

**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 21, 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 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 endorse any particular religious belief or form of invocation.

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

- A. Proclamation Declaring April 2016 as "DMV/Donate Life California Month" in the City of Montclair
- B. Presentation of Plaque Recognizing a Holiday Food and Toy Program Donor

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 (Acting Bodies). (Government Code Section 54954.3)

Under the provisions of the Brown Act, the Acting Bodies are prohibited from taking action on items not listed on the agenda.

VII. PUBLIC HEARINGS

- A. 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

(item VII-A continued on next page)

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 Sub-division 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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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 March 7, 2016 [CC/SA/MHC/MHA/MCF]

B. Administrative Reports

1. Consider Receiving and Filing of Treasurer's Report [CC] 20
2. Consider Approval of Warrant Register and Payroll Documentation [CC] 21
3. Consider Receiving and Filing of Treasurer's Report [SA] 22
4. Consider Approval of Warrant Register [SA] 23
5. Consider Receiving and Filing of Treasurer's Report [MHC] 24
6. Consider Approval of Warrant Register [MHC] 25
7. Consider Receiving and Filing of Treasurer's Report [MHA] 26
8. Consider Approval of Warrant Register [MHA] 27

C. Agreements

1. Consider Approval of Agreement No. 16-24 Ratifying the Terms and Conditions of Employment Between the City of Montclair and Management Employees [CC] 28
2. Consider Approval of Agreement No. 16-25 Ratifying the Terms and Conditions of Employment Between the City of Montclair and Executive Management Employees [CC] 30
3. Consider Approval of Agreement No. 16-26 with San Bernardino County Department of Public Health to Evaluate Activities Related to the Healthy Montclair Initiative in an Effort to Enhance Local Efforts to Improve Community Health [CC]

(item C-3 continued on next page)

Consider Authorizing City Manager Edward C. Starr to Sign the Agreement on Behalf of the City [CC] 32

4. Consider Approval of Agreement No. 16-27 with Margaret Cartwright to Support the Montclair Online to College Program [MCF] 45

5. Consider Approval of Agreement No. 16-28, a Purchase and Sale Agreement Between the City of Montclair and Cynthia L. Cox, a Married Woman, for Purchase of 4304 and 4324 Kingsley Street [CC]

Consider Authorization of a \$732,000 Appropriation in 2014 Lease Revenue Bond Funds for Acquisition and Demolition Expenses [CC]

Consider Authorizing the City Manager to Sign All Escrow Documents Related to Acquisition of the Properties [CC] 51

D. Resolutions - None

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Department Reports

1. Public Works Department

a. Signal Modification Update — San Bernardino Street and Central Avenue Intersection

2. Human Services Department

a. Human Services Events

B. City Attorney

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 Personnel Committee Meeting of March 7, 2016 84

XII. COUNCIL WORKSHOP

A. Police Department Update

(The City Council may consider continuing this item to an adjourned meeting on Monday, April 4, 2016, at 5:45 p.m. in the City Council Chambers.)

XIII. ADJOURNMENT OF CITY COUNCIL, SUCCESSOR AGENCY BOARD OF DIRECTORS, MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS, MONTCLAIR HOUSING AUTHORITY COMMISSIONERS, AND MONTCLAIR COMMUNITY FOUNDATION BOARD OF DIRECTORS

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, April 4, 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 Acting Bodies after distribution of the Agenda packet are available for public inspection in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the 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 on March 17, 2016.

AGENDA REPORT

SUBJECT: CONSIDER 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)"

DATE: March 21, 2016

SECTION: PUBLIC HEARINGS

ITEM NO.: A

FILE I.D.: GPL100/LDA300/LDU600

DEPT.: COMMUNITY DEV.

CONSIDER 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)

CONSIDER 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

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 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

Prepared by: Steve Lustrro Fiscal Impact Finance Review: Donald L. Parker

Proofed by: Diana Embree Reviewed and Approved By: Steve Lustrro

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 components of the project are as follows:

General Plan Amendment

The applicant is requesting that the General Plan designation for the northerly 2.30 acres of the site be changed from "General Commercial" to "Medium Density Residential" (8-14 dwelling units per acre), and that the southerly 2.30 acres be changed from "General Commercial" to "Low Density Residential" (3-7 dwelling units per acre).

Zoning Map Amendment

The applicant is also requesting an amendment to the City's Official Zoning Map for the northerly 2.30 acres of the property to be changed from the current "C-2" (Restricted Commercial) designation to "R-3" (Medium-High Density Residential), and for the southerly 2.30 acres to be changed from "C-2" to "R-1" (Single-Family Residential).

Tentative Tract Map

To facilitate development of the property, the applicant is requesting approval of Tentative Tract Map Nos. 19926 and 19926-1, the former creating a single lot for residential condominium purposes, along with associated common areas for driveways, parking areas, landscaped areas, walkways, and common area facilities, and the latter subdividing the southerly 2.30 acres into nine single-family lots that would be accessed via the southerly extension of Carlton Street into a formal cul-de-sac.

History

The subject property was annexed into the City of Montclair in October 2006 as part of Annexation No. 26. The 4.60-acre site is currently developed with a 19,000 square-foot commercial building originally constructed in 1966 for use as a grocery store and expanded to the south sometime between 1967 and 1973; however, other than a small portion of the building being used for a short time as a Mexican restaurant, the building and property have been vacant and largely unused for most of the past 20 years. Like many other parcels along Mission Boulevard, it has historically carried "Commercial" General Plan and zoning designations. However, because the bulk of east-west commuter traffic has shifted away from main arterial roadways like Mission Boulevard (and Holt Boulevard) to Interstate 10 and State Route 60 over the past few decades, land uses along the south side of Mission Boulevard have gradually changed to less intensive uses. While attempts have been made over the past decade to locate various commercial and institutional uses in the former grocery store building, none have been successful either because staff would not support them due to their potential incompatibility with surrounding uses or because the owners and/or tenants have been unwilling to invest sufficiently into the property for it to meet current minimum development standards.

The area immediately to the east of the subject site is zoned "R-1" and is developed with single-family homes constructed in the mid-2000s. The property is surrounded on the west by an upholstery shop and single-family residences, and on the south by a commercial plant nursery.

ANALYSIS: As indicated above, the applicant has unsuccessfully attempted over an extended period of time to attract viable commercial development interest to the property. Staff supports the change in land use designation of the site for a number of reasons, including the fact that the mid-block property is less attractive to commercial credit tenants than would be a location at a major, signalized intersection and that a precedent has been established over the past decade with respect to converting mid-block properties on the south side of Mission Boulevard from commercial to residential use with excellent results. Accordingly, staff supports the applicant's requests to amend the General Plan Land Use Map and the City's Official Zoning Map to accommodate the proposed development. At 9.56 units per acre, the condominium portion of the project is consistent with the General Plan's "Medium Density Residential" designation, which calls for 8 to 14 dwelling units per acre. Similarly, the proposed density complies with Chapter 11.22 of the Montclair Municipal Code, which allows for a density up to 20 units per acre on parcels of five acres or less. Likewise, the proposed single-family portion of the development, at just fewer than four units per acre, is consistent with the "Low Density Residential" designation of the General Plan, which calls for 3 to 7 units per acre.

Staff also supports the applicant's request for the associated Tentative Tract Maps to accommodate the development. Unlike "first generation" condominiums characterized by multiple dwelling units sharing common walls within a single building, the proposed condominium portion of the project is designed more akin to a traditional zero-lot line development where each dwelling unit is detached from the neighboring unit. While a homeowners association would be established for the purpose of maintaining the community's common area landscaping, driveways, parking areas, and recreational facilities, each property owner would be responsible for maintaining the exterior of their respective residences, including paint and roofs, in compliance with the community's Covenants, Conditions, and Restrictions (CC&Rs). The Tentative Tract Map for the detached, single-family residences indicates compliance with the minimum standards outlined in Chapter 11.18 MMC, including lot size, width, depth, and setbacks.

Staff believes that the single ingress/egress point on Mission Boulevard for the condominium portion of the project is logical and will adequately serve the 22-unit residential development. The Montclair Fire Department required an emergency access gate be constructed at the southerly end of the main driveway. This gate would be locked closed at all times and not available to residents for regular ingress and egress. Because of its location along a major arterial roadway, staff supports the applicant's proposal to gate guard the community in order to limit access to residents and guests. Gate access for emergency responders will be required to be provided to the satisfaction of the Police and Fire Departments. Staff finds the 31 uncovered parking spaces, one more than is required by Chapter 11.22 MMC, to be sufficiently distributed throughout the project site. Twenty-two of the 31 spaces would be reserved and assigned to each of the residences, while the remaining nine spaces would be designated for guest parking. Staff included the standard condition in the PPD approval that resident spaces be appropriately designated through signage and/or curb/pavement stenciling as reserved parking and that the same be done for guest parking.

A number of configurations for the single-family subdivision layout have been discussed with the developer over a period of nearly two years, including single access points from Mission Boulevard or Carlton Street, or access from both streets. The submitted street configuration is logical, although the developer initially had concerns

about the aesthetic condition of some of the existing properties in the 4900 block of Carlton Street and their potential impact on sales of the new homes. However, the owner of the subject property acquired two adjacent properties on Carlton Street in 2015 and has made significant progress rehabilitating both properties, improving the general appearance of the street. Over the next few months, Code Enforcement staff will be directed to focus attention on any remaining appearance violations on the block so they do not have a negative impact on the proposed project.

Review Process

The Real Estate Committee considered the project 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.

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. Accordingly, consideration of the requested General Plan Amendment at tonight's Council meeting is in compliance with the approved schedule.

Precise Plan of Design

The Planning Commission conducted a public hearing on the requested entitlements 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. At the conclusion of the public hearing, the Planning Commission certified the environmental assessment, adopted a Mitigated Negative Declaration for the requested entitlements, and approved the associated Precise Plan of Design, including the site plan, floor plans, conceptual colors and materials, and conceptual landscape plan for the development, and unanimously recommended Council approval of the General Plan Amendment, Zoning Map Amendment, and Tentative Tract Maps.

FISCAL IMPACT: There would be no fiscal impact to the City's General Fund as a result of adoption of Resolution Nos. 16-3114 and 16-3115 and approval of Tentative Tract Map Nos. 19926 and 19926-1.

RECOMMENDATION: The Planning Commission and staff recommend the City Council take the following actions:

1. Adopt 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. Adopt 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. Approve 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.
4. Approve 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: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

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

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



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:

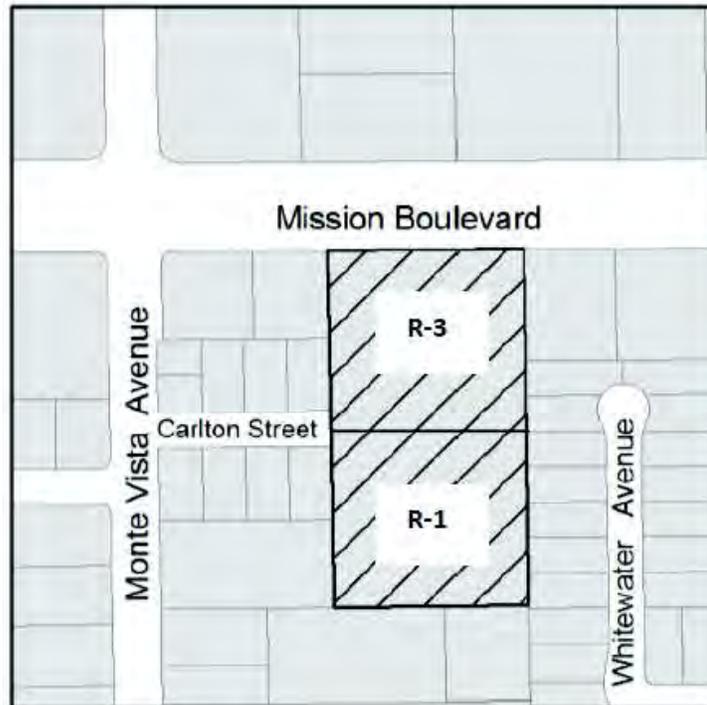
AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

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

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



LEGAL DESCRIPTION
 (01) A N. ALONG 21' OF JARVIS WASH. 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

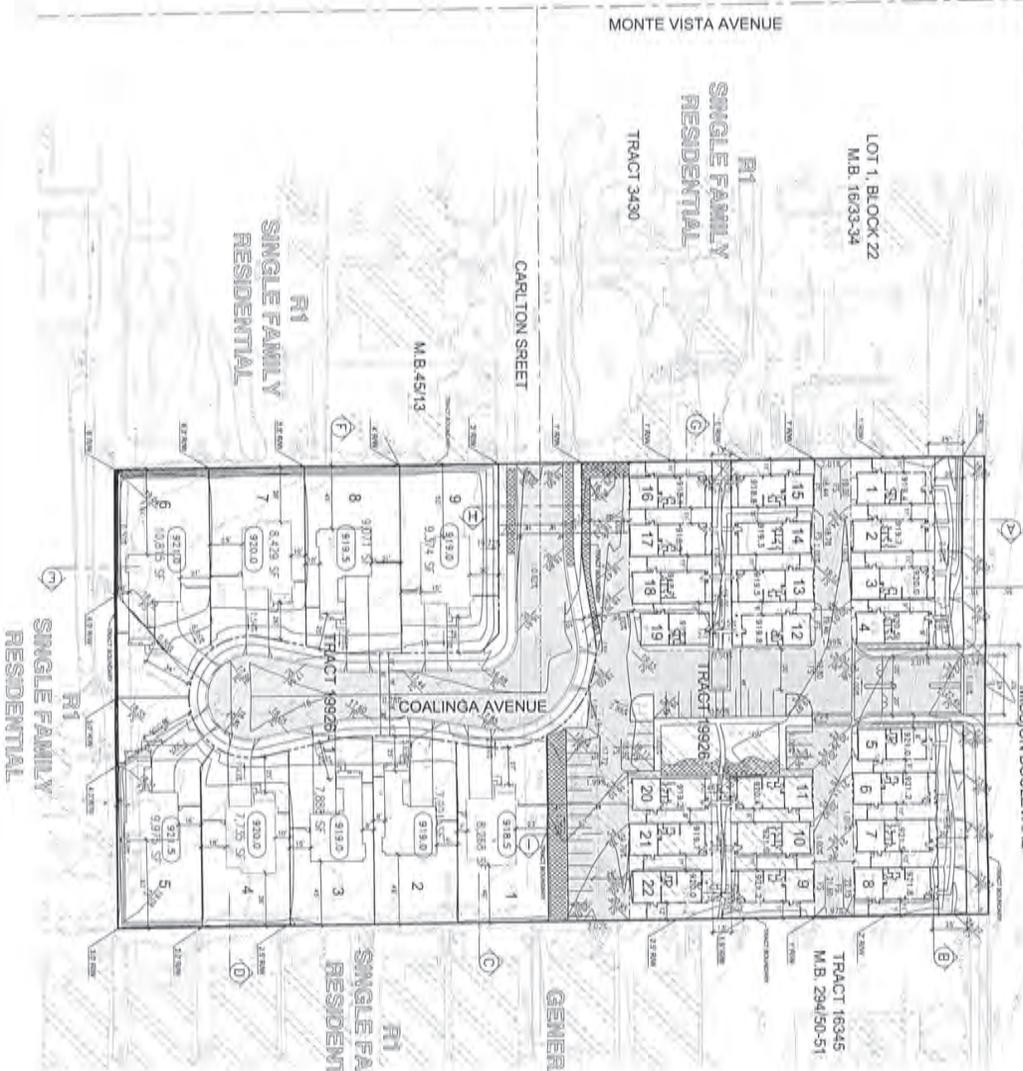
1. ALL DIMENSIONS ARE SHOWN UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
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9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
10. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

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 16, PAGES 33-34 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)



OWNER/CLIENT: CRESTWOOD CORPORATION
 530 W. CITRUS EDGE ST.
 GLENORA, CA 91740
 626.914.1943

DATE: 08/11/15

DESIGNER: ENGENEER ASSOCIATES, INC.
 10000 W. CENTRAL EXPRESSWAY, SUITE 200
 GLENORA, CA 91740
 626.335.9320

LAND SURVEYOR: JERRY L. ANDERSON, LICENSED LAND SURVEYOR
 10000 W. CENTRAL EXPRESSWAY, SUITE 200
 GLENORA, CA 91740
 626.335.9320

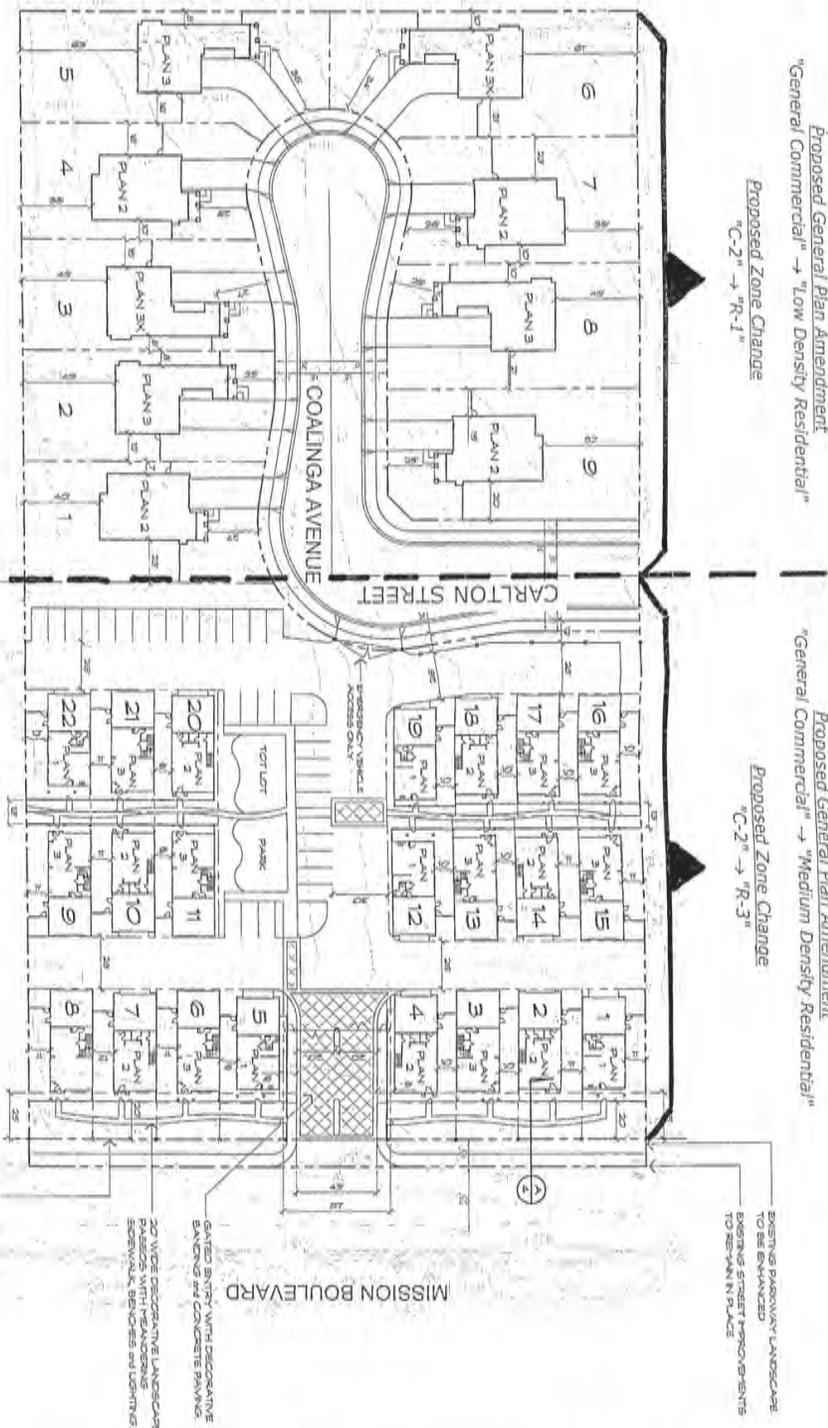
LOCAL AGENCY: SAN BERNARDINO COUNTY
 1000 W. CENTRAL EXPRESSWAY, SUITE 200
 GLENORA, CA 91740
 626.335.9320

SHEET INDEX
 1 TENTATIVE TRACT MAP
 2 DETAILS AND SETTINGS

LEGEND

- 1. LOT LINE
- 2. PROPERTY CORNER
- 3. EASEMENT
- 4. EASEMENT
- 5. EASEMENT
- 6. EASEMENT
- 7. EASEMENT
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- 48. EASEMENT
- 49. EASEMENT
- 50. EASEMENT

<p>DEVELOPER</p> <p>CRESTWOOD CORPORATION</p> <p>510 W. CITRUS EDGE ST. GLENORA CA 91740 626.914.1943/FAX 626.335.9320</p>	<p>GRAPHIC SCALE</p> <p>1" = 40' FT</p> <p>1" = 80' FT</p>		<p>ENCLOSURE ASSOCIATES, INC.</p>	<p>TENTATIVE TRACT 19926</p>											
				<p>TENTATIVE TRACT MAP</p>											
<p>VERSION HISTORY</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>08/11/15</td> <td>INITIAL DESIGN</td> </tr> <tr> <td>2</td> <td>08/11/15</td> <td>REVISED DESIGN</td> </tr> <tr> <td>3</td> <td>08/11/15</td> <td>FINAL DESIGN</td> </tr> </table>		NO.	DATE	DESCRIPTION	1	08/11/15	INITIAL DESIGN	2	08/11/15	REVISED DESIGN	3	08/11/15	FINAL DESIGN	<p>SHEET OF</p> <p>1 2</p>	
NO.	DATE	DESCRIPTION													
1	08/11/15	INITIAL DESIGN													
2	08/11/15	REVISED DESIGN													
3	08/11/15	FINAL DESIGN													



TRACT 19926-1
R1 ZONING

TRACT 19926
R3 ZONING



PROJECT TITLE Tract 19926 & 19926-1 - Precise Plan of Design	THESE PLAN DRAWINGS ARE PROPRIETARY DOCUMENTS OF Crestwood Communities THEY ARE NOT TO BE REPRODUCED, PUBLISHED OR REBROUDED WITHOUT WRITTEN CONSENT. UNAUTHORIZED REPLICATION OF THESE PLANS IN WHOLE OR IN PART IS STRICTLY PROHIBITED.	PROJECT NO. CRESTWOOD COMMUNITIES 20001 502 LANDCAP ARCHITECT 1515 1/2 S GENE STREET BURENDA CA 91716 (951) 674-1900	DESIGNER BY RECORD MIKE YEOMAN CIVIL ENGINEER 331 ALABAMA STREET, SUITE F RINDLAND, CALIFORNIA 92373 (951) 743-0899	CLIENT Montclair 20 TRACT 19926 CRESTWOOD COMMUNITIES 4375 MISSION BLVD MONTCLAIR, CA 91702 (925) 514-1943	REVISION DATE COMMENTS PER CITY PLAN CHECK
	DATE 08/18/2014	DRAWN BY 3	PROJECT SITE PLAN	SCALE: 1/4" = 30'	REVISION DATE COMMENTS

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: March 21, 2016

SECTION: ADMIN. REPORTS

ITEM NO.: 1

FILE I.D.: FIN520

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending February 29, 2016, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending February 29, 2016.

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

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending February 29, 2016.

Prepared by:

Janet Kuelbeck

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION **DATE:** March 21, 2016
SECTION: ADMIN. REPORTS
ITEM NO.: 2
FILE I.D.: FIN540
DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated March 21, 2016, and the Payroll Documentation dated March 6, 2016, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated March 21, 2016, totals \$982,085.31. The Payroll Documentation dated March 6, 2016, totals \$575,705.18 gross, with \$402,360.47 net being the total cash disbursement.

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

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: March 21, 2016

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: FIN510

DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending February 29, 2016, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending February 29, 2016.

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

RECOMMENDATION: Staff recommends the City Council acting as Successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending February 29, 2016.

Prepared by:

Michael Piotrowski

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M. Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** March 21, 2016
SECTION: ADMIN. REPORTS
ITEM NO.: 4
FILE I.D.: FIN530
DEPT.: SUCCESSOR RDA

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending February 29, 2016, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 02.01.16-02.29.16 in the amounts of \$43,439.36 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending February 29, 2016.

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: March 21, 2016

SECTION: ADMIN. REPORTS

ITEM NO.: 5

FILE I.D.: FIN525

DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending February 29, 2016, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending February 29, 2016.

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

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending February 29, 2016.

Prepared by:

Michael Piotrowski

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M. Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** March 21, 2016
SECTION: ADMIN. REPORTS
ITEM NO.: 6
FILE I.D.: FIN545
DEPT.: MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending February 29, 2016, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 02.01.16-02.29.16 in the amount of \$55,386.98 for the Montclair Housing Corporation and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending February 29, 2016.

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: March 21, 2016

SECTION: ADMIN. REPORTS

ITEM NO.: 7

FILE I.D.: FIN525

DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending February 29, 2016, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending February 29, 2016.

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

RECOMMENDATION: Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending February 29, 2016.

Prepared by:

Michael Piotrowski

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Andrea M. Phillips

Reviewed and
Approved By:

Donald L. Parker

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** March 21, 2016
SECTION: ADMIN. REPORTS
ITEM NO.: 8
FILE I.D.: FIN545
DEPT.: MHA

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending February 29, 2016, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 02.01.16-02.29.16 in the amount of \$2,655.00 for the Montclair Housing Authority and finds it to be in order.

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

RECOMMENDATION: Vice Chairperson Raft recommends the Montclair Housing Authority Board of Directors approve the Warrant Register for the period ending February 29, 2016.

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

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 16-24 RATIFYING THE TERMS AND CONDITIONS OF EMPLOYMENT BETWEEN THE CITY OF MONTCLAIR AND MANAGEMENT EMPLOYEES	DATE: March 21, 2016 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: MAN500 DEPT.: ADMIN. SVCS.
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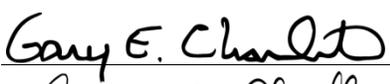
REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 16-24 ratifying the terms and conditions of employment between the City of Montclair and management employees.

A copy of proposed Agreement No. 16-24 is included in the agenda packets for the City Council's review and consideration.

BACKGROUND: The City of Montclair and management employees have reached agreement on the provisions related to the terms and conditions of employment. Proposed Agreement No. 16-24 shall be effective upon date of ratification by the City Council for the period July 1, 2015, through June 30, 2016. After June 30, 2016, the existing terms, conditions, and provisions of the proposed Agreement 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 Agreement.

Following is a summary of the changes in proposed Agreement No. 16-24 related to the terms and conditions of employment:

- Article 1: Change of Agreement number.
 - Article 4: Addition of Senior Management Analyst classification.
 - Article 6 (Section 6.01): This change relates to a 3 percent cost of living salary adjustments provided to employees in management classifications effective November 22, 2015.
 - Article 7 (Section 7.01): The change relates to an increase in the benefit fund contribution for employees in management classification from \$975 to \$1,025 per month effective December 2015.
 - Article 13 (Section 13.09): The change relates to the authorization for management employees to have one-fourth (1/4) of unused management leave converted to reportable compensation at the end of each fiscal year.
-
-

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

- Article 43: The change relates to the term of the Agreement.

FISCAL IMPACT: There is no fiscal impact associated with ratifying proposed Agreement No. 16-24 between the City of Montclair and management employees other than what has been included in the Fiscal Year 2015-16 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 16-24 ratifying the terms and conditions of employment between the City of Montclair and management employees.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 16-25 RATIFYING THE TERMS AND CONDITIONS OF EMPLOYMENT BETWEEN THE CITY OF MONTCLAIR AND EXECUTIVE MANAGEMENT EMPLOYEES	DATE: March 21, 2016 SECTION: AGREEMENTS ITEM NO.: 2 FILE I.D.: EXM100 DEPT.: ADMIN. SVCS.
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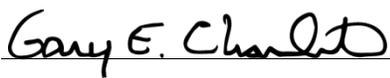
REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 16-25 ratifying the terms and conditions of employment between the City of Montclair and executive management employees.

A copy of proposed Agreement No. 16-25 is included in the agenda packets for the City Council's review and consideration.

BACKGROUND: The City of Montclair and executive management employees have reached agreement on the provisions related to the terms and conditions of employment. Proposed Agreement No. 16-25 shall be effective upon date of ratification by the City Council for the period July 1, 2015, through June 30, 2016. After June 30, 2016, the existing terms, conditions, and provisions of the proposed Agreement 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 Agreement.

Following is a summary of the changes in proposed Agreement No. 16-25 related to the terms and conditions of employment:

- Article 1: Change of Agreement number.
- Article 6 (Section 6.01): This change relates to a 3 percent cost of living salary adjustments provided to employees in executive management classifications effective November 22, 2015.
- Article 7 (Section 7.01): The change relates to an increase in the benefit fund contribution for employees in executive management classification from \$975 to \$1,025 per month effective December 2015.
- Article 13 (Section 13.09): The change relates to the authorization for executive management employees to have one-fourth (1/4) of unused management leave converted to reportable compensation at the end of each fiscal year.
- Article 41: The change relates to the term of the Agreement.

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

FISCAL IMPACT: There is no fiscal impact associated with ratifying proposed Agreement No. 16-25 between the City of Montclair and executive management employees other than what has been included in the Fiscal Year 2015-16 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 16-25 ratifying the terms and conditions of employment between the City of Montclair and executive management employees.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 16-26 WITH SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC HEALTH TO EVALUATE ACTIVITIES RELATED TO THE HEALTHY MONTCLAIR INITIATIVE IN AN EFFORT TO ENHANCE LOCAL EFFORTS TO IMPROVE COMMUNITY HEALTH

CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

DATE: March 21, 2016

SECTION: AGREEMENTS

ITEM NO.: 3

FILE I.D.: HSV042

DEPT.: HUMAN SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 16-26 establishing the collaborative effort of the Healthy Montclair Initiative and the San Bernardino County Department of Public Health to evaluate activities in an effort to enhance local efforts to improve community health.

A copy of Agreement No. 16-26 is attached for the City Council's review and consideration.

BACKGROUND: The City of Montclair was one of the first cities in California to be designated a Healthy City from California Healthy Cities and Communities, an initiative of Center for Civic partnerships in 1998. Also, the City of Montclair was one of the first cities in 2006 to join efforts with the County Department of Public Health to begin a county-wide Healthy Communities effort. Since this time, the Healthy Montclair Initiative has flourished and through a convening of stakeholders throughout the community, the focus areas of the initiative were established which include increasing access to healthy food, physical activity and health care. Recent accomplishments of the Healthy Montclair Initiative include:

- In November 2014, Healthy Montclair, YWCA Inland Communities and PlaceWorks presented at the Southern California Public Health Association Annual Conference in Los Angeles on Using Healthography to Define a Healthy Montclair.
- In May 2015, Healthy Montclair, in partnership with PlaceWorks and YWCA Inland Communities, received the Advancing Diversity and Social Change Award from the American Planning Association, Inland Empire Section.
- In June 2015, Healthy Montclair was one of 241 cities across the nation chosen to receive the Playful City USA designation, which honors cities that champion efforts to make play a priority through establishing policy

Prepared by: *M. Richter* Fiscal Impact
Finance Review: *Donald L. Parker*

Proofed by: *Vanessa Tom* Reviewed and
Approved By: *M. Richter*

initiatives, infrastructure investments and innovative programming which demonstrates a commitment to ensuring all kids get the balance of active play they need to thrive.

- The grand opening of the Montclair Community Garden took place in June 2015. Currently the garden is at capacity, and there is a waitlist of community members that are interested in becoming a community gardener.

The San Bernardino County Department of Public Health is embarking on a county-wide effort to evaluate and assess healthy community strategies, programs, policies and other efforts. The City and the County Department of Public Health have a history of collaborating on several programs and strategies through the Healthy Montclair initiative. This evaluation effort will further our collaborative efforts to enhance our local programs and policies.

FISCAL IMPACT: Approval of proposed Agreement No. 16-26 would have no direct fiscal impact on the City's General Fund.

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

1. Approve Agreement No. 16-26 with San Bernardino County Department of Public Health to evaluate activities related to the Healthy Montclair Initiative in an effort to enhance local efforts to improve community health.
2. Authorize City Manager Edward C. Starr to sign the agreement on behalf of the City.

MEMORANDUM OF UNDERSTANDING
BETWEEN
COUNTY OF SAN BERNARDINO DEPARTMENT OF PUBLIC HEALTH
AND
THE CITY OF MONTCLAIR

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into by and between County of San Bernardino Department of Public Health (COUNTY) and the City of Montclair (CITY), with references to the following facts:

RECITALS

WHEREAS, COUNTY and CITY have complementary objectives to promote healthy communities; and

WHEREAS, COUNTY has an interest in long-term change strategies to prevent disease and to improve overall population health and safety; and

WHEREAS, CITY has a history of collaborating on several programs, policies, systems, and environmental change strategies with the COUNTY through its “Healthy Communities” initiative; and

WHEREAS, both COUNTY and CITY have an interest in assessing the public health impacts of these strategies; and

WHEREAS, both COUNTY and CITY have an interest in enhancing local efforts to improve community health;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows, and in any exhibits or attachments attached hereto and incorporated herein by reference.

1. SERVICES

- A. COUNTY shall provide services to evaluate and assess healthy community strategies, programs, policies, and other efforts currently being implemented by CITY and the Healthy Communities initiative. COUNTY will hire a third-party consultant (Consultant) to perform evaluation activities. Consultant will collaborate with COUNTY and CITY on meeting all Scope of Services set forth in Attachment A, attached hereto, and incorporated herein by reference.
- B. COUNTY and Consultant shall furnish labor necessary to perform in a complete, skillful, and professional manner all services described in Scope of Services, Attachment A. Overall coordination of evaluation efforts shall be undertaken by COUNTY and Consultant.

- C. CITY shall provide adequate cooperation with COUNTY to execute fully the Scope of Services described in Attachment A. COUNTY shall provide one primary contact to coordinate evaluation efforts with the City. CITY shall make meeting space and appropriate staff available for discussions with Consultant. CITY staff shall be able to respond to questions pertaining to CITY's healthy community efforts and be able to assist Consultant in determining accurate responses to the objectives specified in the Scope of Services Attachment A, Section B.
- D. CITY shall compile and provide copies of any public documents or records that will serve to document the City's healthy community efforts.
- E. Evaluation activities may require CITY's assistance with resident engagement, evaluation dissemination, and specific program collaboration.

2. **PERIOD OF PERFORMANCE**

This Agreement shall be effective upon execution by both parties and shall continue in effect through January 31, 2017, unless terminated as specified in Section 7, TERMINATION PROVISION.

3. **COMPENSATION**

No compensation will be exchanged between the parties. COUNTY shall offer the services indicated in the Scope of Services, Attachment A, to evaluate as well as assess local healthy community strategies. CITY shall support and provide venues in which COUNTY and Consultant will conduct evaluation. Such activities are in furtherance of the parties' shared goals to promote the health of the general population through organized community efforts.

4. **INDEPENDENT CONTRACTOR**

It is understood and agreed that COUNTY is independent of CITY and that no relationship of employer-employee exists between the parties hereto. Neither party's officers, agents, employees or subcontractors, shall be entitled to any benefits payable to employees of the other party, including Workers' Compensation Benefits.

5. **INDEMNIFICATION**

CITY agrees to defend, indemnify and hold harmless COUNTY, it's officers, employees, consultants, agents, and volunteers for any and all claims, losses, actions, damages and/or liability arising out of this agreement/contract from any cause whatsoever, including any costs or expenses incurred by COUNTY, except as prohibited by law.

COUNTY agrees to defend, indemnify and hold harmless CITY, its officers, employees, agents, and volunteers for any and all claims, losses, actions, damages and/or liability arising out of this agreement/contract from any cause whatsoever, including any costs or expenses incurred by CITY, except as prohibited by law.

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

6. **INSURANCE**

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

7. **TERMINATION PROVISION**

- A. Either party may terminate this Agreement, without cause, upon fifteen (15) days written notice served upon the other party.
- B. Should either party determine that there is a basis for termination for cause, such termination shall be effected upon five (5) days written notice to the other party.

8. **ALTERATION AND/OR AMENDMENT**

No alteration, amendment, or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties hereto, and authorized by the parties' respective governing boards, as applicable. No oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

9. **NONDISCRIMINATION**

CITY shall not discriminate on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, income, health status or age in the performance of this Agreement, and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the Fair Employment and Housing Act (commencing with Section 12900 *et seq.* of the Government Code), and Federal Civil Rights Act of 1964 (P.L. 88-352).

10. **CONFLICT OF INTEREST**

CITY shall have no interest, and shall not acquire any interest, direct or indirect, which will unlawfully conflict in any manner or degree with the performance of services required under this Agreement.

11. **NOTICES**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed delivered one day after their deposit in the United States mail, postage prepaid:

CITY:

Edward C. Starr
City Manager
City of Montclair
5111 Benito Street
Montclair, CA 91763
(909) 625-9474

COUNTY:

Trudy Raymundo
Public Health Director
San Bernardino County
Department of Public Health
351 N. Mt. View Avenue
San Bernardino, CA 92415
(909) 387-9146

or to such other address(es) as the parties may hereafter designate, in writing.

12. **ENTIRE AGREEMENT**

This Agreement, including all attachments, which are hereby incorporated in this Agreement, supersedes any and all other agreements, promises, negotiations or representations, either oral or written, between the parties with respect to the subject matter and period governed by this Agreement and no other agreement, statement or promise relating to this Agreement shall be binding or valid.

13. **COMPLIANCE WITH LAW**

The parties shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.

14. **CERTIFICATION OF AUTHORITY TO EXECUTE THIS AGREEMENT**

COUNTY certifies that the individual signing below has authority to execute this Agreement on behalf of COUNTY, and may legally bind COUNTY to the terms and conditions of this Agreement, and any attachments hereto.

CITY certifies that the individual signing below has authority to execute this Agreement on behalf of CITY, and may legally bind CITY to the terms and conditions of this Agreement, and any attachments hereto,

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this MOU in as set forth below.

**County of San Bernardino,
Department of Public Health**

CITY OF MONTCLAIR

By: _____
Trudy Raymundo
Public Health Director

Date: _____

By: _____
(Signature)

Edward C. Starr
(Type or Print Name)

City Manager
(Type or Print Title)

Date: _____

Scope of Services

County of San Bernardino Department of Public Health (“COUNTY”)

City of Montclair (“CITY”)

A. Evaluation Goals and Priorities

1. Goals

COUNTY’s Healthy Communities Program has been striving to improve community health in cities and unincorporated communities throughout the County since 2006. COUNTY is now seeking to evaluate the efficacy of local and sub-regional policy, systems, and environmental efforts; to adopt common strategies and metrics; and to help drive implementation of the 2015 – 2020 County Transformation Plan.

Evaluation goals include:

- a. Identify policies, systems, and environmental strategies in or by the CITY that demonstrate positive community health changes or outcomes.
- b. Identify political, leadership, organizational environments, cultures, or frameworks that foster long-term, sustainable commitments to community health.
- c. Recommend best practices that should be considered for adoption or adaptation by other jurisdictions throughout the County and opportunities for inter-city, intra-city, or regional collaboration.

B. Evaluation Objectives

For each activity and strategy identified, COUNTY will determine the following:

1. What is the desired outcome?
2. What is the primary target audience (i.e., demographics and socio-economic categories)?
3. How is each activity and strategy structured?
4. Who are the stakeholders and key players? Who was/needs to be involved to be successful?
5. What barriers or obstacles did/does each activity and strategy face?
6. What political, leadership, and organizational environments, cultures or frameworks exist that foster long-term, sustainable commitments to community health?
7. Does each activity or strategy have a budget? How is each activity and strategy funded (if applicable)? Does each activity and strategy leverage

different funding sources such as local, foundation, state, or federal dollars? Is current funding adequate to achieve the desired outcomes of the strategy?

8. What is the potential reach? Are adjacent jurisdictions also doing similar work? Is there potential for sub-regional collaboration?
9. If the activity and strategy is an individual program or isolated activity, how could the activity or strategy be adapted or scaled to support or drive systemic efforts or change?
10. Is each activity and strategy a policy, systems, or environmental-change? What other stakeholders, sectors, organizations, or resident/community groups are or need to be involved to make each activity or strategy a true systems-based approach?
11. What data supports the need for the activity?
12. What data or evidence supports the efficacy of the activity?
13. How does each activity and strategy align with San Bernardino County's Community Vital Signs Community Transformation Plan?

D. Evaluation Milestones and Deliverables

Evaluation of CITY's healthy community efforts will involve the following milestones, deliverables and performance measures:

1. Plan Development

COUNTY will develop a comprehensive plan for healthy community evaluation efforts. The final plan will consider feedback provided by CITY representatives and alignment with the Community Transformation Plan.

Deliverables	Performance Measures
1.1 COUNTY will facilitate initial meetings with CITY representatives to review an evaluation plan. CITY's feedback will be collected as well as CITY contact information, protocols and timelines.	1. Meetings conducted. 2. Meeting minutes, feedback, and action items.
1.2 Plan will be revised as necessary and presented to CITY for final approval to proceed with implementation.	1. Present a report that documents the plan in detail.

2. Evaluation of Current Strategies

COUNTY will produce a comprehensive inventory of CITY's healthy community strategies and activities. Each of the inventory items will be

evaluated for quantitative and qualitative impacts according to the items outlined in Section B, Evaluation Objectives. Using the “What Works for Health” evidence ratings developed for policies and programs by “County Health Rankings & Roadmaps,” current strategies must be assessed using the following categories: (1) Scientifically Supported, (2) Some Evidence, (3) Expert Opinion, (4) Insufficient Evidence, (5) Mixed Evidence, (6) Evidence of Ineffectiveness. A complete description of methodology can be found at:

<http://www.countyhealthrankings.org/roadmaps/what-works-for-health/our-methods>. In addition, strategies being implemented will be compared with evidence-based practices – respective to each strategy – to potentially enhance or strengthen current efforts.

Healthy Community activities and strategies often fall under similar headings, such as farmer’s markets, community gardens, active transportation, no-smoking policies, and many others. The Evaluation Plan will identify any commonalities or successful trends within these activities that are consistently implemented across jurisdictions. The evaluation process will take into consideration the immense size of the County; the diversity of geography, demographic, socio-economic, and political environments; and widely varying built-environments and infrastructure. Therefore, in addition to common trends, CITY’s unique opportunities and challenges will be considered.

The evaluation process will help identify impacts of outcomes that can be correlated to specific Healthy Community related strategies. Impact evaluation outcomes and associated recommendations will help identify specific public health benefits as a result of implemented Healthy Community strategies.

Deliverables	Performance Measures
2.1 Inventory of CITY’s Healthy Community strategies and activities.	1. Report of all strategies and activities. The report will include copies of related documents or links to them if available online (e.g., general plans, policies, program documentation, built environment strategies).

<p>2.2 Collect and analyze data pertaining to efforts currently being implemented. Identify any positive and negative health impacts and/or trends that may be directly or indirectly linked to Healthy Community activities.</p>	<ol style="list-style-type: none"> 1. Report of data that align with the Community Transformation Plan and other indicators that are identified as important by CITY. Descriptions of any positive or negative outcomes, trends, achievements, or challenges. 2. Report of health benefits and potential impacts correlated to specific healthy community activities or strategies.
<p>2.3 Document and categorize strategies based on “County Health Rankings & Roadmaps” evidence ratings.</p>	<ol style="list-style-type: none"> 1. List of strategies with associated categorization and ratings. 2. Report on objectives listed in Section B for each strategy.
<p>2.4 Develop recommendations for enhancing strategies currently being implemented.</p>	<ol style="list-style-type: none"> 1. Report of recommendations for each strategy based on County Health Rankings & Roadmaps and evidence-based practices.
<p>2.5 Identify unique differences (and potential inferences to explain differences) among similar strategies currently being implemented in multiple jurisdictions.</p>	<ol style="list-style-type: none"> 1. Documented differences and potential inferences.
<p>2.6 Document and categorize strategies based on the “What Works for Health” evidence ratings from “County Health Rankings & Roadmaps.”</p>	<ol style="list-style-type: none"> 1. List of strategies and ratings. 2. Report on objectives listed in Section B for each strategy.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 16-27 WITH MARGARET CARTWRIGHT TO SUPPORT THE MONTCLAIR ONLINE TO COLLEGE PROGRAM

DATE: March 21, 2016

SECTION: AGREEMENTS

ITEM NO.: 4

FILE I.D.: HSV035

DEPT.: HUMAN SVCS./MCF

REASON FOR CONSIDERATION: The Board of Directors for the Montclair Community Foundation, Inc. (MCF) is requested to consider approval of Agreement No. 16-27 for contracted services with Margaret Cartwright to support and assist in the coordination of the Montclair Online to College (OTC) Program.

A copy of proposed Agreement No. 16-27 is attached for the Montclair Community Foundation Board of Directors' review and consideration.

BACKGROUND: MCF received grant funding from Kaiser Foundation Hospitals (\$10,000) and the Inland Empire United Way (\$7,500) to assist in supporting the Montclair OTC Program. The vision of MCF is to work collectively and collaboratively to strengthen services and enhance the quality of life for residents by promoting health, wellness, and economic stability for all including the most vulnerable in our community. The mission of MCF is to guarantee a quality community for all, by working together as diverse, committed individuals and organizations to make an impact that improves the overall well-being of the community. MCF strives to sustain that children, families and individuals of Montclair have improved quality of life and know how to access needed services. One of the annual goals for 2015/2016 is to support the highly successful Montclair OTC Program, which will provide qualifying Montclair High School students a two-year scholarship to attend Chaffey College.

Ms. Cartwright has a unique history and experience with the Online to College Program and will serve as liaison between MCF, Chaffey College, Chaffey Joint Union High School District, and Montclair High School. She will assist in the development of the program curriculum, coordinate workshops for students and parents, and establish a development program to support Montclair OTC. The term of proposed Agreement No. 16-27 is March 22, 2016 through June 30, 2016.

FISCAL IMPACT: A portion (up to \$9,000) of the grant funds received will be used to pay for these services. These funds are within the current MCF budget.

RECOMMENDATION: Staff recommends the MCF Board of Directors approve Agreement No. 16-27 with Margaret Cartwright to support the Montclair OTC Program.

Prepared by:

M. Richter

Fiscal Impact
Finance Review:

Donald L. Parker

Proofed by:

Vanessa Tom

Reviewed and
Approved By:

M. Richter

**MONTCLAIR COMMUNITY FOUNDATION
5111 BENITO STREET
MONTCLAIR, CALIFORNIA 91763
(909) 626-8571**

AGREEMENT FOR CONTRACTED SERVICES

THIS AGREEMENT is made and entered into this 22nd day of March 2016, by and between the Montclair Community Foundation, hereinafter referred to as "MCF," and Margaret Cartwright, hereinafter referred to as "**CONSULTANT.**"

1. Services to Be Performed by CONSULTANT.

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

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

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

2. Compensation.

(a) Except as otherwise provided in this Agreement, **MCF** agrees to compensate **CONSULTANT** for services rendered under this Agreement for a maximum of \$9,000.00, based on the Scope of Work hereunder Attachment A.

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

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

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

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

3. Term of Agreement.

The term of this Agreement is March 22, 2016 through June 30, 2016. Termination is pursuant to the provisions of Section 6 of this Agreement. **MCF** shall not be obligated to pay **CONSULTANT** any additional consideration unless **CONSULTANT** undertakes additional services, in which instance the consideration shall be increased as **MCF** and **CONSULTANT** shall agree in writing.

4. Obligations of CONSULTANT.

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

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

(c) **CONSULTANT** shall indemnify, pay for the defense of, and hold harmless **MCF** and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of **CONSULTANT's** negligent or willful acts and/or omissions in rendering any services hereunder. **CONSULTANT** shall assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning **CONSULTANT** or any employee and shall further indemnify, pay for the defense of, and hold harmless **MCF** of and from any such payment or liability arising out of or in any manner connected with **CONSULTANT 's** performance under this Agreement.

5. Obligations of Montclair Community Foundation (MCF).

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

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

6. Termination of Agreement.

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

(b) Either party may terminate this Agreement by giving written 30-day notification to the other party.

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

7. General Provisions.

(a) Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices shall be deemed given and served upon delivery personally, or three (3) days after depositing in the United States Mail. Mailed notices shall be addressed to the parties at the addresses set forth in this Agreement for **MCF** and **CONSULTANT**. The foregoing addresses may be changed by written notice to the other party as provided herein.

(b) This Agreement supersedes any and all agreements either oral or written, between the parties hereto with respect to the rendering of services by **CONSULTANT** and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed by both parties, except **MCF** may unilaterally amend the Agreement to accomplish the changes listed below:

- (1) Increase dollar amount
- (2) Administrative changes
- (3) Changes as required by law

(c) If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(e) Pursuant to and in accordance with the provisions of Government Code Section 8546.7, or any amendments thereto, all books, records and files of **MCF**, **CONSULTANT**, or any subcontractor connected with the performance of this

Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the State Auditor or the State of California, at the request of **MCF** or as part of any audit of **MCF**, for a period of three (3) years after final payment is made under this Agreement. **CONSULTANT** shall preserve and cause to be preserved such books, records and files for the audit period.

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

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

**"CHAIRMAN OF THE MONTCLAIR
COMMUNITY FOUNDATION"**
Chair Paul M. Eaton
5111 Benito Street
Montclair, CA 91763
(909) 626-8571

"CONSULTANT"
Margaret Cartwright
6251 Ashton Court
Rancho Cucamonga, CA 91739
(909) 373-5275

By: _____
Paul M. Eaton
Chair

By: _____
Margaret Cartwright
Consultant

Date: _____

Date: _____

ATTEST:

Andrea M. Phillips
Secretary

Date: _____

ATTACHMENT A
Scope of Work

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

- Represent the Montclair Online to College (MOTC) Program on behalf of the Montclair Community Foundation.
- Serve as liaison between the Montclair Community Foundations, the City of Montclair, Chaffey College, and the Chaffey Joint Union High School District, and Montclair High School.
- Develop the program curriculum.
- Coordinate workshops for student and parents
- Establish a development program to support MOTC.
- Provide itemized monthly invoices based on **CONSULTANT's** actual time spent on these tasks and activities each month at a rate of \$25.00/hour up to a maximum of \$9,000.00. The final invoice for the term of the Agreement must be submitted no later than July 10, 2016. Any monies invoiced after this deadline will not be paid.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 16-28, A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF MONTCLAIR AND CYNTHIA L. COX, A MARRIED WOMAN, FOR PURCHASE OF 4304 AND 4324 KINGSLEY STREET

CONSIDER AUTHORIZATION OF A \$732,000 APPROPRIATION IN 2014 LEASE REVENUE BOND FUNDS FOR ACQUISITION AND DEMOLITION EXPENSES

CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN ALL ESCROW DOCUMENTS RELATED TO ACQUISITION OF THE PROPERTIES

DATE: March 21, 2016

SECTION: AGREEMENTS

ITEM NO.: 5

FILE I.D.: PRK650

DEPT.: CITY MGR.

REASON FOR CONSIDERATION: There are currently single family homes with detached garages located at 4304 and 4324 Kingsley Street. The combined lot sizes of the two parcels containing the homes is approximately 1.34 acres. The two properties were originally part of a much larger parcel that once included some of the land now occupied by Sunset Park. Exhibit A shows the location of the homes relative to Sunset Park and Lehigh School.

The properties have been listed for sale and the City has made an offer for their purchase. The City Council is asked to consider Agreement No. 16-28 for the purchase and sale of 4304 and 4324 Kingsley Street. The contemplated use of the property is for public park purposes.

A copy of proposed Agreement No. 16-28 is attached for the City Council's review and consideration.

In addition, the City Council is requested to consider authorizing a \$732,000 appropriation in 2014 Lease Revenue Bond funds for acquisition and demolition costs.

BACKGROUND: The properties at 4304 and 4324 Kingsley Street were once part of approximately three acres that have been generationally-owned since the 1900s by the family members of Dollie V. Dick. The properties are currently owned and occupied by Cynthia L. Cox who inherited full title in 2011. Ms. Cox has put the properties on the market for sale. In 1977, the City purchased 1.36 acres of property from the property owners, Wilma Reeder and Billie Broadwater-Willson. This property became part of Sunset Park. The acquisition of the 1.36 acres left the 4304 and 4324 Kingsley Street properties surrounded by land utilized for public purposes on three sides. Since 1977, there has been a verbal agreement between the property owners and the City preventing intensification of park use around the perimeter of the private property.

Prepared by: Marilyn Stasto Fiscal Impact Finance Review: Donald L. Parker
Proofed by: Ardee M Phillips Reviewed and Approved By: [Signature]

The purpose of this verbal agreement was to limit the impact of noise generated from any park activity on the occupants of the private property.

On December 7, 2015 in closed session, the City Council authorized staff to make a purchase offer to the property owner for acquisition of the property. The purchase of the Kingsley Street properties may be considered by the City Council for the following reasons:

- Sunset Park is generally considered a passive-use park. The only recreational use at the park is playground equipment. The purchase of the Kingsley Street properties would provide the City with the ability to, one day, intensify the recreational use of Sunset Park with sports courts or fields or other recreational uses desired by the community.
- The General Plan indicates that the City provides a total of 1.6 acres of park land per 1,000 residents. This is considered low in comparison to the standard range of 2.5 to 3.0 acres per thousand people which is commonly recommended as a goal for suburban areas. The acquisition would provide the community with additional open space.
- The south side of Sunset Park is located adjacent to an area of the City with higher residential densities, lower average incomes, overcrowding as defined by the United State Census, and high rates of childhood obesity. This adjacent community could benefit from additional open space and play area.
- The opportunity to acquire the property as an uncontested transaction may not occur again for many years.

The proposed Purchase and Sale Agreement contains the standard elements of a market sales transaction. The more salient terms of the proposed Agreement include the following points:

- The City would propose to purchase the properties in an "as is" condition. Generally, the purchase of property in an "as is" condition means the buyer of the property shall not have the benefit of, and is not relying on, any statements, representations or warranties, made by or enforceable against the seller relating to the condition, operation, dimensions, or lack of compliance with governmental regulation. The City would have the opportunity to verify and examine the properties prior to the close of escrow. In this case, the "as is" condition of the structures on the properties would be acceptable because the City would propose to demolish the structures and some walls and fencing for additional parkland.
- The seller would bear the costs of removal of any encumbrances from the title to properties and escrow costs would be prorated. The City would pay for the cost of the title insurance policy. The seller would provide the City with a copy of the Natural Hazard Report.
- The purchase price would be \$650,000 for both properties. Escrow could potentially close in 30 days after the effective date of the Agreement depending upon the conditions of title and time necessary to conduct any soils and other property investigations.

- The seller represents there are no leases or rental agreements in effect as to the real properties at the close of escrow. The seller and her immediate family are lawfully occupying the building at 4324 Kingsley Street and represent no other persons are occupying either 4304 or 4324 Kingsley Street.
- One half of the purchase price of the property will be disbursed to the seller on the fifth business day after recordation of the deeds to the properties. The balance of the purchase price would be disbursed within two business days after the City affirms all the seller's personal property is removed from the site. In the event the seller has not removed their personal property by the end of the twentieth day after recordation of the deed, the City shall have the right to remove the seller's personal property and pay for such removal costs up to a maximum of \$3,500 which would be deducted from the amount owing to the seller.

FISCAL IMPACT: Purchase of the properties at 4304 and 4324 Kingsley Street would create an obvious fiscal impact for the City. There would be the immediate costs associated with purchase, environmental studies, and closing escrow. There would be costs associated with demolition of the structures, walls and fences on the site. In addition, there would be future development costs associated with the ultimate use of the site and there will be ongoing maintenance costs.

The table below itemizes purchase price, other estimated purchase costs, and estimated demolition costs:

ITEM	COST
Purchase Price	\$ 650,000
Escrow and Title Fees	5,500 (estimate)
Phase 1 Environmental Report	5,000 (estimate)
Lead and Asbestos Survey	4,000 (estimate)
Demolition*	61,000 (estimate)
Contingency	6,100 (estimate)
TOTAL ESTIMATED COST:	\$ 731,600

*The estimate for demolition costs is composed of the following elements:

- Removal and disposal of approximately 460 linear feet of block wall
- Removal and disposal of approximately 220 linear feet of fencing
- Demolition of four structures consisting of approximately 4,700 square feet (two houses and two free-standing garage buildings)

- Demolition of various out-buildings
- Removal or trimming of approximately 22 trees/irrigation system modifications

If the City Council elects to approve the purchase of 4304 and 4324 Kingsley Street, staff recommends that \$732,000 for site acquisition and demolition be appropriated from 2014 Lease Revenue Bond Funds.

The anticipated maintenance cost of the 1.34 acres of parkland is estimated at approximately \$2,500 per year. The costs of future site development would depend on the type and intensity of the use ultimately planned for the park.

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

1. Approve Agreement No. 16-28, a Purchase and Sale Agreement between the City of Montclair and Cynthia L. Cox, a married woman, for purchase of 4304 and 4324 Kingsley Street.
2. Authorize a \$732,000 appropriation in 2014 Lease Revenue Bond funds for acquisition and demolition expenses.
3. Authorize the City Manager to sign all escrow documents related to acquisition of the properties.

Exhibit A



Agreement No. 16-28
PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS

SELLER: Cynthia L. Cox

BUYER: City of Montclair

DATED: March 15, 2016

(4304 and 4324 Kingsley Street)

BASIC TERMS

Buyer: City of Montclair, a municipal corporation

Buyer's Address: 5111 Benito Street
Montclair, California 91763
Attention: Marilyn Staats
Tel. (909) 625-9412
Fax: (909) 621-1584

City Manager: The City Manager of Buyer

Closing Date (or Closing): [May 12, 2016]

Contingency Date: Thirty (30) days after the Effective Date

Effective Date: The later of (i) the respective dates that the Seller and the Buyer approve this Agreement and (ii) the date the City Council of the City of Montclair formally approves this Agreement, provided that if such approval is not obtained by [April 15, 2016], either party may elect to cancel this Agreement, unless the parties mutually agree in writing to extend the deadline to obtain such approval

Escrow Holder: First American Title Insurance Company
3281 East Guasti Road, Suite 440
Ontario, CA 91761
Tel: (909) 510-____
Attention: _____, Escrow Officer (direct: (909) 510-____; email: _____@firstam.com)
(or another escrow holder mutually acceptable to Buyer and Seller)

Purchase Price: Six Hundred Fifty Thousand Dollars (\$650,000.00)

Real Property: That property described in Exhibit A hereto; the subject property is sometimes referred to as APN: [APNS to come]

Seller: Cynthia L. Cox, a married woman as her sole and separate property

Seller's Address: 4324 Kingsley Street
Montclair, California 91763

Seller's Agent: Sara Lopez

Seller's Agent Address: 154A W. Foothill Blvd., #204
Upland, California 91786
Tel. (____) ____ - ____
Fax: (____) ____ - ____

Title Company:

First American Title Insurance Company
3281 East Guasti Road, Suite 440
Ontario, CA 91761
Tel: (858) 410-2155
Attention: Greg Franke, Commercial Underwriter
(direct: (909) 510-6323; email: gfranke@firstam.com)
(or another title insurer mutually acceptable to Buyer and Seller)

**PURCHASE AND SALE AGREEMENT
AND
JOINT ESCROW INSTRUCTIONS**

This **PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** (“Agreement”) is made and entered into as of the Effective Date by and between Seller and Buyer.

RECITALS

A. Seller is the fee owner of that certain real property which is legally described on Exhibit A attached hereto and made a part hereof (the “Land”). The Land is improved with structures. The structure at 4324 Kingsley Street has been occupied by Seller as Seller’s principal residence. The structure at 4304 Kingsley Street has been vacant for a substantial period of time and has not been part of the housing market. Neither structure has been available for rent or occupancy by households of limited income.

B. Seller has offered to sell to Buyer, and Buyer has agreed to purchase from Seller, the Real Property (as defined below) for the price and subject to (i) the terms and conditions more specifically described below and (ii) the Basic Terms section above which is hereby incorporated by reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Purchase and Sale. Seller hereby agrees to sell the Real Property to Buyer, and Buyer hereby agrees to purchase the Real Property from Seller, on the terms and conditions set forth in this Agreement. The term “Real Property” is defined collectively as the following:

(a) The fee interest in the Land, and the improvements and structures thereon, to be conveyed by a Grant Deed (as defined herein);

(b) All of Seller’s interest under all rights, privileges, easements, licenses and interests appurtenant to the Real Property, including, without limitation, all royalties, minerals, oil and gas rights and profits, water and water rights (whether or not appurtenant) owned by Seller;

(c) All personal property, equipment, supplies, and fixtures owned by Seller and located at the Real Property; and

(d) All of Seller’s right, title and interest under contracts, leases, and other agreements associated with the Real Property, to the extent assignable.

2. Payment of Purchase Price. Buyer shall, at the Closing (as defined below), deposit in immediately available funds with Escrow Holder an amount equal the Purchase Price, together with such additional funds, if any, as may be required to pay Buyer’s share of prorations and closing costs, if any, pursuant to the terms of this Agreement.

3. Escrow and Independent Consideration.

(a) Opening of Escrow. For the purposes of this Agreement, the escrow (“Escrow”) shall be deemed opened (“Opening of Escrow”) on the date that Escrow Holder receives a copy of this Agreement fully executed by Buyer and Seller. Buyer and Seller shall use their best efforts to cause the Opening of Escrow to occur on or before two (2) business days after the Effective Date. Escrow Holder shall promptly notify Buyer and Seller in writing of the date of the Opening of Escrow. Buyer and Seller agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions or other instruments reasonably required by Escrow Holder to consummate the transaction contemplated by this Agreement; provided, however, that no such instruments shall be inconsistent or in conflict with, amend or supersede any portion of this Agreement. If there is any conflict or inconsistency between the terms of such instruments and the terms of this Agreement, then the terms of this Agreement shall control. Without limiting the generality of the foregoing, no such instruments shall extinguish any obligations imposed by this Agreement or any other agreement between Seller and Buyer.

(b) Independent Consideration. Upon the Effective Date, Buyer shall deliver to Seller One Hundred and No/100 Dollars (\$100.00) as non-refundable independent consideration (the “Independent Consideration”). The Independent Consideration has been bargained for and agreed to as consideration for Seller’s execution and delivery of this Agreement and for the rights and privileges granted to Buyer herein, including any and all rights granted to Buyer to terminate this Agreement under the circumstances provided for herein. Notwithstanding anything to the contrary contained in this Agreement, the Independent Consideration shall be non-refundable in all events, except for Seller’s default hereunder.

(c) Closing. For purposes of this Agreement, the “Closing” or “Closing Date” shall be the date the Deed is recorded pursuant to applicable law in the county in which the Real Property is located. Unless changed in writing by Buyer and Seller, the Closing shall occur on the Closing Date, subject to the applicable conditions precedent and other terms and conditions set forth in this Agreement.

4. Seller’s Delivery of Property Documents. Within ten (10) days after the Effective Date, Seller shall deliver to Buyer copies of the documents and materials described on Exhibit C to this Agreement to the extent they exist and are reasonably available to Seller (collectively, the “Property Documents”). In addition, Seller shall cause Escrow Holder to obtain and deliver to Buyer a Natural Hazard Report as provided for under Sections 1102 and 1103 of the California Civil Code (the “Natural Hazard Report”) on or before the Contingency Date.

5. Feasibility Review. From and after the Effective Date through the earlier to occur of the termination of this Agreement or the Closing, Buyer and Buyer’s employees, agents, consultants and contractors shall have the right to enter upon the Real Property during normal business hours, subject to the terms and conditions of this Agreement and provided reasonable prior notice has been given to Seller.

(a) Investigation of the Real Property. In addition to the foregoing, Buyer shall have the right, at its sole cost and expense, prior to the Contingency Date, to engage its own consultant(s) to make such physical inspections and tests of the Real Property, including surveys and architectural, engineering, geotechnical and environmental inspections and tests as Buyer may deem appropriate; provided, that, with respect to any intrusive inspection or test (e.g., core

sampling) Buyer must obtain Seller's prior written consent (which consent may be given, withheld or conditioned in Seller's sole discretion). If, based upon such evaluation, inspections, tests or investigation, Buyer determines that it, in its discretion, does not wish to proceed with purchase of the Real Property based upon the condition of the Real Property, Buyer may cancel this Agreement by giving written notice of termination to Seller on or before the Contingency Date which specifically references this Section 5(a), or if Buyer fails to give Seller and Escrow Holder written notice that Buyer unconditionally approves the results of such investigations on or before the Contingency Date (an "Approval Notice"), then this Agreement shall automatically terminate as of 5:00 p.m. on the Contingency Date. If Buyer terminates this Agreement or is deemed to have terminated this Agreement pursuant to any provision of this Section 5(a), Buyer will have no further right to purchase the Real Property, the Escrow shall be terminated and the parties hereto shall have no further rights or obligations under this Agreement except for those that expressly survive the termination of this Agreement. If Buyer delivers an Approval Notice to Seller on or before 5:00 p.m. on the Contingency Date, then Buyer shall be deemed to be satisfied with all aspects of the Property Documents and the Real Property, including, without limitation, the condition and suitability of the Real Property for Buyer's intended use and, except as otherwise provided in this Agreement, and Buyer shall have no further right to terminate this Agreement pursuant to this Section 5(a). Thereafter, Buyer shall be permitted to enter upon the Real Property through the Closing Date to do such further studies as Buyer may deem necessary and desirable, subject to the terms of this Agreement; provided that such further inspections shall not extend the Contingency Date or grant Buyer any additional rights hereunder. Upon Seller's request, Seller shall be provided a copy of all third party reports and test results regarding the Real Property provided by Buyer's consultant(s) pursuant to this Section 5(a), excluding any attorney work product, reports regarding Buyer's financial condition and/or other confidential or proprietary information, promptly after receipt by the Buyer of any such reports and test results.

(b) Title Review.

(i) Within ten (10) calendar days after the Opening of Escrow, Seller shall cause the Title Company to deliver to Buyer a preliminary title report (the "Report") describing the title to the Real Property, together with copies of the plotted easements and the exceptions (the "Exceptions") set forth in the Report; provided that the cost of the Report shall be borne by Seller. On or before the date that is ten (10) days before the Contingency Date (or such later date as may be mutually approved by the parties), Buyer shall deliver to Seller and Escrow Holder written notice ("Buyer's Title Notice") of Buyer's disapproval or conditional approval of any matters disclosed by the following (collectively, the "Title Documents"): (i) the Report; (ii) the Exceptions; (iii) the legal description of the Real Property and (iv) any survey Buyer desires to obtain at Buyer's sole cost and expense. The failure of Buyer to give Buyer's Title Notice by such date shall be deemed to constitute Buyer's approval of the condition of title to the Property (other than the "Disapproved Exceptions" (as defined below)). If Buyer disapproves or conditionally approves any matter of title shown in the Report, then Seller may, but shall have no obligation to, within five (5) days after its receipt of Buyer's Title Notice ("Seller's Election Period"), elect to eliminate or ameliorate the disapproved or conditionally approved title matters by giving Buyer written notice ("Seller's Title Notice") of those disapproved or conditionally approved title matters, if any, which Seller agrees to eliminate or ameliorate by the Close of Escrow; provided, however, that Seller shall have no obligation to pay any consideration or incur any liability in order to eliminate or ameliorate such disapproved title matters other than in connection with (a) those exceptions Seller agrees to remove as provided in this Section 5(b), (b) any monetary lien created by or on behalf of Seller that encumbers the Real Property, (c) any delinquent property taxes, special

taxes and assessments, (d) any general or specific exception for mechanic's or similar liens affecting the Real Property created by or on behalf of Seller and (e) any exception for leases or parties in possession (collectively, the "Disapproved Exceptions"). Notwithstanding anything herein to the contrary, Seller, at its sole cost and expense, shall remove or cause to be removed the Disapproved Exceptions on or before the Closing, and Buyer shall not be required to disapprove any Disapproved Exceptions. If (1) Seller does not elect to, or is unable to, eliminate or ameliorate any disapproved or conditionally approved title matters, (2) Buyer disapproves Seller's Title Notice, or (3) Seller fails to timely deliver Seller's Title Notice, then Buyer shall have the right, upon delivery to Seller and Escrow Holder (on or before five (5) days following its receipt of Seller's Title Notice or the expiration of Seller's Election Period, whichever occurs first) of a written notice, to either: (a) waive its prior disapproval, in which event such disapproved matters shall be deemed approved; or (b) terminate this Agreement and the Escrow created pursuant hereto. Failure to take either one of the actions described in (a) and (b) above shall be deemed to be Buyer's election to take the action described in (a) above.

(ii) If the Title Company issues any supplement ("Supplement") to the Report during the term of this Agreement which discloses any matters shown in the Supplement and not contained in the Report (each a "Supplemental Matter"), Buyer shall have until the later of (i) five (5) days following delivery of such Supplement to Buyer or (ii) the date which is ten (10) days before the Contingency Date, to give Seller and Escrow Holder written notice ("Buyer's Supplemental Title Notice") of Buyer's disapproval or conditional approval of any Supplemental Matters; provided, however, that after the expiration of the Buyer's Title Notice deadline set forth in Section 5(b)(i) above, Buyer shall not have the right to disapprove any matter which would be disclosed by an accurate survey of the Real Property. The failure of Buyer to timely give Buyer's Supplemental Title Notice as provided herein shall be deemed to constitute Buyer's approval of such Supplemental Matter(s). If Buyer disapproves or conditionally approves any Supplemental Matter, then Seller may, but shall have no obligation to, within three (3) days after its receipt of Buyer's Supplemental Title Notice ("Seller's Supplemental Election Period"), elect to eliminate or ameliorate to Buyer's satisfaction the disapproved or conditionally approved title matters by giving Buyer written notice ("Seller's Supplemental Title Notice") of those disapproved or conditionally approved title matters, if any, which Seller agrees to so eliminate or ameliorate by the Close of Escrow. If (1) Seller does not elect to, or is unable to, eliminate or ameliorate any disapproved or conditionally approved Supplemental Matters, (2) Buyer disapproves Seller's Supplemental Title Notice, or (3) Seller fails to timely deliver Seller's Supplemental Title Notice, then Buyer shall have the right, upon delivery to Seller and Escrow Holder (on or before five (5) days following its receipt of Seller's Supplemental Title Notice or the expiration of Seller's Supplemental Election Period, whichever occurs first) of a written notice, to either: (a) waive its prior disapproval, in which event such disapproved Supplemental Matters shall be deemed approved; or (b) terminate this Agreement and the Escrow created pursuant hereto. Failure to take either one of the actions described in (a) and (b) above shall be deemed to be Buyer's election to take the action described in (a) above.

(c) As-Is.

(i) Except to the extent otherwise expressly set forth in this Agreement, the Real Property is purchased and sold "as-is," "where-is" and with all faults. The Purchase Price and the terms and conditions set forth herein are the result of arm's-length bargaining between parties familiar with transactions of this kind, and the price, terms and conditions reflect the fact that, except as expressly set forth in this Agreement, Buyer shall not have the benefit of, and is not relying on, any statements, representations or warranties whatsoever, made by or enforceable

against Seller relating to the condition, operations, dimensions, descriptions, soil condition, suitability, compliance or lack of compliance with any governmental regulation, or any other attribute or matter of or relating to the Real Property, including, without limitation, (A) the integrity of any improvements on the Real Property, (B) the conformity of such improvements to any plans or specifications for the Real Property, including any plans and specifications that may have been or may be provided to Buyer, (C) the conformity of the Real Property to past, current or future applicable zoning or building code requirements, (D) the existence of soil instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, (E) the sufficiency of any undershoring or foundations, (F) the sufficiency of any drainage, (G) whether the Real Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area, (H) any other matter affecting the stability or integrity of the Real Property, or any improvements which are a part of the Real Property, (I) the fitness or suitability of the Real Property for Buyer's intended use, (J) the potential further development of the Real Property, (K) the existence of vested land use, zoning or building entitlements affecting the Real Property, or (L) moisture intrusion or the presence of mold in the Real Property.

(ii) Buyer will have had the opportunity to independently verify all matters concerning the Real Property on or before the Contingency Date, and Buyer will make the decision to purchase the Real Property on Buyer's own investigation and examination of the Real Property and the terms and conditions set forth in this Agreement. As a material inducement to the execution and delivery of this Agreement by Seller, Buyer is purchasing the Real Property in an "as is" physical condition and in an "as is" state of repair, with all faults, except as expressly set forth in this Agreement. Except as expressly set forth in this Agreement, Buyer does hereby waive, and Buyer does hereby disclaim, all warranties of any type or kind whatsoever with respect to the Real Property, whether express or implied, including, by way of description but not limitation, those of fitness for a particular purpose and use.

6. Buyer's Conditions Precedent.

(a) Conditions Precedent. The Closing and Buyer's obligation to consummate the transaction contemplated by this Agreement are subject to the satisfaction or written waiver by Buyer, as and when required below, of the following conditions precedent (collectively, "Buyer's Contingencies"), which are for Buyer's benefit only.

(i) Buyer's Title Policy. On or before the Closing, the Title Company shall, upon payment (by Buyer) of the Title Company's premium, have committed to issue to Buyer, a CLTA owner's policy of title insurance ("Buyer's Title Policy") in the amount of the Purchase Price showing fee title to the Real Property vested solely in Buyer and subject only to the (i) the standard, preprinted exceptions to Buyer's Title Policy; (ii) liens to secure payment of real estate taxes or assessments not yet delinquent; (iii) matters affecting the Real Property created by or with the written consent of Buyer; and (iv) those matters specifically approved in writing by Buyer. Buyer shall have the right, at its sole cost and expense, to obtain coverage beyond that offered by a CLTA policy; provided, however, that Buyer's ability to obtain such extended coverage shall not be a Buyer's Contingency and Buyer's obligations hereunder shall in no way be conditioned or contingent upon obtaining such extended coverage. Buyer shall have sole responsibility for obtaining, and bearing the cost of, any endorsements and for any survey or other matters required by the Title Company for such extended coverage.

(ii) Delivery of Documents. Seller's delivery of all documents described in Section 8, below.

(iii) Representations and Warranties. All representations and warranties of Seller contained in this Agreement shall be materially true and correct as of the date made and as of the Closing.

(iv) Real Property Includes Two Addresses. The Real Property includes the land, improvements and personalty at each of 4304 Kingsley Street and 4324 Kingsley Street. The sale shall be of the Real Property including all such property at both addresses.

(v) No Default. As of the Closing, Seller shall not be in material default in the performance of any material covenant or agreement to be performed by Seller under this Agreement.

(b) Failure of Contingencies. In the event of a failure of one or more of Buyer's Contingencies on or before the Closing Date, Buyer may, in its sole discretion, elect to either (i) waive such condition precedent for its benefit in writing or (ii) terminate this Agreement, in which event all title and Escrow cancellation charges, if any, shall be paid equally by Buyer and Seller. Notwithstanding the foregoing, if the failure of the condition is the result of a breach or default by Seller of the type described in Section 14, Buyer shall have the rights and remedies set forth in Section 14 below.

7. Seller's Conditions Precedent. The Closing and Seller's obligations with respect to the transaction contemplated by this Agreement are subject to the satisfaction or written waiver by Seller, as and when required below, of the following conditions precedent ("Seller's Contingencies"), which are for Seller's benefit only:

(a) No Default. Buyer shall have timely performed all of the obligations required by the terms of this Agreement to be performed by Buyer, including, without limitation, the timely deposit by Buyer of all funds required to be deposited by Buyer under the terms of this Agreement.

(b) Representations and Warranties. All representations and warranties of Buyer contained in this Agreement shall be materially true and correct as of the date made and as of the Closing.

(c) Delivery of Documents. Buyer's delivery of all documents described in Section 9(a), below.

In the event of a failure of one or more of Seller's Contingencies on or before the Closing Date, Seller may, in its sole discretion, elect to either (i) waive such condition precedent for its benefit in writing or (ii) terminate this Agreement, in which event all title and Escrow cancellation charges, if any, shall be paid equally by Buyer and Seller. Notwithstanding the foregoing, if the failure of the condition is the result of a breach or default by Buyer of the type described in Section 14, Seller shall have the rights and remedies set forth in Section 14 below.

8. Seller's Deliveries to Escrow Holder. At least one (1) business day prior to the Closing Date, Seller shall deposit or cause to be deposited with Escrow Holder the following items, duly executed and, where appropriate, acknowledged ("Seller's Delivered Items"):

(a) Deed. The Grant Deed in the form attached hereto as Exhibit B (the "Deed").

(b) FIRPTA/Tax Exemption Forms. The Transferor's Certification of Non Foreign Status in the form attached hereto as Exhibit D (the "FIRPTA Certificate"), together with any necessary tax withholding forms, and a duly executed California Form 593-C, as applicable (the "California Exemption Certificate").

(c) Natural Hazard Report. Seller shall provide, or shall arrange with Escrow Holder for Escrow Holder to provide to Buyer at Seller's cost, a natural hazard report.

(d) Possession of Real Property. Possession of the Real Property free of any tenancies or occupancy.

(e) Authority. Such proof of Seller's authority and authorization to enter into this Agreement and to consummate this transaction as may be reasonably requested by the Title Company. If requested by the Title Company as a condition of Title Company issuing a title insurance policy in conformity with this Agreement that is reasonably satisfactory to Buyer, Seller shall obtain and submit a relinquishment or disclaimer of interest in the Real Property as well as proceeds of sale to the Title Company.

(f) Further Documents or Items. Such affidavits as are customarily required by the Title Company in connection with issuance of the Buyer's Title Policy sufficient to enable the Title Company to issue mechanics lien coverage and remove the parties in possession exception under Buyer's Title Policy and such other documents or items reasonably required to close the transaction contemplated by this Agreement as determined by the Title Company.

9. Buyer's Deliveries to Escrow. At least one (1) business day prior to the Closing Date, Buyer shall deposit or cause to be deposited with Escrow Holder the following, each duly executed and acknowledged, by Buyer as appropriate ("Buyer's Delivered Items"):

(a) Purchase Price. The Purchase Price (applying a credit for the Independent Consideration), together with additional funds necessary to pay Buyer's closing costs set forth in Section 10(b) herein.

(b) Change of Ownership Report. One (1) original Preliminary Change of Ownership Report.

(c) Authority. Such proof of Buyer's authority and authorization to enter into this Agreement and to consummate the transaction contemplated hereby as may be reasonably requested by the Title Company.

(d) Further Documents or Items. Any other documents or items reasonably required to close the transaction contemplated by this Agreement as determined by the Title Company.

10. Costs and Expenses.

(a) Seller's Costs. If the transaction contemplated by this Agreement is consummated, then Seller shall be debited for and bear the following costs: (i) costs and charges associated with the removal of encumbrances that materially affect title in the reasonable judgment of Buyer in accordance with the terms of this Agreement; (ii) Seller's share of prorations; (iii) documentary transfer tax, if any; and (iv) costs, if any, allocable to Seller under this Agreement and costs for such services as Seller may additionally request that Escrow perform on its behalf (which foregoing items collectively constitute "Seller's Costs and Debited Amounts"). Seller shall also be responsible for "Removal Costs" as provided in Section 12(b) hereof to the extent applicable.

(b) Buyer's Costs. If the transaction contemplated by this Agreement is consummated, then Buyer shall bear the following costs and expenses: (i) the Escrow Holder's fee; (ii) Buyer's share of prorations; (iii) the premium for an owner's policy of title insurance which, at the election of Buyer, will be an ALTA owner's extended coverage policy of title insurance and the cost for any survey required in connection with the delivery of an ALTA owner's extended coverage policy of title insurance; (iv) documentary recording fees, if any; (v) costs, if any, for such services as Buyer may additionally request that Escrow perform on its behalf; (vi) any costs associated with Buyer borrowing money in order to pay to Seller the Purchase Price; and (vii) the Natural Hazard Report (collectively, "Buyer's Costs and Debited Amounts").

(c) Generally. Each party shall bear the costs of its own attorneys, consultants, and real estate brokers in connection with the negotiation and preparation of this Agreement and the consummation of the transaction contemplated hereby ("General Expenses"). Buyer represents to Seller that Buyer has not engaged the services of any consultants, finders or real estate brokers in connection with the purchase of the Real Property from the Seller. Seller has disclosed to Buyer that Seller is represented in this transaction by Seller's Agent; Seller agrees to be solely responsible for any remuneration payable to Seller's Agent. Seller represents to Buyer that, excepting for Seller's Agent, Seller has not engaged the services of any consultants, finders or real estate brokers in connection with the sale of the Real Property to the Buyer.

11. Prorations. All revenues (if any) and expenses relating to the Real Property (including, but not limited to, property taxes, utility costs and expenses, water charges and sewer rents and refuse collection charges) shall be prorated as of the Closing Date; provided that all delinquent taxes shall be satisfied at the expense of Seller. Not less than five (5) business days prior to the Closing, Seller shall deliver to Buyer a tentative schedule of prorations for Buyer's approval (the "Proration and Expense Schedule"). If any prorations made under this Section shall require final adjustment after the Closing, then the parties shall make the appropriate adjustments promptly when accurate information becomes available and either party hereto shall be entitled to an adjustment to correct the same. Any corrected or adjustment proration shall be paid promptly in cash to the party entitled thereto.

12. Closing Procedure. When the Title Company is committed to issue the Buyer's Title Policy and all required documents and funds have been deposited with Escrow Holder, Escrow Holder shall immediately close Escrow in the manner and order provided below.

(a) Recording. Escrow Holder shall cause the Deed to be recorded pursuant to applicable law in the county in which the Real Property is located and obtain conformed copies thereof for distribution to Buyer and Seller.

(b) Disbursement of Funds; Timing. Escrow Holder shall debit or credit (as provided herein) all Buyer's Costs and Debited Amounts, Seller's Costs and Debited Amounts and General Expenses, prorate matters and withhold funds as provided herein. The Purchase Price, less any applicable debits or credits (as provided herein, including without limitation the Independent Consideration) shall be distributed by check payable to Seller as follows: (i) an amount equal to one-half of the Purchase Price less Seller's Costs and Debited Amounts and General Expenses shall be disbursed by check on the fifth (5th) business day after the Deed is recorded; and (ii) the balance (the "Balance") of the Purchase Price less "Removal Costs" (as defined below) shall be disbursed within two (2) business days after the City Manager affirms in writing to Escrow Holder that the "Vacation" (as defined in Section 12(i)) of the Real Property has occurred (provided that City Manager may, at his discretion, waive this condition to payment by writing to Escrow Holder so stating). Seller authorizes Escrow Holder to request demands for payment and to make such payments from the Purchase Price (or such other funds, if any, as are advanced by Seller) to defray the cost of removing deeds of trust, liens and other encumbrances. In the event tangible Personal Property remains at the Real Property that Seller has not removed as of the twentieth (20th) day after the Deed is recorded (and prior to payment of the Balance), Buyer shall have the right to effect the removal of such tangible Personal Property, including the use of independent contractors and/or City staff for such purpose, and Buyer shall be entitled at its election to reduce the Balance by such amount (consisting of costs paid to third parties and/or costs estimated in good faith by the City Manager for City staff time so expended) as Buyer absorbs in effecting removal of the tangible Real Property, including without limitation physical removal and the cost of any proceedings associated with the abandonment of such tangible Personal Property (the "Removal Costs") up to a maximum of Three Thousand Five Hundred Dollars (\$3,500.00). Until paid to Seller, unless otherwise instructed by Buyer (and in such event in accordance with instructions by Buyer), moneys on deposit with the Escrow Holder shall be held by Escrow Holder uninvested. Earnings, if any, on moneys held by Escrow Holder shall be the property of Buyer and shall be remitted to Buyer at the time all of the Purchase Price has been paid in full to Seller. Upon receipt of the Purchase Price, Seller may use such moneys for any purpose of its choosing.

(c) Documents to Seller. Escrow Holder shall deliver to Seller a conformed copy of the Deed, and documents, if any, recorded on behalf of any lender, as duly recorded among the official land records of the County of San Bernardino, and a copy of each other document (or copies thereof) deposited into Escrow by Buyer pursuant hereto.

(d) Documents to Buyer. Escrow Holder shall deliver to Buyer the original FIRPTA Certificate, the original California Exemption Certificate (as applicable), and a conformed copy of each of the Deed as duly recorded among the official land records of the County of San Bernardino, the Natural Hazard Report, and each other document (or copies thereof) deposited into Escrow by Seller pursuant hereto, including, without limitation, those documents referenced in Section 8.

(e) Title Company. Escrow Holder shall cause the Title Company to issue the Buyer's Title Policy to Buyer.

(f) Closing Statement. Escrow Holder shall forward to both Buyer and Seller a separate accounting of all funds received and disbursed for each party.

(g) Informational Reports. Escrow Holder shall file any information reports required by Internal Revenue Code Section 6045(e), as amended.

(h) Possession. Possession of the Real Property shall be delivered to Buyer at the Closing.

(i) Removal of Personal Property. Automobiles, bicycles, furniture, housewares, books, papers and any personal effects or other items of personal property (collectively, “Personal Property”) of Seller or any other person at the Real Property shall be removed by Seller at Seller’s cost prior to recording of the Deed. The absence of any persons and Personal Property at the Real Property shall be deemed to constitute the “Vacation” of the Real Property. In the event any such Personal Property remains at the Real Property after the recording of the Deed, such Personal Property shall be deemed to be abandoned by Seller and included within the Real Property as property acquired by Buyer as of the Closing.

13. Representations and Warranties

(a) Seller’s Representations and Warranties. In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Real Property, Seller makes the following representations and warranties as of the Effective Date and as of the Closing, each of which is material and is being relied upon by Buyer, and all of which are material inducements to Buyer to enter into this Agreement (and but for which Buyer would not have entered into this Agreement):

(i) Seller has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

(ii) All requisite action (corporate, trust, partnership or otherwise) has been taken by Seller in connection with entering into this Agreement and the instruments referenced herein; and, by the Closing, all such necessary action will have been taken to authorize the consummation of the transaction contemplated hereby.

(iii) The individual executing this Agreement and the instruments referenced herein on behalf of Seller has the legal power, right and actual authority to bind Seller to the terms and conditions hereof and thereof.

(iv) Neither the execution or delivery of this Agreement or the documents or instruments referenced herein, nor incurring the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement or the documents or instruments referenced herein or therein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, lease or other agreement or instrument to which Seller is a party or, to Seller’s knowledge, that affect the Real Property, including, but not limited to, any of the Title Documents or the Property Documents.

(v) There is no pending litigation nor, to the best of Seller’s knowledge, threatened litigation, which does or will adversely affect the right of Seller to convey the Real Property.

(vi) Seller has made no written agreements with any governmental authority or agency materially and adversely affecting the Real Property, or any part hereof, or any interest therein, which will survive the Closing. Seller has entered into no understanding or agreement with any taxing or assessing authority respecting the imposition or deferment of any taxes or assignments respecting the Real Property.

(vii) There are no leases or rental agreements that shall be in effect as to the Real Property as of Closing. Excepting for Seller, who is lawfully occupying the building located at 4324 Kingsley as Seller's primary residence as of the Effective Date, there is no person or persons occupying either 4304 or 4324 Kingsley Street, including any part thereof, whether with or without the permission of Seller.

(viii) Seller is not in default of its obligations under any contract, agreement or instrument to which Seller is a party pertaining to the Real Property.

(ix) The Property Documents delivered to or inspected by Buyer pursuant to the terms hereof are, to Seller's knowledge, all of the material documents in Seller's possession relating to the Property.

(x) To Seller's knowledge, neither Seller nor any third party, has used, generated, transported, manufactured, stored or disposed any Hazardous Material from, into, at, on, under or about the Real Property. Additionally, to Seller's knowledge, the Real Property is not in violation, nor has been or is currently under investigation for violation of any environmental law and there is not now, nor has there ever been on or in the Real Property underground storage tanks in, on or under the Real Property.

(b) Subsequent Changes to Seller's Representations and Warranties. As used in Section 13(a), the phrase "to Seller's knowledge" and similar expressions means the actual knowledge of Cynthia L. Cox without implication of inquiry of any sort and without imputation of knowledge of others. There shall be no personal liability on the part of such person or otherwise under or in respect to this Agreement or the transactions described herein (the provisions of this sentence shall expressly survive Closing). If, prior to the Closing, Buyer or Seller should learn, discover or become aware of any existing or new item, fact or circumstance which renders a representation or warranty of Seller set forth herein incorrect or untrue in any respect (collectively, the "Seller Representation Matter"), then the party who has learned, discovered or become aware of such Representation Matter shall promptly give written notice thereof to the other party and Seller's representations and warranties shall be automatically limited to account for the Representation Matter. Buyer shall have the right to approve or disapprove any such change and to terminate this Agreement by written notice to Seller if Buyer reasonably disapproves any such change. If Buyer does not elect to terminate this Agreement, Seller's representation shall be qualified by such Seller Representation Matter and Seller shall have no obligation to Buyer for such Seller Representation Matter.

Notwithstanding anything in this Agreement that may be construed to the contrary, all representations and warranties of Seller set forth in this Agreement shall be deemed qualified and modified by any facts disclosed in any of the documents, reports, information or materials which are or have been delivered or disclosed by Seller or its agents to Buyer or otherwise known to Buyer or discovered by Buyer prior to the Closing. Without limiting the foregoing sentence, Buyer shall be deemed to have knowledge of a fact or circumstance if the underlying information or facts relating

to applicable representations and warranties were disclosed in any of Property Documents, the Title Documents, any survey of the Real Property delivered to Buyer, this Agreement or in any other document delivered, prepared for or otherwise made available to Buyer by Seller.

(c) Buyer's Representations and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Real Property, Buyer makes the following representations and warranties as of the date hereof and at and as of the Closing, each of which is material and is being relied upon by Seller (and the truth and accuracy of which shall constitute a condition precedent to Seller's obligations hereunder):

(i) Buyer has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

(ii) All requisite action has been taken by Buyer in connection with entering into this Agreement and the instruments referenced herein; and, by the Closing, all such necessary action will have been taken to authorize the consummation of the transaction contemplated hereby.

(iii) The individuals executing this Agreement and the instruments referenced herein on behalf of Buyer have the legal power, right and actual authority to bind Buyer to the terms and conditions hereof and thereof.

(iv) Neither the execution and delivery of this Agreement and the documents and instruments referenced herein, nor incurring the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement and the documents and instruments referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument to which Buyer is a party or by which any of Buyer's properties are bound.

(d) Subsequent Changes to Buyer's Representations and Warranties. As used in Section 13(c), the phrase "to Buyer's knowledge" and similar expressions means the actual knowledge of the City Manager without implication of inquiry of any sort and without imputation of knowledge of others. If, prior to the Closing, Seller or Buyer should learn, discover or become aware of any existing or new item, fact or circumstance which renders a representation or warranty of Buyer set forth herein incorrect or untrue in any respect (collectively, the "Buyer's Representation Matter"), then the party who has learned, discovered or become aware of such Buyer's Representation Matter shall promptly give written notice thereof to the other party and Buyer's representations and warranties shall be automatically limited to account for the Buyer's Representation Matter. Seller shall have the right to approve or disapprove any such change and to terminate this Agreement by written notice to Buyer if Seller reasonably disapproves any such change. If Seller does not elect to terminate this Agreement, Buyer's representation shall be qualified by such Buyer's Representation Matter and Buyer shall have no obligation to Seller for such Buyer's Representation Matter.

(e) Survival. The representations and warranties in Section 13(a) and Section 13(c) will survive Closing, but only for a period of twenty four (24) months. Any litigation

with respect to a breach or default of such representations and warranties must be commenced within such twenty four (24) month period, and if not commenced within such time period, the party asserting any such claim for such breach or default shall be deemed to have waived its claim. In any event, any proceeding or litigation based on a claim of fraud, misrepresentation or similar theory shall be commenced by Buyer within such twenty four (24) month period and, if appropriate proceedings are not commenced within such time period, Buyer shall be deemed to have waived any such claim. Nothing in this Section 13(e) limits the disclaimers, waivers, releases and other provisions in this Agreement, all of which will survive Closing without limit as to time.

14. Remedies; Limitation on Liability. If a party fails to materially perform any of its obligations under this Agreement prior to Closing (a “Defaulting Party”), such failure shall constitute a default, and if such default is not cured by the earlier of (i) the Closing Date, or (ii) within five (5) days after written demand for performance delivered to the Defaulting Party by the non-defaulting party (the “Non-Defaulting Party”), then the Non-Defaulting Party, except as otherwise specified herein, may pursue any one or more of its rights, options or remedies hereunder or may seek damages or specific performance, or may pursue any other remedy at law or equity, whether or not stated in this Agreement; provided, however, that the Non-Defaulting Party expressly waives any right to obtain lost profits, consequential, punitive, special or any other indirect damages from the Defaulting Party for the Defaulting Party’s default hereunder; provided, further, that this provision shall not limit a party’s rights to recover attorneys’ fees and costs in accordance with Section 15(g) of this Agreement. Notwithstanding the foregoing, Buyer acknowledges and agrees that specific performance of Seller’s obligation to convey the Real Property to Buyer shall not be construed, nor shall it operate, to require Seller to cure any physical condition at or with respect to the Property. Notwithstanding anything to the contrary contained in this Agreement or any document or certificate executed in connection with this Agreement, the aggregate liability of a party under this Agreement or any document or certificate executed in connection with this Agreement shall not exceed an amount equal to the Purchase Price. The provisions of this Section 14 shall survive Closing.

15. General Provisions.

(a) Condemnation. If any material portion of the Real Property shall be taken or appropriated by a public or quasi-public authority exercising the power of eminent domain, Buyer shall have the right, at its option, to (i) terminate this Agreement or (ii) proceed with the purchase of the Real Property and receive all of the award or payment made in connection with such taking.

(b) Notices. All notices, demands, requests or other communications required or permitted hereunder (collectively, “Notices”) shall be in writing, shall be addressed to the receiving party as provided in the Basic Terms section above, and shall be personally delivered, sent by overnight mail (Federal Express or another carrier that provides receipts for all deliveries), sent by certified mail, postage prepaid, return receipt requested, or sent by facsimile transmission or electronic mail (provided that a successful transmission report is received). All Notices shall be effective upon receipt at the appropriate address. Notice of change of address shall be given by written notice in the manner detailed in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no Notice in accordance with this Section was given shall be deemed to constitute receipt of such Notice. The providing of copies of Notices to the parties’ respective counsels is for information only, is not required for valid Notice and does not alone constitute Notice hereunder.

(c) Brokers. Seller assumes sole responsibility for any consultants or brokers (“Seller’s Agents”) it may have retained in connection with the sale of the Real Property (and Buyer shall have no responsibility in connection with such matters). Seller represents to Buyer that Seller has engaged no consultants, finders or real estate brokers in connection with the sale of the Real Property to the Buyer, and there are no brokerage commission, finder’s fee or other compensation of any kind is due or owing to any person or entity in connection with this Agreement. Seller agrees to and does hereby indemnify and hold the Buyer free and harmless from and against any and all costs, liabilities or causes of action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the Seller in connection with this Agreement. Buyer assumes sole responsibility for any consultants or brokers (“Buyer’s Agents”) it may have retained in connection with the purchase of the Real Property (and Seller shall have no responsibility in connection with such matters). Buyer represents to Seller that Buyer has engaged no consultants, finders or real estate brokers in connection with the sale of the Real Property to the Buyer, and there are no brokerage commission, finder’s fee or other compensation of any kind is due or owing to any person or entity in connection with this Agreement. Buyer agrees to and does hereby indemnify and hold the Seller free and harmless from and against any and all costs, liabilities or causes of action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the Buyer in connection with this Agreement. This Section shall survive the Closing or the earlier termination of this Agreement.

(d) [Intentionally Omitted].

(e) Waiver, Consent and Remedies. Each provision of this Agreement to be performed by Buyer and Seller shall be deemed both a covenant and a condition and shall be a material consideration for Seller’s and Buyer’s performance hereunder, as appropriate, and any breach thereof by Buyer or Seller shall be deemed a material default hereunder. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived. The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement.

(f) Cooperation. Buyer and Seller agree to execute such instruments and documents and to diligently undertake such actions as may be reasonably required in order to consummate the purchase and sale herein contemplated, but without any obligation to incur any additional liability or expense, and shall use all reasonable efforts to accomplish the Closing and the execution and delivery of the Deed in accordance with the provisions hereof.

(g) Attorney’s Fees. In the event any declaratory or other legal or equitable action is instituted among Buyer, Seller and/or Escrow Holder in connection with this Agreement, then as between Buyer and Seller the prevailing party shall be entitled to recover from the losing party all of its costs and expenses including court costs and reasonable attorney’s fees, and all fees, costs and expenses incurred on any appeal or in collection of any judgment.

(h) Time. Time is of the essence of every provision herein contained. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which said period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until 5:00 p.m. of the next day that is not a Saturday, Sunday, or legal holiday. Except as otherwise expressly provided herein, all time periods expiring on a specified date or period herein shall be deemed to expire at 5:00 p.m. on such specified date or period.

(i) Counterparts; Facsimile Signatures. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument. Signatures to this Agreement transmitted by electronic means shall be valid and effective to bind the party so signing.

(j) Captions. Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

(k) No Obligations to Third Parties. There are no third party beneficiaries under this Agreement. The execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties to this Agreement to, any person or entity other than the parties hereto.

(l) Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

(m) Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

(n) Applicable Law. This Agreement shall be governed by and construed in accordance with the local law of the State of California.

(o) Exhibits and Schedules. The exhibits and schedules attached hereto are incorporated herein by this reference for all purposes.

(p) Entire Agreement. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between, and the final expression of, Buyer and Seller with respect to the subject matter hereof. The parties hereto expressly agree and confirm that this Agreement is executed without reliance on any oral or written statements, representations or promises of any kind which are not expressly contained in this Agreement. No subsequent agreement, representation or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

(q) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

(r) Assignment. This Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld; provided, however, that Buyer may, upon written notice to Seller, assign this Agreement without Seller's consent to an affiliate (or affiliates) of Buyer. In the event of any assignment by Buyer, Buyer shall continue to remain fully liable hereunder as totally and completely as if such assignment had not occurred. As used in this Section 15(r), an "affiliate" shall mean an entity controlling, controlled by or under common control with Buyer.

(s) Waiver of Relocation Assistance and Benefits. Seller represents and warrants that no person is in occupancy of the Real Property, whether with consent of the Seller or otherwise, other than Seller. Seller, as owner of the Real Property, is voluntarily disposing of the Real Property in an arm's length transaction being under no compulsion to dispose of the Real Property. Seller has been advised that in the event Seller is a displaced person (for the purposes of Government Code sections 7260-7267) Seller would be entitled to relocation benefits and relocation assistance. Seller is not a displaced person. In any event, Seller waives any rights it may have to relocation assistance or relocation benefits.

[signatures begin on the following page]

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

“BUYER”

CITY OF MONTCLAIR, a municipal corporation

By: _____
Paul M. Eaton, Mayor

ATTEST

By: _____
Andrea M. Phillips, Deputy City Clerk

“SELLER

CYNTHIA L. COX, a married woman

By: _____
Name: Cynthia L. Cox

Acceptance by Escrow Holder:

First American Title Company hereby acknowledges that it has received a fully executed copy of the foregoing Purchase and Sale Agreement and Joint Escrow Instructions by and between Cynthia L. Cox (“Seller”), and the City of Montclair, a municipal corporation (“Buyer”) and agrees to act as Escrow Holder thereunder and to be bound by and strictly perform the terms thereof as such terms apply to Escrow Holder.

Dated: _____, 2016

FIRST AMERICAN TITLE COMPANY

By: _____
Name: _____
Its: _____

EXHIBIT A

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of San Bernardino, City of Montclair, described as follows:

[legal description: to come].

APN: 1009-391-21 and 1009-391-22

EXHIBIT B

DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Montclair
5111 Benito Street
Montclair, California 91763
Attn: _____

APN: 1009-391-21 and 1009-391-22

[Space above for recorder.]

Exempt from recording fee and documentary transfer
tax pursuant to Government Code Section 27383.

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Cynthia L. Cox, [a _____] (“Grantor”), hereby grants to the City of Montclair, a municipal corporation, that certain real property located in the County of San Bernardino, State of California, more particularly described on **Attachment No. 1** attached hereto and incorporated herein by this reference (the “Property”), subject to existing easements, restrictions and covenants of record.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____, 20__.

CYNTHIA L. COX, [a _____]

By: _____
Cynthia L. Cox

ATTACHMENT NO. 1 TO GRANT DEED

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of San Bernardino, described as follows:

[legal description: to come].

APN: 1009-391-21 and 1009-391-22

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed under the foregoing Grant Deed by Cynthia L. Cox, [a _____], to the City of Montclair (the "City") as to the following property:

Real property in the City of Montclair, County of San Bernardino, State of California, described as follows:

[legal description: to come]

APN: 1009-391-21 and 1009-391-22

is hereby accepted by the City Manager of the City on behalf of the City pursuant to authority conferred by action of the City Council at its meeting on _____, and the City as grantee consents to recordation thereof by its duly authorized officer.

CITY OF MONTCLAIR, a municipal
corporation

Edward C. Starr, City Manager

ATTEST:

Andrea M. Phillips, Deputy City Clerk

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

STATE OF CALIFORNIA)
) ss.
 COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

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

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

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

 Title(s)

 Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

 Number Of Pages

Signer is representing:
 Name Of Person(s) Or Entity(ies)

 Date Of Documents

 Signer(s) Other Than Named Above

EXHIBIT C

PROPERTY DOCUMENTS

1. All third party contracts (including but not limited to management, vendor, and equipment leasing agreements) and service contracts relating to the ownership or use of the Real Property;
2. All leases (if any);
3. A list of personal property;
4. Copies of most recent real estate tax bills and any notices of special assessments;
5. Utility bills for the last 12 months;
6. Any architectural drawings, plans, surveys; environmental, soils, engineering or similar reports in the possession of Seller with respect to the Real Property;
7. All governmental authority notices of building code, zoning fire and/or health code violations;
8. Copies of all licenses and permits with respect to the Real Property;
9. Existing owner's title insurance policy and most recent ALTA Survey, if any;
10. Listing of current litigation, actions, proceedings, and investigations pending against the Real Property; and
11. Copies of any and all claims made against insurance for the previous three years with respect to the Real Property.

EXHIBIT D

FIRPTA CERTIFICATE

TRANSFEROR'S CERTIFICATE OF NON-FOREIGN STATUS

To inform the City of Montclair, a municipal corporation ("Transferee"), that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code") will not be required upon the transfer of certain real property to the Transferee by Cynthia L. Cox, [a _____] (the "Transferor"), the undersigned hereby certifies the following:

1. The Transferor is not a foreign person or citizen, foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);

2. The Transferor's social security number or U.S. employer identification number is as follows: _____.

3. The Transferor's home or office address is:

The Transferor understands that this certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment or both. Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document.

City of Montclair, a municipal corporation, by

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
MARCH 7, 2016, AT 8:15 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem Raft called the meeting to order at 8:15 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 16, 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 16, 2016.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

At 8:16 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 8:32 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 8:32 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager