC to repay the loans due the MHA. The current balance owed by the MHC is \$5,358,771.61, as \$254,728.39 has been repaid. In consideration of the continued maintenance and operation of housing units by the MHC, Agreement No. 16-17 provides that the balance of the loans (as shown in Attachment No. 3) in the amount of \$5,358,771.61 be canceled by the MHA. The forgiveness of the loans will allow the MHC to better plan for use of rental resources for long-term maintenance issues. Cancellation of the MHC loan balance will also be more effective for the accounting and auditing of MHA resources.

**RECOMMENDATION:** Staff recommends the following actions:

1. The Montclair Housing Authority's adoption of Resolution No. 16-01 approving Agreement No. 16-17, a Housing Agreement by and between the Montclair Housing Authority and the Montclair Housing Corporation.
2. The Montclair Housing Corporation's adoption of Resolution No. 16-01 approving Agreement No. 16-17, a Housing Agreement by and between the Montclair Housing Authority and the Montclair Housing Corporation.

**RESOLUTION NO. 16-01**

**A RESOLUTION OF THE MONTCLAIR HOUSING AUTHORITY APPROVING AGREEMENT NO. 16-17, A HOUSING AGREEMENT BY AND BETWEEN THE MONTCLAIR HOUSING AUTHORITY AND THE MONTCLAIR HOUSING CORPORATION AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH**

**WHEREAS**, pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the "Housing Authority Law"]), the City Council of the City of Montclair ("City"), activated the Montclair Housing Authority (Housing Authority); and

**WHEREAS**, pursuant to the Housing Authority Law, the Housing Authority is performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers; and

**WHEREAS**, the Montclair Housing Corporation ("Operator") was established as a nonprofit corporation to engage in housing activities within the corporate limits of the City. The Operator has operational capabilities and has for a number of years carried out monitoring, reporting, and associated activities on behalf of the former Montclair Redevelopment Agency ("Former Agency") and, more recently, the Housing Authority; and

**WHEREAS**, the Operator is prepared to provide services on an ongoing basis and the Housing Authority desires to secure the services of the Operator on an ongoing basis; and

**WHEREAS**, the Housing Authority desires to arrange for the ongoing provision of services in connection with the maintenance, operation and development of affordable housing within the corporate limits of City, including assistance and services to be rendered by Operator for Housing Authority so long as affordability covenants enforceable by the Housing Authority, as currently in effect and as may be effected in the future, remain in effect, all as more particularly described in the Housing Agreement in the form submitted herewith (the "Housing Agreement"); and

**WHEREAS**, Operator has provided services to the Former Agency and thereafter the Housing Authority under the terms of an agreement dated as of June 6, 1994, between the Former Agency and the Operator (the "1994 Agreement") and that certain agreement entitled "Disposition and Development Agreement" dated as of April 4, 2011 by and between the Former Agency and Operator (the "2011 Agreement"), and Prior Housing Agreements (agreements listed in the List of Agreements and any other agreements under which loans were made by the Former Agency to the Operator). The Operator was required to make repayments of amount loaned under the 1994 Agreement, the 2011 Agreement, and Prior Housing Agreements by the terms of those agreements; and

**WHEREAS**, based upon the history of operations and given the restricted incomes of the housing units under active management of the Operator, Operator has indicated it will not be feasible for Operator to repay amounts loaned under the 1994 Agreement, 2011 Agreement; or Prior Housing Agreements; and

**WHEREAS**, the Operator is prepared to continue to provide services and Housing Authority desires to engage Operator to provide services on the terms and conditions set forth in the Housing Agreement; and

**NOW, THEREFORE, BE IT RESOLVED** by the Montclair Housing Authority as follows:

**SECTION 1:** The Housing Authority approves and authorizes its Chairman to execute the Housing Agreement substantially in the form submitted herewith. The Chairman and his designees and the Executive Director and his designees are authorized to execute the Housing Agreement substantially in the form submitted together with such modifications as do not materially alter the economic arrangements under the Housing Agreement and to take all appropriate action to effectuate the terms of the Housing Agreement.

**SECTION 2:** The Housing Authority Secretary shall maintain the Resolution on file among the official records of the Housing Corporation.

**SECTION 3:** The Housing Authority Secretary shall certify to the adoption of this Resolution.

**APPROVED AND ADOPTED** this XX day of XX, 2016.

**ATTEST:**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

I, Andrea M. Phillips, Secretary of the Montclair Housing Authority, DO HEREBY CERTIFY that Resolution No. 16-01 was introduced and adopted at a regular meeting as provided by law of the governing board of the Montclair Housing Authority held on the XX day of XX, 2016, by the following vote of the members thereof:

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

\_\_\_\_\_  
Andrea M. Phillips  
Secretary

**RESOLUTION NO. 16-01**

**A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION  
APPROVING AGREEMENT NO. 16-17, A HOUSING AGREEMENT  
BY AND BETWEEN THE MONTCLAIR HOUSING AUTHORITY  
AND THE MONTCLAIR HOUSING CORPORATION AND MAKING  
CERTAIN FINDINGS IN CONNECTION THEREWITH**

**WHEREAS**, pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the "Housing Authority Law"]), the City Council of the City of Montclair ("City"), activated the Montclair Housing Authority (Housing Authority); and

**WHEREAS**, pursuant to the Housing Authority Law, the Housing Authority is performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers; and

**WHEREAS**, the Montclair Housing Corporation ("Operator") was established as a nonprofit corporation to engage in housing activities within the corporate limits of the City. The Operator has operational capabilities and has for a number of years carried out monitoring, reporting, and associated activities on behalf of the former Montclair Redevelopment Agency ("Former Agency") and, more recently, the Housing Authority; and

**WHEREAS**, the Operator is prepared to provide services on an ongoing basis and the Housing Authority desires to secure the services of the Operator on an ongoing basis; and

**WHEREAS**, the Housing Authority desires to arrange for the ongoing provision of services in connection with the maintenance, operation and development of affordable housing within the corporate limits of City, including assistance and services to be rendered by Operator for Housing Authority so long as affordability covenants enforceable by the Housing Authority, as currently in effect and as may be effected in the future, remain in effect, all as more particularly described in the Housing Agreement in the form submitted herewith (the "Housing Agreement"); and

**WHEREAS**, Operator has provided services to the Former Agency and thereafter the Housing Authority under the terms of an agreement dated as of June 6, 1994, between the Former Agency and the Operator (the "1994 Agreement") and that certain agreement entitled "Disposition and Development Agreement" dated as of April 4, 2011 by and between the Former Agency and Operator (the "2011 Agreement"), and Prior Housing Agreements (agreements listed in the List of Agreements and any other agreements under which loans were made by the Former Agency to the Operator). The Operator was required to make repayments of amount loaned under the 1994 Agreement, the 2011 Agreement, and Prior Housing Agreements by the terms of those agreements; and

**WHEREAS**, based upon the history of operations and given the restricted incomes of the housing units under active management of the Operator, Operator has indicated it will not be feasible for Operator to repay amounts loaned under the 1994 Agreement, 2011 Agreement; or Prior Housing Agreements; and

**WHEREAS**, the Operator is prepared to continue to provide services and Housing Authority desires to engage Operator to provide services on the terms and conditions set forth in the Housing Agreement; and

**NOW, THEREFORE, BE IT RESOLVED** by the Montclair Housing Corporation as follows:

**SECTION 1:** The Housing Corporation approves and authorizes its Chairman to execute the Housing Agreement substantially in the form submitted herewith. The Chairman and his designees and the Executive Director and his designees are authorized to execute the Housing Agreement substantially in the form submitted together with such modifications as do not materially alter the economic arrangements under the Housing Agreement and to take all appropriate action to effectuate the terms of the Housing Agreement.

**SECTION 2:** The Housing Corporation Secretary shall maintain the Resolution on file among the official records of the Housing Corporation.

**SECTION 3:** The Housing Corporation Secretary shall certify to the adoption of this Resolution.

**APPROVED AND ADOPTED** this XX day of XX, 2016.

**ATTEST:**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

I, Andrea M. Phillips, Secretary of the Montclair Housing Corporation, DO HEREBY CERTIFY that Resolution No. 16-01 was introduced and adopted at a regular meeting as provided by law of the governing board of the Montclair Housing Corporation held on the XX day of XX, 2016, by the following vote of the members thereof:

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

\_\_\_\_\_  
Andrea M. Phillips  
Secretary

**HOUSING AGREEMENT**

by and between the

**MONTCLAIR HOUSING AUTHORITY,  
HOUSING AUTHORITY,**

and

**MONTCLAIR HOUSING CORPORATION,  
OPERATOR**

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**ATTACHMENTS**

Attachment No. 1	Property List
Attachment No. 2	Operator Certificate
Attachment No. 3	List of Agreements

## HOUSING AGREEMENT

THIS HOUSING AGREEMENT (the “Agreement”) is entered into as of \_\_\_\_\_, 2016 (the “Date of Agreement”) by and between the MONTCLAIR HOUSING AUTHORITY, a public body corporate and politic (the “Housing Authority”), and MONTCLAIR HOUSING CORPORATION, a California nonprofit corporation (the “Operator”). Housing Authority and Operator hereby agree as follows:

### I. [§100] DEFINITIONS; SUBJECT OF AGREEMENT

#### A. [§101] Definitions

“1994 Agreement” means that certain agreement known as Agreement No. 94-23 between Former Agency and Operator.

“2011 Agreement” means that certain agreement entitled “Disposition and Development Agreement” dated as of April 4, 2011 by and between Former Agency and Operator.

“2011 Covenants” means that certain instrument entitled “Declaration of Conditions, Covenants and Restrictions” recorded on June 2, 2011 among the Official Records as Document No. 2011-0223245.

“AB 26” means ABx1 26, Chapter 1, Statutes of 2011

“Affordable Rent” means rent for a dwelling unit determined in accordance with California Health and Safety Code Section 50053 and, to the extent made applicable by such Section 50053, Section 50052.5 of the California Health and Safety Code. As to Future Affordable Units, the Executive Director may determine an additional or alternate standard for determining Affordable Rent.

“Affordable Units” means Existing Affordable Units and Future Affordable Units.

“Agreement,” as defined in the first paragraph hereof, means this Agreement.

“Affordable Housing Cost” means housing cost as determined in accordance with California Health and Safety Code Section 50052.5 that does not exceed Affordable Rent for the income category assigned to a dwelling unit or household under a Covered Agreement. As to rental units, Affordable Housing Cost shall not exceed Affordable Rent. As to Future Affordable Units, the Executive Director may determine an additional or alternate standard for determining Affordable Housing Cost.

“Annual Report” means, for purposes of this Agreement, a detailed report describing the financial condition of Operator (including without limitation a delineation of all funds of Operator, where and in what amount such funds are held, an annual budget for Operator, a list of staffing for Operator), a demonstration that any investment of Operator moneys is being conducted in a manner consistent with the investment policy of City (as such policy may be revised by City from time to time), the condition of the Affordable Units, the implementation of affordable housing requirements as to the Affordable Units, and such other matters as may be requested by the Executive Director on behalf of Housing Authority. The Annual Report shall include, without limitation, an Operator

Certificate, and shall include such additional material as is necessary or convenient to demonstrate ongoing compliance with the Operator Duties.

“Applicable Affordability Period” means the longest period during which affordability as to one or more dwelling units is restricted based upon the applicable Covered Agreement.

“City” means the City of Montclair, a municipal corporation.

“City Code” means the municipal code of City as it may be amended from time to time.

“City Council” means the City Council of City.

“County” means the County of San Bernardino, California.

“Covenants Currently of Record” means the 2011 Covenants.

“Covered Agreements” means each of the Prior Housing Agreements, this Agreement and Future Agreements, if any.

“Date of Agreement,” as defined in the first paragraph hereof, means \_\_\_\_\_, 2016.

“Dissolution Actions” means AB 26 and the decision of the California Supreme Court in *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal. 4th 231.

“Executive Director” means the Executive Director of Housing Authority or his or her designee.

“Existing Affordable Units” means dwelling units restricted under a Covered Agreement to households housing Extremely Low Income, Very Low Income, Low Income or Moderate Income, and with respect to which housing units are limited to Affordable Housing Costs.

“Extremely Low Income” means that category of income for a household in the County as established by California Health and Safety Code Section 50106.

“Fiscal Year” means an annual period commencing as of July 1 and ending as of June 30 of the following calendar year.

“Former Agency” means the City of Montclair Redevelopment Agency, which was a redevelopment agency activated pursuant to the Redevelopment Law and which was dissolved by the Dissolution Actions.

“Future Affordable Units” means such dwelling units which are or are required to be restricted to households of particular income categories at housing cost which does not exceed Affordable Housing Cost with respect to which Housing Authority designates Operator to provide the Operator Services.

“Future Agreements” means written agreements, if any, hereafter entered into between Housing Authority and Operator.

“Gross Property Revenues” means all revenues, including without limitation rent, generated from the Property.

“Households of Limited Income” means households required to have incomes which conform to the limitations as established herein for Extremely Low Income, Very Low Income, Low Income, Moderate Income, or households of other income levels as designated in one or more of the Covered Agreements.

“Housing Authority Law” means Part 2 of Division 24 of the California Health and Safety Code.

“Improvements” means improvements to the Property.

“Income Computation and Certification Form” means a form as so designated in the 1994 Agreement as may from time to time be amended or replaced by Housing Authority.

“Landscape Standards” means all property maintenance requirements set forth in the City Code, the applicable Covered Agreement, and this Agreement (including without limitation Section 204 hereof), whichever provides for the highest standard in each case.

“List of Agreements” means Attachment No. 3.

“Low Income” or “Lower Income” means that category of income for a household in the County as established by Health and Safety Code Section 50079.5

“Moderate Income” means that category of income for a household in the County as established by Health and Safety Code Section 50093.

“Official Records” means the official land records of the County Recorder of the County.

“Operating Costs” are all costs to operate the properties covered by the Covered Agreements which are reasonable, reasonable as to amount, and which are incurred in the discharge of one or more of the Operator Duties; Operating Costs shall be deemed to include reasonable capital replacement resources and reasonable operating resources approved from time to time by the Executive Director.

“Operating Period” means that period of time commencing as of the Date of Agreement and continuing for the longest time that any covenants concerning affordability, tenant selection or property maintenance as to Affordable Units remain in effect by their terms.

“Operator,” as defined in the first paragraph hereof, means the Montclair Housing Corporation, a California nonprofit corporation.

“Operator Duties” has the meaning established therefor in Section 201; “Operator Services” shall have the same meaning as Operator Duties.

“Operator Prior Duties” means all duties, responsibilities and/or obligations of Operator to Housing Authority and/or City under one or more of the Prior Housing Agreements.

“Prior Housing Agreements” means those agreements listed in the List of Agreements and any other agreements under which loans were made by the Former Agency to Operator.

“Prior Loan Obligations” means any and all obligations for the payment of money by Operator to Housing Authority, or which evidence financial obligations of Operator to Housing Authority, existing as of the Date of Agreement, including without limitation the Prior Housing Agreements.

“Property” means property subject to one or more of the Covered Agreements.

“Property List” means Attachment No. 1.

“Redevelopment Law” means Part 1 of Division 24 of the California Health and Safety Code as constituted prior to the enactment of AB 26.

“Redevelopment Plan” means that certain redevelopment plan as approved by the City Council of City on June 2, 1986 by Ordinance No. 86-623, as subsequently amended by certain actions of the City Council.

“Regulatory Requirements” means all laws, regulations and rules applicable with respect to any funding sources utilized in connection with the Affordable Units, as such laws, regulations and rules may be amended from time to time.

“Very Low Income” means that category of income for a household in the County as established by California Health and Safety Code Section 50105.

B. [§102] Purpose of Agreement

1. The purpose of this Agreement is to provide for the ongoing provision of services in connection with the maintenance, operation and development of affordable housing within the corporate limits of City, including assistance and services to be rendered by Operator for Housing Authority in conformance with the terms and conditions set forth in this Agreement.

2. The provision of services by Operator for Housing Authority includes the ongoing provision of services which Operator formerly provided to Former Agency under the 1994 Agreement or the 2011 Agreement as well as additional services, if any, as required under the remaining Prior Housing Agreements. A copy of each of Prior Housing Agreements is on file with Housing Authority as a public record.

3. In connection with the 1994 Agreement and the 2011 Agreement, Operator was responsible for the operation, maintenance and monitoring for compliance as to affordability requirements imposed by Former Agency and/or City, as well as compliance with other requirements, including without limitation nondiscrimination, as to those developments listed in the Property List. Some of the duties of Operator are as described by the Covenants Currently of Record.

4. Former Agency was required by California Health and Safety Code Section 33334.2, *et seq.*, as such section was constituted immediately prior to the passing of AB 26, to expend a certain percentage of property taxes allocated to it for the purpose of increasing,

improving and preserving City's supply of low- and moderate-income housing available at an affordable housing cost.

5. Former Agency was also required by California Health and Safety Code Section 33413, as such section was constituted immediately prior to the passing of AB 26, to provide for the replacement of dwelling units housing persons and families of low- and moderate-income which are destroyed or removed from the low- and moderate income housing market as part of a redevelopment project, and to provide that at least 15% of all new or rehabilitated dwelling units developed by the persons or entities other than Former Agency be available at affordable housing cost to persons and families of low- and moderate-income.

6. Former Agency entered into the Prior Housing Agreements as part of the efforts of Former Agency to implement affordable housing projects.

7. Under the 1994 Agreement, Operator assumed various duties with respect to the management, operation, replacement, repair, and monitoring of dwelling units, including without limitation Affordable Units, and any other duties thereunder.

8. By this Agreement, Operator agrees to provide the Operator Services in exchange for the cancellation of the Prior Loan Obligations as more particularly described herein.

9. Pursuant to the provisions of Housing Authority Law, the City Council of the City activated the Housing Authority.

10. Pursuant to the Housing Authority Law, Housing Authority is performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers.

11. The Housing Authority Law provides that, among the powers of a housing authority as set forth at Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (and without limitation to those additional powers set forth in the Housing Authority Law or otherwise provided by statute or common law), a housing authority shall have the power to: (i) as to a financing authority established for a City, operate within the corporate limits of such city; (ii) appoint commissioners; (iii) sue and be sued; (iv) make and execute contracts and other instruments necessary or convenient to the exercise of its powers; (v) prepare, carry out, acquire, lease, and operate housing projects for persons of Low Income; (vi) provide for the construction, reconstruction, improvement, alteration, or repair of all or any part of any housing project; (vii) participate in the operation of the management of housing projects; (viii) designate an entity to administer a program for the financing of housing where the authority engages in such a program; (ix) contract or arrange for contracts for services; and (x) prepare reports.

12. Operator has for several years provided services to Former Agency and more recently Housing Authority in connection with the implementation of affordable housing activities which have been engaged in by Former Agency and Housing Authority. The provision of such services substantially benefits Housing Authority and lessens the burden of Housing Authority to engage in such activities; provided that Housing Authority continues to exercise oversight over Operator in connection with the Affordable Units and agreements related thereto. The expenses incurred by Operator in respect to the Property have for several years exceeded the Gross Property Revenues due, in part, to the circumstance that the units are restricted to use by households of limited

income at Affordable Housing Cost and because of the Prior Loan Obligations. It is anticipated that this relationship between revenues generated and costs will continue for the foreseeable future.

13. Housing Authority desires to and by this Agreement does formalize and extend the engagement of Operator to provide the Operator Services with respect to the Affordable Units for the Operating Period.

14. Housing Authority is charged with carrying out various statutory duties as prescribed by the Housing Authority Law. In addition, in view of the dissolution of redevelopment agencies throughout California, including without limitation Former Agency, together with the determination of City to direct housing assets of Former Agency, in connection with the process of dissolution of Former Agency, to Housing Authority, Housing Authority is charged with undertaking various tasks pursuant to AB 26.

C. §103 Parties to the Agreement

1. §104 Housing Authority

Housing Authority is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Housing Authority Law. The principal office of Housing Authority is located at 5111 Benito Street, Montclair, California 91763.

“Housing Authority”, as used in this Agreement, includes the Montclair Housing Authority, and any assignee of or successor to its rights, powers and responsibilities as hereafter designated by the City Council. Whenever the Agreement refers to approvals or other actions to be taken by Housing Authority, such approval or other action may be performed by the Executive Director of Housing Authority or his or her designee unless applicable law or the context would require otherwise.

2. §105 Operator

Operator is a California nonprofit corporation. The principal office and mailing address of Operator for the purposes of this Agreement is 5111 Benito Street, Montclair 91763.

Operator represents and warrants to Housing Authority as follows:

(a) Operator is a duly established nonprofit corporation, and in good standing under the laws of the State of California and has duly authorized, executed and delivered this Agreement and any and all other agreements and documents required to be executed and delivered by Operator in order to carry out, give effect to, and consummate the activities described in and/or contemplated by this Agreement.

(b) Operator does not have any contingent obligations or any contractual agreements which adversely affect the ability of Operator to carry out its obligations hereunder.

(c) There are no material pending or, so far as is known to Operator, threatened, legal proceedings to which Operator is or may be made a party or to which any of its property is or may become subject which could adversely affect the ability of Operator to carry out its obligations hereunder.

(d) There is no action or proceeding pending or, to Operator's best knowledge, threatened, relating to the dissolution or liquidation of Operator, and there is no action or proceeding pending or, to Operator's best knowledge, threatened by or against Operator which could affect the validity and enforceability of the terms of this Agreement, or materially and adversely affect the ability of Operator to carry out its obligations hereunder.

(e) The natural person signing this Agreement on behalf of Operator has the authority to bind Operator and all matters required to be accomplished in order for Operator to validly sign this Agreement and bind Operator have been accomplished.

(f) Operator is in good standing as a nonprofit corporation under the laws of the State of California.

(g) Operator is a nonprofit corporation which has obtained a determination from the Internal Revenue Service and the State of California Franchise Tax Board that Operator qualifies as a 501(c)(3) tax exempt organization.

Each of the foregoing items (a) to (g), inclusive, shall be deemed to be ongoing representations and warranties. Operator shall advise Housing Authority in writing if there is any change pertaining to any matters set forth or referenced in the foregoing items (a) to (g), inclusive.

D. §106] Prohibition against Change in Ownership, Management and Control of Operator

1. The qualifications and identity of Operator are of particular interest and concern to City and Housing Authority. It is because of these qualifications and identities that Housing Authority has entered into this Agreement with Operator. Consequently, except as expressly set forth in this Section 106, no person, whether a voluntary or involuntary successor in interest of Operator, shall acquire any rights or powers under this Agreement or with respect to any of the properties or other assets held by Operator or for which Operator performs any duties under one or more of the Prior Housing Agreements or this Agreement, nor shall Operator assign or transfer all or any part of this Agreement, the Prior Housing Agreements any rights hereunder or thereunder without the prior written approval of Housing Authority. The voluntary or involuntary sale or transfer of any interest of Operator shall be deemed to constitute an assignment for the purposes of this Section 106 and the written approval of Housing Authority shall be required prior to effecting such a transfer. Any purported transfer, voluntary, involuntary, or by operation of law, except with the prior written consent of Housing Authority in accordance with this Section 106, shall constitute a default of Operator and shall confer no rights whatsoever upon any purported assignee or transferee.

2. All of the terms, covenants and conditions of this Agreement shall be binding upon and shall inure to the benefit of Operator and the permitted successors and assigns of Operator.

## II. [§200] OPERATOR SERVICES AND REMUNERATION

### A. [§201] Operator Services

Operator shall, for the benefit of Housing Authority, provide all of the following services and perform the following activities with respect to each of the Covered Agreements and any other operations of Operator:

(i) maintain or cause to be maintained in good condition in conformity with the City Code, the Landscape Standards, and all applicable laws, whichever creates the highest standard in each case, all properties and improvements covered by one or more of the Covered Agreements (the “Maintenance Duty”);

(ii) make or cause to be made repairs and/or capital improvements to property or improvements under one or more of the Covered Agreements as reasonably necessary, as determined by the Executive Director upon conferring with Operator (the “Capital Improvement Duty”);

(iii) monitor compliance with provisions of agreements, if any, between a third party and Operator which provide for dwelling units to be restricted to Households of Limited Income (the “Third Party Monitoring Duty”);

(iv) monitor compliance with provisions of each of those Covered Agreements which provide for monitoring as to accessing whether dwelling units which are required to be restricted to Households of Limited Income at a housing cost which does not exceed Affordable Housing Cost and which does not fail to conform to the Regulatory Requirements (the “Covered Agreement Monitoring Duty”). The Covered Agreement Monitoring Duty shall be deemed to include the obligation of Operator to familiarize itself with all of the Regulatory Requirements and take such activities as are necessary or proper to comply with such Regulatory Requirements;

(v) prepare and submit to Housing Authority and to such other public or private entities as may be designated from time to time for such purpose by the Executive Director written reports which assess and report as to compliance as to Covered Agreements and other agreements involving Operator, with such reports being sufficient to comply with statutory reporting requirements of a California housing authority and reporting requirements under Part 1 of Division 24 of the California Health and Safety Code (the “Reporting Duty”);

(vi) prepare and submit to Housing Authority an Annual Report for each Fiscal Year that this Agreement remains in effect by the time established therefor in Section 205 (the “Annual Report Duty”);

(vii) monitoring payment and, as to properties in which Operator holds a fee ownership, leasehold interest or other passing interest, causing payment of property taxes and assessments prior to delinquency (the “Property Tax Duty”);

(viii) as to property under control of Operator that is the subject of one or more of the Covered Agreements, operate the applicable property and all improvements thereon in conformity with all provisions of that Covered Agreement which is applicable in each case (the “Controlled Property Covered Agreement Duty”);

(ix) as to property which is not under control of Operator but which is subject to one or more of the Covered Agreements, use diligent efforts that the applicable property and all improvements thereon are operated in conformity with all provisions of that Covered Agreement which is applicable in each case (the “Other Property Controlled Agreement Duty”);

(x) operate or cause to be operated dwelling units provided for by one or more of the Covered Agreements in conformity with the City Code (the “City Code Duty”);

(xi) prior to rental of any dwelling units operated or controlled by Operator that are subject to a Covered Agreement, Operator shall submit a standard lease form to Housing Authority for Housing Authority’s approval. The Executive Director, or designee, shall reasonably approve such lease form. Operator shall enter into a lease, in the form approved by Housing Authority, with each tenant of each dwelling unit restricted as to income level and tenants (the Lease Duty”);

(xii) as to all dwelling units subject to a Covered Agreement, Operator shall adopt a tenant selection system, which shall be approved by the Executive Director. The tenant selection system shall include, without limitation, a method for investigation of the credit history of proposed tenants through obtaining a credit report on the proposed, tenant. Highest priority in the selection of tenants shall be given to those applicants, if any, who have been displaced by projects of Former Agency or Housing Authority, if any (the “Tenant Selection Duty”);

(xiii) as to all dwelling units subject to a Covered Agreement, operate in accordance with all applicable Laws (the “Legal Compliance Duty”);

(xiv) as to all properties that are subject to a Covered Agreement, comply or cause compliance with nondiscrimination requirements set forth therein and, as to agreements entered into after the Date of Agreement, with those nondiscrimination provisions as prescribed by Sections 33435 and 33436 of the California Health and Safety Code, with language as provided under such sections to be included in deeds, leases and agreements affecting property to the extent provided thereon (the “Nondiscrimination Duty”);

(xv) hold harmless, defend and indemnify Housing Authority and City as provided in Section 304 hereof and provide insurance as required hereunder and under one or more of the Prior Housing Agreements (the “Defense Duty”); and

The foregoing items (i) to (xv), inclusive, are referred to herein as the “Operator Duties.”

B. [§202] Income of Tenants

Prior to the rental or lease of any Affordable Unit to a tenant, and annually thereafter, Operator shall submit to Housing Authority a completed Income Computation and Certification Form. Operator shall certify that each tenant leasing an Affordable Unit is a Very Low Income Household, Lower Income Household or Low-and Moderate Income Household, as applicable, and meets the eligibility requirements established for the Affordable Unit. Operator shall obtain an income certification from the tenant of each Affordable Unit and shall certify that, to the best of Operator’s knowledge, the income of the tenant is truthfully set forth in the Income Computation and Certification Form. Operator shall verify the income certification of the tenant in one or more of the following methods:

- (a) obtain two (2) paycheck stubs from the tenant's two (2) most recent pay periods, if any.
- (b) obtain a true copy of an income tax return from the tenant for the most recent tax year in which a return was filed.
- (c) obtain an income verification certification from the employer of the tenant.
- (d) obtain an income verification certification from the Social Security Administration and/or the California Department of Social Services if the tenant receives assistance from such agencies.
- (e) obtain a credit report from a commercial credit reporting agency.
- (f) obtain an alternate form of income verification reasonably requested by Operator, if none of the above forms of verification is available to Operator.

A person or family who at the time of income certification qualified as a Very Low Income Household, Lower Income Household or Low- and Moderate Income Household, as applicable, shall continue to be deemed so qualified, until such time as the person or family's income is redetermined and the person or family is determined by Operator to no longer be so qualified, even if such person or family's income has subsequently increased to an amount above the applicable income level. Upon Operator's determination that the tenant is no longer qualified as a Very Low Income Household, Lower Income Household or Low- and Moderate Income Household, as applicable, such tenant shall no longer be eligible to rent such Affordable Unit and shall be given a written notice which requires such tenant to vacate the unit within sixty (60) days, or such other time as may be established by Housing Authority and communicated to Operator. The tenant lease shall contain the provisions which substantially conform to the foregoing portions of this Section 202. In addition, Operator shall annually submit to Housing Authority a certification of the number of Affordable Units actually occupied by Very Low Income Households, Lower Income Households and Low- and Moderate Income Households in the form of the Income Computation and Certification Form.

C. [§203] Determination of Affordable Rent for the Affordable Units

Each Affordable Unit shall be rented at an "Affordable Rent" to be established by Housing Authority as provided herein. The maximum monthly rental amount for the Affordable Units to be leased to Very Low Income Households shall be established at Thirty Percent (30%) of Fifty Percent (50%) of San Bernardino County median income for a household size appropriate for the unit. The maximum monthly rental amount for the Affordable Units to be leased to Lower Income Households shall be established at Thirty Percent (30%) of Sixty Percent (60%) of San Bernardino County median income for a household size appropriate for the unit. The maximum monthly rental amount for the Affordable Units to be leased to Lower and Moderate Income Households shall be established at not greater than the lesser of (a) fair market rent, as determined by Operator, or (b) Thirty Percent (30%) of the Hundred Ten Percent (110%) of San Bernardino County median income for a household size appropriate for the unit. The rents of the Affordable Units may be increased simultaneously, regardless of when particular tenants commenced occupancy of their Affordable Units. Upon the approval of Housing Authority or the Executive Director, rents may be established at amounts which are lower than the maximum monthly rental amounts set forth above. The

maximum monthly rental amount for Affordable Units shall include a reasonable utilities allowance to be determined by Housing Authority, which utilities allowance shall be set at an amount which will cover the projected charge for all utilities, including gas and electrical service, water, sewer and garbage collection, but excluding telephone service and cable television. Housing Authority may in its discretion base the utilities allowance on a utilities allowance adopted in connection with the Section 8 program administered by the United States Department of Housing and Urban Development. The maximum monthly rental amount for each one-bedroom Affordable Unit shall be based upon the income of a household with the assumed family size of two (2) persons, and the maximum monthly rental amount for each two-bedroom Affordable Unit shall be based upon the income of a household with the assumed family size of three (3) persons.

With respect to Future Units, the same standards and methodology shall be applied as to Affordable Rent and the other portions of this Section 203 unless otherwise indicated by Housing Authority.

D. [§204] Management and Maintenance

The following standards shall be complied with by Operator and its maintenance staff, contractors or subcontractors:

1. Operator shall manage and maintain the Improvements on the Property in conformity with the City Code as directed by Housing Authority.

2. Operator shall maintain the Improvements, including individual Affordable Units, all common areas, all interior and exterior facades, and all exterior project site areas, in a safe and sanitary fashion suitable for a first class housing project. Operator agrees to provide administrative services, supplies, contract services, maintenance, maintenance reserves, and management for the entire project including interior tenant spaces, common area spaces and exterior common areas and public rights-of-way for the related projects. The services provided by Operator (or which Operator shall cause to be provided by the applicable utility companies) shall include, but not be limited to, providing all electricity, gas, water, television, and telephone service, and property, fire and liability insurance in the amounts set forth in the corresponding Covered Agreement (and if no amount is designated therein, then the amount so designated by the Executive Director from time to time), all property taxes and personal property taxes, any and all assessments, maintenance and replacement of all exterior landscaping, all administration and overhead required for the property manager, accounting and supplies for the project.

3. Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing, edging, and trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and optimum irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

4. Clean-up maintenance shall include, but not be limited to: maintenance of all private paths, parking areas, driveways and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the

maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

5. The Improvements shall be maintained in conformance and in compliance with the approved construction and architectural plans and design scheme, as such plans and design scheme may be amended from time to time with the approval of City.

6. All maintenance work shall conform to all applicable federal and state Occupation Safety and Health Act standards and regulations for the performance of maintenance.

7. Any and all chemicals, unhealthful substances, and pesticides used in and during maintenance shall be applied only by persons possessing valid California applicators licenses, and in strict accordance with all governing regulations. Precautionary measures shall be employed recognizing that all areas are open to public access.

8. Parking lots, lighting fixtures, trash enclosures, and all areas which can be seen from the adjacent streets shall be kept free from any accumulation of debris or waste materials by regularly scheduled maintenance.

9. Operator shall maintain a separate reserve fund for capital repairs; and shall deposit not less than the amount reasonably determined to be necessary for capital repairs. Such funds shall be expended only for capital repairs to and replacement of the Improvements and shall not be expended upon normal maintenance and operations of the Improvements. Capital repairs to and replacement of the Improvements shall include only those items with a long useful life, including the following:

- (a) Carpet and drape replacement;
- (b) Appliance replacement;
- (c) Exterior painting, including exterior trim;
- (d) Hot water heater replacement;
- (e) Plumbing fixtures replacement, including tubs and showers, toilets, lavatories, sinks, faucets;
- (f) Air conditioning and heating replacement;
- (g) Asphalt repair and replacement, and seal coating;
- (h) Roofing repair and replacement;
- (i) Landscape tree replacement and irrigation pipe and controls replacement;
- (j) Gas line pipe replacement;
- (k) Lighting fixture replacement;

- (l) Swimming pool repair;
  - (m) Miscellaneous motors and blowers;
  - (n) Common area furniture replacement, and common area repainting;
- and
- (o) Sewer line repair and replacement.

Management and maintenance shall be overseen by Housing Authority or its designee and, if the above standards are breached, after notice and opportunity to cure within the time set forth in this paragraph, Housing Authority or its Executive Director may in its reasonable discretion direct Operator to and Operator shall hire a management company acceptable to Housing Authority to manage the Improvements. If, at any time, Operator or the management company fails to adequately maintain such areas, and such condition is not corrected immediately upon notice of an imminent threat to health and safety or after expiration of thirty (30) days from the date of written notice from Housing Authority for all other violations, Housing Authority may (but shall not be obligated to) perform the necessary maintenance and Operator shall pay such costs as are reasonably incurred for such maintenance.

E. [§205] Annual Reporting

Within one hundred eighty (180) days after the end of each Fiscal Year, Operator shall submit to Housing Authority a detailed Annual Report for the preceding Fiscal Year.

F. [§206] Consideration to Operator; Agreement by Operator to Remit Excess Amounts

Former Agency made various loans to Operator over several years preceding the Date of Agreement; these loans are collectively evidenced as the Prior Loan Obligations. As consideration for the agreements and undertakings of Operator under this Agreement, including without limitation the agreement of Operator to satisfy the Operating Duties on an ongoing and continuous basis throughout the Applicable Affordable Period, the Prior Loan Obligations are cancelled effective as of the Date of Agreement. The parties mutually agree that the value of the services to be provided by Operator under this Agreement is approximately equivalent to the amount of the Prior Loan Obligations.

Housing Authority is deemed to have a lien on all assets of Operator. In addition, in the event of termination of this Agreement or if notice of default is given by Housing Authority to Operator and such default is not cured by the applicable cure period (if any), all assets of Operator shall be deemed irrevocably assigned and transferred to Housing Authority. Operator shall, in such event, cooperate in executing such instruments which confirm such irrevocable assignment and transfer; provided that the assignment and transfer shall be deemed to be effective without regard to whether Operator executes such instruments.

Housing Authority will review each Annual Report for the corresponding Fiscal Year. The Executive Director will determine if the continued receipt of Gross Property Revenues, in whole or in part, is reasonable and appropriate given the amount of operating expenses, the reasonableness of such expenses as to type and amount, and whether all, a portion, or none of the Gross Property Revenues should be retained by Operator. If in the judgment of Executive Director the Gross

Property Revenues exceed the reasonable cost for Operator to provide all services required by Operator with respect to the Property under this Agreement, then the amount of such excess as determined by the Executive Director shall be promptly remitted by Operator to Housing Authority or a designee identified to Operator in writing executed by the Executive Director.

G. [§207] Rights of Access

Housing Authority, for itself and for City and other public agencies, at their sole risk and expense, shall have the right to enter the Property or any part thereof which is occupied or controlled by Operator, at all reasonable times for the purpose of construction, reconstruction, maintenance, repair or service of any public improvements or public facilities located on the Property. Any such entry shall be made only after reasonable notice to Operator. Upon receipt of such notice, Operator agrees to cooperate with Housing Authority in making the Property available for inspection by Housing Authority and/or City. Operator acknowledges and agrees that in the event that if for any reason Operator fails to consent to such entry or inspection, Housing Authority may obtain an administrative inspection warrant or take such other legal actions as may be necessary to gain entry to and inspect the Property.

H. [§208] Nondiscrimination

Operator covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, disability, familial status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Operator itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property. The foregoing covenants shall run with the land.

Operator shall refrain from restricting the rental, sale or lease of the property on the basis of race, color, creed, religion, sex, marital status, disability, familial status, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

2. In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

3. “That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

4. In contracts: “There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

I. [§209] Effect of Violation of the Terms and Provisions of this Agreement after Completion of Construction

The covenants established in this Agreement shall, without regard to technical classification and designation, be binding upon and for the benefit and in favor of Operator and Housing Authority, their respective successors and assigns, as to those covenants which are for their benefit. The covenants contained in this Agreement shall remain in effect until the expiration of the Applicable Affordability Period. The covenants described in Section 208 hereof or which are of record and prohibit discrimination on an invidious basis shall remain in perpetuity.

Housing Authority is deemed the beneficiary of the terms and provisions of Covered Agreements, including without limitation this Agreement, including instances where covenants are stated to be for the benefit of Former Agency (and, with respect to which, such covenants now shall be deemed to run for the benefit of Housing Authority) and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement and the covenants shall run in favor of Housing Authority, without regard to whether Housing Authority has been, remains or is an owner of any land or interest therein in the Property or in the Project Area. Housing Authority shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

J. [§210] Recording of Instruments

Operator shall execute and record or cause to be recorded among the Official Records such instruments as may be presented from time to time for such purpose by Housing Authority.

### III. [§300] GENERAL PROVISIONS

#### A. [§301] Notices, Demands and Communications between the Parties

Written notices, demands and communications between Housing Authority and Operator shall be sufficiently given if delivered by hand (and a receipt therefor is obtained or is refused to be given) or dispatched by registered or certified mail, postage prepaid, return receipt requested, or sent by telecopy or overnight delivery service, to the principal offices of Housing Authority and Operator. Such written notices, demands and communications may be sent in the same manner to Housing Authority and Operator at the addresses provided pursuant to Sections 104 and 105 and to such other addresses as either party may from time to time designate by mail as provided in this Section 301.

Any written notice, demand or communication shall be deemed received immediately if delivered by hand or sent by telecopy, shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail, and shall be deemed received on the next business day after it is sent if delivered by overnight delivery service.

#### B. [§302] Conflicts of Interest

No member, official or employee of Housing Authority shall have any personal financial interest, direct or indirect, in this Agreement, nor shall any member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested. No member, official or employee of Housing Authority shall be personally liable to Operator, or any successor in interest, in the event of any default or breach by Housing Authority, or for any amount which may become due to Operator or successor or on any obligations under the terms of this Agreement.

Operator warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

#### C. [§303] Defense, Indemnity and Holding Harmless

Operator shall defend, indemnify and hold harmless each of Housing Authority and City and their respective officers, agents, employees, representatives and volunteers from and against any loss, liability, claim or judgment relating in any manner to the properties subject to one or more of the Covered Agreements and any claims, suits, demands or losses arising from or related to the approval of this Agreement or the implementation of this Agreement. In the event there are greater requirements of Operator under one or more of the Prior Housing Agreements to defend, indemnify and hold harmless Former Agency, such provisions shall be deemed to continue in effect as protections of Housing Authority and City (in place of Former Agency).

#### D. [§303] Enforced Delay; Extension of Times of Performance

In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; governmental restrictions or priority; litigation; delays of any contractor, subcontractor or supplier; acts or omissions of the other party; acts or failures to act of City or any other public or

governmental agency or entity (other than the acts or failures to act by City shall not excuse acts or failure to act by Housing Authority) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Any requests for extension shall be in writing. Times of performance under this Agreement may also be extended in writing by the mutual agreement of Housing Authority and Operator.

#### IV. [§400] DEFAULTS AND REMEDIES

##### A. [§401] Defaults—General

Subject to the extensions of time set forth in Section 304, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who so fails or delays must immediately commence to cure, correct, or remedy such failure or delay, and shall complete such cure, correction or remedy with diligence.

The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Except as required to protect against further damages, the injured party may not institute proceedings for damages or specific performance against the party in default until thirty (30) days after giving such notice or, provided that the party is proceeding with diligence to cure, such greater time as may be necessary to cure given the nature of the default. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

##### B. [§402] Institution of Legal Actions

In addition to any other rights or remedies and subject to the restrictions in Section 401, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Legal actions must be instituted in the Superior Court of the County.

##### C. [§403] Applicable Law; Construction

The laws of the State of California shall govern the interpretation and enforcement of this Agreement. This Agreement shall be construed reasonably and as if prepared equally by both parties hereto, each being advised by legal counsel of its choosing.

##### D. [§404] Acceptance of Service of Process

In the event that any legal action is commenced by Operator against Housing Authority, service of process on Housing Authority shall be made by personal service upon the Executive Director or in such other manner as may be provided by law.

In the event that any legal action is commenced by Housing Authority against Operator, service of process on Operator shall be made by personal service upon an officer or an agent designated for service of process as filed with the California Secretary of State and shall be valid whether made within or without the State of California or in such other manner as may be provided by law.

E.     [§405] Rights and Remedies Are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

F.     [§406] Inaction Not a Waiver of Default

Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

G.     [§407] Attorneys' Fees

If any action at law or equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs of litigation from the nonprevailing party.

H.     [§408] Termination by Operator

In the event that Housing Authority is in default of any of its obligations under this Agreement, and such default has not been cured in accordance with Section 401 hereof, then this Agreement may, at the option of Operator, and in addition to any other remedies available to Operator at law or in equity, be terminated by written notice thereof to Housing Authority given at least one hundred (100) days prior to termination.

Prior to termination, Operator shall cooperate fully with Housing Authority in finding a replacement operator satisfactory to Housing Authority. The parties agree that the costs incurred by Housing Authority in securing a replacement operator, which may be Housing Authority, shall be deducted from those moneys where Operator would otherwise be entitled to retain as revenues from the Property. Upon termination, or earlier upon mutual agreement of the parties, all revenues of Operator shall be irrevocably assigned to Housing Authority or to such assignee as Housing Authority shall designate in writing to Operator.

I.     [§409] Termination by Housing Authority

In the event that:

1.     Operator (or any successor in interest) assigns or attempts to assign this Agreement or any Covered Agreement, or any rights therein or as to properties or improvements subject thereto, or any portion thereof, in violation of this Agreement or in violation of the terms of the applicable Covered Agreement; or

2.     There is a change in the ownership of Operator contrary to the provisions of Section 106 hereof; or

3.     Operator fails to satisfy any of the Operator Duties and fails to cure such failure by the time set forth in 401 hereof for cure; or

4. Operator fails or refuses to take possession of or title to any property upon tender thereof by Housing Authority or fails or refuses to assume the Operator Duties with respect to such property or agreement; or

5. Operator is in default of any of its obligations under this Agreement, and such default has not or is not being cured in accordance with Section 401 hereof;

then at the option of Housing Authority this Agreement and one or more of the Covered Agreements and any rights of Operator or any assignee or transferee therein shall, upon written notice from Housing Authority, be terminated by Housing Authority.

V. [§500] SPECIAL PROVISIONS

A. [§501] Real Estate Commissions

Housing Authority and Operator both represent to the other party that, except to the extent otherwise disclosed to and approved in writing by the other party, they have not engaged the services of any finder or broker and that they are not liable for any real estate commissions, broker's fees, or finder's fees which may accrue by means of operations of Operator under this Agreement, and agree to indemnify and hold harmless the other party from such commissions or fees as are alleged to be due from the party making such representations.

B. [§502] Successors in Interest

The terms, covenants, conditions and restrictions of this Agreement shall extend to and shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Housing Authority and Operator.

C. [§503] Further Assurances.

Operator shall execute any further documents consistent with the terms of this Agreement, including documents in recordable form, as Housing Authority shall from time to time find necessary or appropriate to effectuate its purposes in entering into this Agreement.

D. [§504] Relationship of Operator and Authority.

The relationship of Operator and Authority pursuant to this Agreement shall not be construed to be a joint venture, equity venture, partnership, or other relationship.

E. [§505] No Third Party Beneficiaries except City

City shall be deemed to be a third party beneficiary of this Agreement (including without limitation the attachments hereto). Excepting for City, there shall be no third party beneficiaries of this Agreement.

F. [§506] Entire Agreement

This Agreement contains the entire agreement between the parties relating to the subject matter hereof; provided that the Covered Agreements, and each of them, as well as instruments executed pursuant thereto, shall all remain in full force and effect in accordance with their respective

terms. Subsequent modifications to this Agreement shall be in writing and signed by both Housing Authority and Operator.

G. [§507] Captions and Construction

Captions in this Agreement are for convenience only and shall not be used in construing meaning. This Agreement shall be construed as a whole and in accordance with its fair meaning.

H. [§508] Severability

If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be valid and binding on the parties hereto.

I. [§509] Cooperation

Housing Authority and Operator agree to cooperate with each other so as to achieve the objectives of this Agreement in a timely and efficacious manner.

J. [§510] Further Documents

Upon written request, Housing Authority and Operator shall execute, deliver, or cause to be executed and delivered, such additional instruments and documents as are necessary or appropriate, as determined by the Executive Director, to perform the terms of this Agreement.

K. [§511] Counterparts, Waivers

This Agreement may be signed in counterparts, and is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes pages 1 through 21 and Attachments 1 through 3, which constitute the entire understanding and agreement of the parties.

All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of Housing Authority and Operator, and all amendments hereto must be in writing by the appropriate authorities of Housing Authority and Operator.

IN WITNESS WHEREOF, Housing Authority and Operator have signed this Agreement on the respective dates set forth below.

**“HOUSING AUTHORITY”**

**MONTCLAIR HOUSING AUTHORITY**, a public body corporate and politic

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

By: \_\_\_\_\_  
Paul M. Eaton  
Housing Authority Chair

ATTEST:

\_\_\_\_\_  
Andrea M. Phillips  
Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Stradling Yocca Carlson & Rauth  
Housing Authority Special Counsel

**“OPERATOR”**

**MONTCLAIR HOUSING CORPORATION**, a California nonprofit corporation

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

By: \_\_\_\_\_  
Paul M. Eaton,  
Housing Corporation Chair

**ATTACHMENT NO. 1**

**PROPERTY LIST**

1. Those properties listed in Attachment No. 1 to the 2011 Agreement.
2. Those properties listed in Attachment No. 2 to the 2011 Agreement.
3. Those properties, if any, listed in Prior Housing Agreements (other than the 2011 Agreement).
4. Such additional properties as may be designated from time to time by Housing Authority.

**ATTACHMENT NO. 2**  
**OPERATOR CERTIFICATE**

(Operator Letterhead)  
Montclair Housing Authority  
Attention: Executive Director  
5111 Benito Street  
Montclair, California 91763

With respect to that certain housing Agreement dated as of \_\_\_\_\_, 2016 (the “Housing Agreement”) by and between the Montclair Housing Corporation, a California nonprofit corporation (the “Operator”) and the Montclair Housing Authority, a public body, corporate and politic (the “Housing Authority”), Operator hereby represents, warrants and certifies to each of Housing Authority and the City of Montclair, a municipal corporation, that for the Fiscal Year commencing as of July 1, 20\_\_ and ending as of June 30, 20\_\_ (with capitalized terms herein having the same meanings as set forth therefor in the Housing Agreement):

1. Operator is in compliance with each and every one of the Operator Duties with respect to all of the Covered Agreements.

MONTCLAIR HOUSING CORPORATION, a  
California nonprofit corporation

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

\_\_\_\_\_

Its: President

**ATTACHMENT NO. 3**

**LIST OF AGREEMENTS**

<b>Date</b>	<b>Agreement No.</b>	<b>Original Loan (\$)</b>	<b>Amount Owed (\$)</b>
June 1, 1994	94-40	\$25,000.00	\$0.00
February 3, 1997	97-4	\$18,000.00	\$0.00
December 1, 1997	97-80	\$53,000.00	\$0.00
July 1, 1998	98-35	\$200,000.00	\$165,680.61
September 7, 1999	99-79	\$15,000.00	\$0.00
December 20, 1999	99-109	\$25,000.00	\$437.00
December 20, 1999	99-110	\$20,000.00	\$14,491.00
July 1, 2000	00-61	\$465,000.00	\$465,000.00
September 5, 2000	00-81	\$15,000.00	\$0.00
February 20, 2001	01-26	\$60,000.00	\$45,222.00
February 20, 2001	01-27	\$25,000.00	\$0.00
January 7, 2002	02-07	\$25,000.00	\$441.00
February 18, 2003	03-26	\$35,000.00	\$35,000.00
February 18, 2003	03-27	\$20,000.00	\$20,000.00
February 18, 2003	03-28	\$30,000.00	\$30,000.00
February 17, 2004	04-26	\$25,000.00	\$25,000.00
July 1, 2005	05-74	\$1,100,000.00	\$1,100,000.00
July 1, 2006	06-88	\$750,000.00	\$750,000.00
July 1, 2007	07-61	\$1,307,500.00	\$1,307,500.00
July 1, 2008	08-44	\$500,000.00	\$500,000.00
July 1, 2009	09-47	\$200,000.00	\$200,000.00
July 1, 2010	10-61	\$300,000.00	\$300,000.00
March 7, 2011	11-29	\$400,000.00	\$400,000.00

Totals	\$5,613,500.00	\$5,358,771.61
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## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 16-3116 APPROVING AND AUTHORIZING THE EXECUTION OF AGREEMENT NO. 16-21, A COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR AND THE MONTCLAIR HOUSING AUTHORITY	<b>DATE:</b> March 7, 2016 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 3 <b>FILE I.D.:</b> EDD100/MHA050 <b>DEPT.:</b> ECONOMIC DEV./MHA
CONSIDER ADOPTION OF MONTCLAIR HOUSING AUTHORITY RESOLUTION NO. 16-02 APPROVING AND AUTHORIZING THE EXECUTION OF AGREEMENT NO. 16-21, A COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR AND THE MONTCLAIR HOUSING AUTHORITY	

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 16-3116 approving and authorizing the execution of Agreement No. 16-21, a Cooperation Agreement by and between the City of Montclair and the Montclair Housing Authority. The Montclair Housing Authority is requested to consider adoption of Resolution No. 16-02 approving and authorizing the execution of Agreement No. 16-21, a Cooperation Agreement by and between the City of Montclair and the Montclair Housing Authority.

Copies of proposed City Council Resolution No. 16-3116, Montclair Housing Authority Resolution No. 16-02, and Agreement No. 16-21 are attached for City Council and Montclair Housing Authority Commissioners' review and consideration.

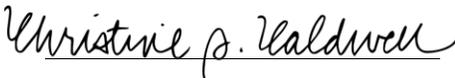
**BACKGROUND:** The City of Montclair activated the Montclair Housing Authority on July 11, 2016. The Montclair Housing Authority is a separate and independent governmental agency and is authorized pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code ("Housing Authorities Law").

Following the enactment of ABx1 26 on June 28, 2011, the City Council designated the Montclair Housing Authority to receive housing assets which had been held by the Montclair Redevelopment Agency. The housing assets of the former Redevelopment Agency were transferred to the Montclair Housing Authority by operation of law on February 1, 2012.

The Montclair Housing Authority is responsible for the handling of various housing assets formerly held by the Redevelopment Agency. In addition, as a housing authority acting under the Housing Authorities Law, the Montclair Housing Authority is required to obtain an annual audit, and prepare and file each with the City and with the Department of Housing and Community Development (HCD) an annual work plan and budget along with the audit. However, the Montclair Housing Authority does not have

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

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a regular funding source in that tax increment financing was eliminated by the 2011 Dissolution Act, and AB 1484, as approved in 2012. AB 1484 amplifies that there will be no further housing set-aside funds and no moneys deposited for such purpose from property taxes distributed to successor agencies to dissolved redevelopment agencies.

Agreement No. 16-21 will allow for the City to provide staff assistance, supplies, facilities, and technical assistance to the Montclair Housing Authority. In addition, the Cooperation Agreement will allow the Montclair Housing Authority to access restrictive funds held by the City for the purposes of supplying low- and moderate-income housing. The Agreement would allow the Montclair Housing Authority to borrow funds from the City if so authorized by the City Council. However, staff does not anticipate the Montclair Housing Authority making requests for funding.

**FISCAL IMPACT:** There is no fiscal impact associated with the approval of Agreement No. 16-21. The Agreement does provide that loans could be made by the City to the Montclair Housing Authority, but such future action would require separate consideration by the City Council and Montclair Housing Authority. It should be noted, staff does not anticipate the Montclair Housing Authority making any such requests unless a request is made for the restricted funds held by the City for low-to moderate-income housing.

**RECOMMENDATION:** Staff recommends the following actions:

1. The City Council adopt Resolution No. 16-3116 approving and authorizing the execution of Agreement No. 16-21, a Cooperation Agreement by and between the City of Montclair and the Montclair Housing Authority.
2. The Montclair Housing Authority adopt Resolution No. 16-02 approving and authorizing the execution of Agreement No. 16-21, a Cooperation Agreement by and between the City of Montclair and the Montclair Housing Authority.

**RESOLUTION NO. 16-3116**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING AGREEMENT NO. 16-21, A COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR AND THE MONTCLAIR HOUSING AUTHORITY**

**WHEREAS**, pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the "Housing Authority Law"]), the City Council of the City of Montclair ("City"), activated the Montclair Housing Authority (the "Housing Authority"); and

**WHEREAS**, pursuant to the Housing Authority Law, the Housing Authority is performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers; and

**WHEREAS**, the Housing Authority Law provides that a housing authority may enter into an agreement with the host city of the housing authority under which the city makes services, facilities and monies available to the housing authority; and

**WHEREAS**, the Housing Authority is charged with carrying out various statutory duties as prescribed by the Housing Authority Law. In addition, in view of the dissolution of redevelopment agencies throughout California, including without limitation the former Montclair Redevelopment Agency (the "Redevelopment Agency"), together with the determination of the City Council of the City to direct housing assets of the Redevelopment Agency, attendant upon the dissolution of the Redevelopment Agency, to the Housing Authority, the Housing Authority is charged with undertaking various tasks pursuant to ABx1 26, as enacted in 2011 (the "2011 Dissolution Act") and AB 1484, Chapter 26, Statutes of 2012 (the "2012 Dissolution Measure"); and

**WHEREAS**, the City and Housing Authority desire to enter into a Cooperation Agreement in the form submitted herewith (the "Cooperation Agreement"):

(1) To set forth activities, services and facilities which the City may from time to time render for and make available to the Housing Authority in furtherance of the activities and functions of the Housing Authority under the Housing Authority Law; and

(2) To provide that the Housing Authority will reimburse the City for actions undertaken and costs and expenses incurred by it for and on behalf of the Housing Authority.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does resolve as follows:

1. The City Council approves and authorizes its Mayor to execute the Cooperation Agreement substantially in the form submitted herewith. The City Manager, and his designees, are authorized to make such edits as do not materially modify the economic terms of the Cooperation Agreement, and are authorized and directed to execute the Cooperation Agreement on behalf of the City and take all appropriate action to effectuate the terms of the Cooperation Agreement.

2. The City Clerk shall maintain this Resolution on file among the official records of the City.

**APPROVED AND ADOPTED** this XX day of XX, 2016.

**ATTEST:**

\_\_\_\_\_  
Mayor

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

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 16-3116 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, 2016, and that it was adopted by the following vote, to-wit:

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

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Andrea M. Phillips  
Deputy City Clerk

**RESOLUTION NO. 16-02**

**A RESOLUTION OF THE MONTCLAIR HOUSING  
AUTHORITY APPROVING AGREEMENT NO. 16-21,  
A COOPERATION AGREEMENT BY AND BETWEEN  
THE MONTCLAIR HOUSING AUTHORITY AND  
THE CITY OF MONTCLAIR**

**WHEREAS**, pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the "Housing Authority Law"]), the City Council of the City of Montclair ("City"), activated the Montclair Housing Authority (the "Housing Authority"); and

**WHEREAS**, pursuant to the Housing Authority Law, the Housing Authority is performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers; and

**WHEREAS**, the Housing Authority Law provides that a housing authority may enter into an agreement with the host city of the housing authority under which the city makes services, facilities and monies available to the housing authority; and

**WHEREAS**, the Housing Authority is charged with carrying out various statutory duties as prescribed by the Housing Authority Law. In addition, in view of the dissolution of redevelopment agencies throughout California, including without limitation the former Montclair Redevelopment Agency (the "Redevelopment Agency"), together with the determination of the City Council of the City to direct housing assets of the Redevelopment Agency, attendant upon the dissolution of the Redevelopment Agency, to the Housing Authority, the Housing Authority is charged with undertaking various tasks pursuant to ABx1 26, as enacted in 2011 (the "2011 Dissolution Act") and AB 1484, Chapter 26, Statutes of 2012 (the "2012 Dissolution Measure").

**WHEREAS**, the City and Housing Authority desire to enter into a Cooperation Agreement in the form submitted herewith (the "Cooperation Agreement"):

(1) To set forth activities, services and facilities which the City may from time to time render for and make available to the Housing Authority in furtherance of the activities and functions of the Housing Authority under the Housing Authority Law; and

(2) To provide that the Housing Authority will reimburse the City for actions undertaken and costs and expenses incurred by it for and on behalf of the Housing Authority.

**NOW, THEREFORE**, the Montclair Housing Authority does resolve as follows:

1. The Housing Authority approves and authorizes its Chair to execute the Cooperation Agreement substantially in the form submitted herewith. The Executive Director, and his designees, are authorized to make such edits as do not materially modify the economic terms of the Cooperation Agreement, and are authorized and directed to execute the Cooperation Agreement on behalf of the Housing Authority and take all appropriate action to effectuate the terms of the Cooperation Agreement.

2. The Housing Authority Secretary shall maintain this Resolution on file among the official records of the Housing Authority.

**APPROVED AND ADOPTED** this XX day of XX, 2016.

**ATTEST:**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

I, Andrea M. Phillips, Secretary of the Montclair Housing Authority, DO HEREBY CERTIFY that Resolution No. 16-02 was introduced and adopted at a regular meeting as provided by law of the governing board of the Montclair Housing Authority held on the XX day of XX, 2016, by the following vote of the members thereof:

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

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Andrea M. Phillips  
Secretary

## COOPERATION AGREEMENT

THIS **AMENDED AND RESTATED AGREEMENT** (the “Agreement”) is entered into as of March 7, 2016 (the “Cooperation Agreement Date”), by and between the **CITY OF MONTCLAIR** (herein the “City”) and the **MONTCLAIR HOUSING AUTHORITY** (herein the “Housing Authority”).

### RECITALS

A. Pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the “Housing Authority Law”]), the City Council of the City of Montclair, activated the Housing Authority.

B. Pursuant to the Housing Authority Law, the Housing Authority is performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers.

C. The Housing Authority Law provides that a housing authority may enter into an agreement with the host city of the housing authority under which the city makes services, facilities and moneys available to the housing authority.

D. The Housing Authority is charged with carrying out various statutory duties as prescribed by the Housing Authority Law. In addition, in view of the dissolution of redevelopment agencies throughout California, including without limitation the former Montclair Redevelopment Agency (the “Redevelopment Agency”), together with the determination of the City to direct housing assets of the Redevelopment Agency, in connection with the process of dissolution of the Redevelopment Agency, to the Housing Authority, the Housing Authority is charged with undertaking various tasks pursuant to ABx1 26, as enacted in 2011 (the “2011 Dissolution Act”) and AB 1484, Chapter 26, Statutes of 2012 (the “2012 Dissolution Measure”).

E. The City and the Housing Authority desire to enter into this Agreement to set forth activities, services and facilities which the City may from time to time render for and make available to the Housing Authority in furtherance of the activities and functions of the Housing Authority under the Housing Authority Law;

## AGREEMENTS

1. The City agrees to provide, or to cause to be provided for the Housing Authority, from time to time such staff assistance, supplies, technical services and other services and facilities of the City as the City is able to provide and which the Housing Authority may require in carrying out its functions under the Housing Authority Law. One method by which the City may cause to be provided such staff assistance, supplies and technical services is through performance of such functions by the Montclair Housing Corporation, a California nonprofit public benefit corporation (“MHC”). In addition, the City agrees to provide for the Housing Authority, from time to time as the city is able and willing to do so, such staff assistance, supplies, technical services and other services and facilities of the City as the Housing Authority may require to carry out its functions concerning the implementation of activities required to be undertaken by a housing successor entity under the 2011 Dissolution Act, the 2012 Dissolution Act as well as such other legislation, regulations or interpretations published by the State of California (or agencies thereof) as may be enacted, promulgated or published concerning the subject matter of such measures (collectively, the “Redevelopment Measures”). Such assistance and services may include the services of officers and employees and special consultants.

2. The City may, but is not required to, from time to time advance necessary funds to the Housing Authority or to expend funds on behalf of the Housing Authority for implementation of the activities of the Housing Authority as provided under the Housing Authority Law, and as provided for a housing successor agency under the Redevelopment Measures. Activities of the Housing Authority may include any activities permitted by law, including without limitation costs associated with the maintenance of properties; the preparation and filing of reports and audits and appraisals; the preparation, carrying out, acquisition, leasing and operation of housing projects under the Housing Authority Law; monitoring as to compliance with existing covenants and agreements; costs associated with the negotiation and preparation of agreements for the disposition, development, maintenance and supervision of property; demolition; relocation; and such other services as are authorized under the Housing Authority Law and/or, to the extent applicable, the Redevelopment Measures.

3. The City may keep records of activities and services undertaken pursuant to this Agreement and the costs thereof in order that an accurate record of the Housing Authority’s liability to the City can be ascertained.

4. Should the City require repayment of activities and services undertaken pursuant to this Agreement, the Housing Authority agrees to pay the City an amount equal to the sum of all expenditures made and obligations and liabilities incurred by the City pursuant to this Agreement from and to the extent that funds are available to the Housing Authority for such purpose and which funds are appropriated for such purpose by the Housing Authority. The parties recognize that repayment may occur over a period of time. It is further understood that the parties recognize that the Housing Authority may never have the ability to make any repayment.

5. The Housing Authority agrees that it shall comply with the City's personnel policies and administrative regulations in connection with its activities and obligations under this Agreement.

6. The City agrees to include the Housing Authority within the terms of the City's insurance policy. The Housing Authority shall pay to the City its pro rata share of the costs of insurance applicable to its activities resulting from the Housing Authority's inclusion in the City's policy. Any covenants so owing by the Housing Authority under this Section 6 which are not paid on a current basis shall be treated as advances made under Section 2 of this Agreement.

7. This Agreement shall supercede prior agreements between the parties hereto covering the same subject matter.

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

CITY OF MONTCLAIR

By: \_\_\_\_\_

Paul M. Eaton  
Mayor

ATTEST:

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

MONTCLAIR HOUSING AUTHORITY

By: \_\_\_\_\_

Paul M. Eaton  
Chairman

ATTEST:

\_\_\_\_\_  
Andrea M. Phillips  
Housing Authority Secretary

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF SUCCESSOR AGENCY RESOLUTION NO. 16-02 RECOMMENDING A PROPOSAL BY BILL FOX FOR PURCHASE AND DEVELOPMENT OF THE SUCCESSOR AGENCY-OWNED PROPERTY LOCATED IN THE SOUTHEAST QUADRANT OF RAMONA AVENUE AND STATE STREET	<b>DATE:</b> March 7, 2016 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 4 <b>FILE I.D.:</b> SAG080 <b>DEPT.:</b> SUCCESSOR RDA
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**REASON FOR CONSIDERATION:** Pursuant to direction provided by the Successor Agency Board of Directors on July 6, 2015, staff has solicited proposals for the disposition of the Successor Agency-owned property located in the southeast quadrant of Ramona Avenue and State Street. The Request for Proposals (RFP) distributed by staff resulted in two responses to the RFP. The Successor Agency Board of Directors is requested to consider adoption of Resolution No. 16-02 recommending that the Oversight Board approve the proposal submitted by Bill Fox for acquisition and development of the Ramona Avenue and State Street property. If adopted, Resolution No. 16-02 would request the Oversight Board to direct staff to begin the process to negotiate a purchase and sale agreement with Mr. Fox.

A copy of the RFP and the responses to the RFP have been separately included in the agenda packet for consideration by the Successor Agency Board of Directors.

**BACKGROUND:** As the Successor Agency Board of Directors is aware, the Redevelopment Dissolution Law (ABX1 26) requires successor agencies to dispose of former redevelopment agency-owned assets as determined pursuant to a Long Range Property Management Plan (LRPMP) approved by the Department of Finance (DOF). The property located in the southeast quadrant of Ramona Avenue and State Street was listed as an asset on the former City of Montclair Redevelopment Agency's LRPMP slated for sale.

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

After action by the Successor Agency Board of Directors on July 6, 2015, the Oversight Board authorized staff to have the appraisal of the Ramona Avenue property updated at their meeting conducted on July 8, 2015. The Successor Agency Board of Directors and the Oversight Board further requested staff issue a RFP to determine interest in

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

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purchase and development of the site. DOF approval of the action to update the appraisal was secured and the completed appraisal was received by staff on October 6, 2015. Staff issued the RFPs on November 11, 2015 with submission of responses due to the Successor Agency on January 19, 2016.

As indicated, two responses to the RFPs were received. The responses to the Request for Proposals were evaluated based on the following criteria:

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

Three City staff members evaluated each proposal by the established criteria included in the RFP. A maximum number of 100 points could be scored by each proposal. The average score achieved by the proposal submitted by Mr. Fox was 96 points. The average score for the competing proposal was 23.34 points.

The response to the RFP submitted by Mr. Fox was complete and conformed to the established criteria. Mr. Fox proposes to develop the property as a 47,000 square foot building with a two-story office structure. The building would be developed as a speculative investment marketed for light-medium manufacturing or warehouse/distribution. The proposed use of the property conforms to the General Plan and Zoning Code.

A schedule of performance was submitted in the proposal by Mr. Fox as well a letter from a lender prepared to provide construction and permanent financing. The stated purchase price conforms to the price established by the appraisal. Mr. Fox has built five other projects in the City which demonstrates his financial capacity and ability to see a project through to fruition. Furthermore, the proposal submitted by Mr. Fox demonstrates the economic benefit of the project to the City and other taxing agencies on a short term and long term basis. It is estimated that if the building is utilized by a manufacturing business approximately 54 jobs would be created, and if the building is used for a warehouse approximately 20 jobs would be created.

Staff believes the response to the RFP submitted by Bill Fox to be most advantageous to the taxing agencies in keeping with Section 34177(e) of the Health and Safety Code that states the successor agency is required to dispose of assets and "the disposal is to be done expeditiously and in a manner aimed at maximizing value."

It should be noted that the proposal submitted by Mr. Fox also makes provisions for the request by Monte Vista Water District to purchase a 20 foot strip of land adjacent to its existing parcel.

The Successor Agency Board of Directors is requested to recommend the proposal submitted by Mr. Fox to the Oversight Board for its consideration. The Successor Agency Board of Directors is further requested to direct staff to prepare the necessary documentation for sale of the property and development of the site in the event the Oversight Board approves selection of the proposal submitted by Mr. Fox.

**FISCAL IMPACT:** Recommendation of the proposal submitted by Mr. Fox to the Oversight Board for the sale and development of the site at the southeast quadrant of Ramona Avenue and State Street will create no immediate fiscal impact for the City. The Oversight Board will be requested to approve the response to the RFP submitted by Mr. Fox on March 9, 2016. In the event the Oversight Board approves this response to the RFP, staff would be directed to negotiate elements of a purchase and sale agreement with Mr. Fox. The purchase and sale agreement would return to the Successor Agency Board of Directors and Oversight Board for consideration. As indicated, the purchase price offered by Mr. Fox in his proposal conformed to the appraisal.

If the response to the proposal submitted by Mr. Fox is rejected, or if for some reason Mr. Fox declines to complete the purchase, this matter would return to the Successor Agency and Oversight Board for further consideration.

Upon any eventual sale of the former Redevelopment Agency-owned parcel, the proceeds of the sale would be used to defease Redevelopment Project Area No. V Tax Allocation Bond debt.

**RECOMMENDATION:** Staff recommends the Successor Agency Board of Directors adopt Resolution No. 16-02 recommending a proposal by Bill Fox for the purchase and development of the Successor Agency-owned property located in the southeast quadrant of Ramona Avenue and State Street.

**RESOLUTION NO. 16-02**

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY RECOMMENDING A PROPOSAL BY BILL FOX FOR PURCHASE AND DEVELOPMENT OF THE SUCCESSOR AGENCY-OWNED PROPERTY LOCATED IN THE SOUTHEAST QUADRANT OF RAMONA AVENUE AND STATE STREET**

**WHEREAS**, Part 1.85 of the Community Redevelopment Law ("Part 1.85") as adopted by ABX1 26 ("AB 26") and modified by AB 1484 and SB107 provided for the statewide dissolution of all redevelopment agencies, including the City of Montclair Redevelopment Agency ("Agency"), and provided that, thereafter, a successor agency would administer the enforceable obligations of the Agency and otherwise wind up the Agency's affairs, all subject to the review and approval by an oversight board; and

**WHEREAS**, on January 12, 2012, the City Council of the City of Montclair adopted Resolution No. 12-2934 becoming the Successor Agency to the City of Montclair Redevelopment Agency ("Successor Agency"); and

**WHEREAS**, pursuant to Health and Safety Code Section 34179.7, the California Department of Finance ("DOF") issued a "finding of completion" to the Successor Agency; and

**WHEREAS**, thereafter, pursuant to Health and Safety Code Section 34191.5(b), the Successor Agency timely prepared, and the Oversight Board of the Successor Agency (the "Oversight Board") and DOF timely approved, a Long-Range Property Management Plan addressing the disposition and use of the real property of the dissolved Agency ("LRPMP"), which approvals took place on November 13, 2013, and February 12, 2014, respectively; and

**WHEREAS**, a Successor Agency-owned property located in the southeast quadrant of Ramona Avenue and State Street ("subject site") is identified as a property for disposition by sale in the LRPMP; and

**WHEREAS**, the Oversight Board authorized appraisal of the subject site on July 8, 2015, and the Successor Agency received the completed appraisal on October 6, 2015; and

**WHEREAS**, Successor Agency staff issued a Request for Proposals from the public for the acquisition and development of the subject site on November 11, 2015, with submission of responses to the Request for Proposals due to the Successor Agency by January 19, 2016; and

**WHEREAS**, Successor Agency staff received two responses to the Request for Proposal that City staff evaluated in accord with the selection criteria identified in the Request for Proposals; and

**WHEREAS**, based upon the cumulative ratings of staff to the responses to Request for Proposals the selection of Bill Fox to pursue acquisition and development of the subject site is recommended; and

**WHEREAS**, the Successor Agency has reviewed the Request for Proposals, responses to the Request for Proposals, recommendations by staff and staff report; and

**WHEREAS**, pursuant to Health and Safety Code Section 34179(h)(1)(D) as modified per SB 107, oversight boards are not required to submit "[t]ransfers of governmental property pursuant to an approved long-range property management plan" to DOF for approval; and

**WHEREAS**, this Resolution's purpose is to commence the process that the Successor Agency Board hopes will affect the transfer of the subject site to Bill Fox pursuant to the LRPMP and specific terms and conditions to be negotiated consistent with his complete response to the Request for Proposals (the "Fox Proposal"), including but not limited to a purchase price of one million five hundred twenty-nine thousand five hundred dollars (\$1,529,500.00).

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

**Section 1.** The foregoing Recitals are incorporated into this Resolution by this reference and constitute a material part of the Resolution.

**Section 2.** After review of the Request for Proposals, responses to the Request for Proposals, recommendations by staff and staff report, the Successor Agency finds the Fox Proposal to be most the advantageous option for sale of the subject site available to the taxing agencies in keeping with Section 34177(e) of the Health and Safety Code that states the successor agency is required to dispose of assets and "the disposal is to be done expeditiously and in a manner aimed at maximizing value."

**Section 3.** The Successor Agency recommends the Oversight Board select the Fox Proposal as most compliant with Section 34177(e) of the Health and Safety Code.

**Section 4.** The Successor Agency recommends that Oversight Board instruct staff to complete documentation of the final purchase terms, definitions, and conditions of sale and develop a mutually acceptable Purchase and Sale Agreement ("PSA") consistent with the Fox Proposal.

**Section 5.** This approval by the Oversight Board would authorize staff to negotiate the PSA, and future Successor Agency and Oversight Board action will be necessary to consummate the sale of the subject site to Bill Fox pursuant to a PSA.

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

**Section 7.** The approval of this Resolution does not result in any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

**Section 8.** This Resolution shall be effective upon its adoption and certification.

**APPROVED AND ADOPTED** this XX day of XX, 2016.

**ATTEST:**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Deputy City Clerk, Acting as  
Secretary to the Successor to the City of  
Montclair Redevelopment Agency

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, acting as Successor to the Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 16-02 was duly adopted by the City Council acting as Successor to the Redevelopment Agency Board of Directors at a regular meeting thereof held on the XX day of XX, 2016, 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,  
Acting as Secretary to the Successor to the  
City of Montclair Redevelopment Agency

**MINUTES OF THE MEETING OF THE MONTCLAIR  
CODE ENFORCEMENT/PUBLIC SAFETY COMMITTEE  
HELD ON TUESDAY, FEBRUARY 16, 2016, AT  
6:15 P.M. IN THE CITY HALL CONFERENCE ROOM,  
5111 BENITO STREET, MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Pro Tem Raft called the meeting to order at 6:15 p.m.

**II. ROLL CALL**

Present: Mayor Paul Eaton, 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, Building Official Westerlin, City Attorney Robbins, Senior Code Enforcement Officer Fondario.

**III. APPROVAL OF MINUTES**

A. Minutes of Code Enforcement Committee Meeting of January 19, 2016

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of January 19, 2016.

**IV. PUBLIC COMMENT**

None.

**V. OLD BUSINESS**

None.

**VI. NEW BUSINESS**

1. Potential demolition of SFR at 5480 San Jose Street (CE).

Building Official Westerlin provided the Committee a copy of a letter from the owner and a copy of a report from a structural engineer based on his inspection of the property. Due to extensive water rot and termite damage and an unstable foundation, it would be more feasible to demolish and rebuild than to attempt to rehabilitate the residence. The owner has been working with Wells Fargo Bank and is awaiting their loan determination whether it will be a demolish-and-

rebuild or a renovation.

2. Mayor Pro Tem Raft received a complaint from a resident at Briarwood Manor on Exeter Avenue regarding bed bugs and possibly other bug problems. Senior Code Enforcement Officer Fondario stated that he and other Code Enforcement staff visited the site and have been in contact with Briarwood management, which is doing everything they can to resolve the problems.

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

1. Senior Code Enforcement Officer Fondario updated the Committee on several problem properties, sharing copies of citations and photos.

#### **VIII. NEXT MEETING**

The next meeting is scheduled for Monday, March 21, 2016, at 6:15 p.m. in the City Hall Conference Room.

#### **IX. ADJOURNMENT**

At 6:30 p.m., Mayor Pro Tem Raft adjourned the Code Enforcement/ Public Safety Committee.

Submitted for Code Enforcement/  
Public Safety Committee approval,



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Laura Embree  
Recording Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON TUESDAY,  
FEBRUARY 16, 2016, AT 8:34 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Pro Tem Raft called the meeting to order at 8:34 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 February 1, 2016.**

Moved by City Manager Starr, seconded by Mayor Pro Tem Raft, and carried unanimously to approve the minutes of the Personnel Committee meeting of February 1, 2016.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**

At 8:35 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 8:48 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Raft stated that no announcements would be made at this time.

**VI. ADJOURNMENT**

At 8:48 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,

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Edward C. Starr  
City Manager

**MINUTES OF THE REGULAR MEETING OF THE PUBLIC  
WORKS COMMITTEE HELD ON THURSDAY, FEBRUARY 18,  
2016, AT 4:00 P.M. IN THE CITY MANAGER CONFERENCE  
ROOM, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Chair Raft called the meeting to order at 4:02 p.m.

**II. ROLL CALL**

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

Absent: Facilities and Grounds Superintendent McGehee.

**III. APPROVAL OF MINUTES**

The Public Works Committee approved the minutes of the Public Works Committee Meeting of January 21, 2016.

**IV. PUBLIC COMMENT**

None at this time.

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

**A. OPERATIONS**

**1. HOLT BOULEVARD AND SAN ANTONIO CHANNEL (HOMELESS)**

Public Works Superintendent Mendez met with Police Sergeant Matthew Borra, Army Corps of Engineers Personnel, and a construction engineer to analyze a solution to deter individuals from entering the City's portion under the San Antonio Channel Wash. It was determined to fill in this section with concrete after homeless individuals were caught once again living in the prohibited area. A cost was estimated from \$20,000 to \$30,000 for labor and materials from the engineering company. Committee Member Eaton recommended completing this project in-house. Mr. Mendez will verify appropriate funding for materials in the Public Works budget and notify the Committee with future updates.

**B. FACILITIES AND GROUNDS**

There were no questions or issues with the maintenance activities report.

C. ENGINEERING DIVISION ITEMS

1. SEWER EASEMENT AT BROOKS STREET BETWEEN RAMONA AVENUE AND MONTE VISTA AVENUE (ADD ON)

A handout was provided to Committee Members with a marked green line providing the location of the sewer easement of Brooks Street from Ramona Avenue to Monte Vista Avenue where the City had issued encroachment permits. An issue arose as a new property was sold. The property owner attempted to acquire title insurance but was denied due to portions of the property encroaching within the sewer easement. The reason the insurance was denied is that the City can revoke the permits at any time without notice. The building itself does not encroach within the easement but contains a staircase and door entrance that is within the easement. The property owner is requesting the City to vacate this easement in order to obtain title insurance.

Mr. Hudson stated that this easement has no use to the City and recommend vacating the easement at the request of any of the property owners on Brooks Street.

The Committee was asked if there were any objections to vacating this easement and Committee Member Eaton stated that he has no issue.

There is no process for vacating this type of easement. Mr. Hudson will follow the Streets and Highways Code to vacate this easement. A summary vacation will be processed; meaning that there will be no improvements in the easement and no public use of this land. The City will not be required to hold a public hearing, but action must be taken by Council to process the vacation. Records will then be updated by the County.



**VI. POLICE DEPARTMENT UPDATES/ITEMS**

No Items at this time.

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

**A. MONTCLAIR SHOPPES UPDATE ON STARBUCKS (ADD ON)**

Committee Member Eaton asked how Starbucks was progressing. Director of Community Development Lustro stated that Starbucks drive thru has been busy every time he passes by. The inside of the retail coffee shop was well constructed and after all construction is complete Starbucks could gain greater business.

**VIII. CAPITAL PROJECT UPDATES**

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

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

The 95% plan submittal for this project was complete at the end of last year for the final review by San Bernardino Associated Governments (SANBAG), SANBAG's construction manager, and the City. The consultant has received comments back to incorporate into the final plans which will be complete by the end of February. All the utility companies are currently working on plans to relocate their utilities, allowing the City to obtain the right-of-way certification from the California Department of Transportation (Caltrans) in order to advertize this project. The City is also nearly ready to submit plans, specifications, and cost estimate certification for approval by Caltrans. Once the construction and maintenance agreement is reached between the City, SANBAG, and Union Pacific Railroad, the City will be discussing plans to purchase the right-of-way from Union Pacific Railroad. Mr. Hudson stated that this project is progressing exceptionally well.

**B. RECREATION BUILDING REMODEL-PHASE TWO WEIGHT ROOM**

Rasmussen Brothers Construction Inc., began breaking up concrete with a bobcat on February 19, 2016. An issue arose as conduit power was found and a breaker had to be shut off. The power source contained another circuit that ran electricity to main work stations and the Recreation Building. Information Technology staff quickly ran temporary extension cords to regain power before the demo continued. This project is expected to be completed in two months and will triple the size of the existing community fitness center.

C. CENTRAL AVENUE/SAN BERNARDINO STREET TRAFFIC SIGNAL

Construction continues after a temporary break at the end of last year. On February 17, 2016 directional boring began for the installation of new conduit.

D. REEDER RANCH

City Staff discovered water leaks in irrigation lines and hose bibs were turned on. Two hose lines were cut: one located in the back of the barn and the other to the west of the house and evidence of individuals tampering with water lines. Public Works Staff will replace the hose bibs with a lockable type to prevent further issues. Jeffery Wheeler, Public Works Maintenance Worker, evaluated the water lines and repaired most of the water leaks. Mr. Wheeler noticed a majority of valves are leaking with no repair kit installed. Public Works staff stated that the valves can be repaired or replaced if the cost is approved by City Council.

City Council approved a new roof to be funded from the Community Development Block Grants (CDBG) with the bidding process to proceed at the start of the next fiscal year.

E. GOLD LINE

Email exchanges between SANBAG and the Foothill Gold Line Construction Authority have been taking place recently with City Staff regarding the dollar amount of construction associated to the Gold Line in San Bernardino County. Last year, the Construction Authority previously estimated the design and construction to be \$55 million and SANBAG estimated the cost to be \$75 million. After segment 2A was completed, segment 2B which includes portions in San Bernardino County had a decreased dollar amount; SANBAG came up with \$38.4 million and Construction Authority estimated cost is \$36 million. More realistic figures were reported this year than last with funding still a concern.

An update on the Gold Line was presented at the February 4<sup>th</sup>, Council Meeting. SANBAG is going to act as lead and prepare the application to submit to the Construction Authority before the April 4<sup>th</sup> deadline for the funding of the cycle 2016-17. California State Transportation Agency (CalSTA) is hosting a meeting at the District 7 office in Los Angeles. City staff will make the proper arrangement to attend.

**IX. OTHER ITEMS**

A. ALMA HOFFMAN PARK ADDITIONAL LIGHTING (ADD ON)

Mr. Lizamo is requesting the City place additional lighting at Alma Hoffman Park. Mr. Lizamo stated at the last Council meeting that he coaches soccer at the park and siblings of the soccer players use the playground area, which needs additional lighting at night. This

resident had been seen hiding goal posts near the tennis courts and City Staff has noticed organized soccer on Sundays. Staff recommended utilizing the fields at Montera Elementary School which the City had paid for or Saratoga Park. City Manager Starr stated that organized sports played on City property places a liability on the City. If Mr. Lizamo continues to coach organized soccer then he must have a contract with the City.

**B. MONTCLAIR SKATE PARK AGE RESTRICTIONS (ADD ON)**

Legislation states that children have to be aged 12 years or older to use Montclair Skate Park. City Staff had seen children under the age of 12 without guardians and not wearing helmets. Signage at Montclair Skate Park prohibits children under age 14 to use the facility. This has been an ongoing issue that the City Attorney will need to address. The Committee will be updated after the next Task Force Meeting with recommendations made by Task Force Staff and the City Attorney.

**X. ADJOURNMENT**

The next meeting of the Public Works Committee will be at 4:00 p.m. on March 17<sup>th</sup>, 2016, if there are items that need to be discussed.

At 4:32 p.m., Chair Raft adjourned the meeting.

Submitted for Public Works Committee approval,

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

Cenica Smith  
Transcribing Secretary