

**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

November 21, 2016

7:00 p.m.

*Please note Mayor Eaton will participate by teleconferencing by speaker phone or other electronic means from the following additional location, which is accessible to the public: 225 E. Bonita Avenue, Room 1112, Pomona, California.*

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

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

- I. CALL TO ORDER** - City Council (CC), Successor Agency (SA) Board of Directors, Montclair Housing Corporation (MHC) Board of Directors, Montclair Housing Authority (MHA) Commissioners, and Montclair Community Foundation (MCF) Board of Directors

**II. INVOCATION**

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

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS**

**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** — None

Page No.

**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 November 7, 2016 [CC/SA/ MHC/MHA/MCF]

**B. Administrative Reports**

1. Consider Receiving and Filing of Treasurer's Report [CC] 4
2. Consider Approval of Warrant Register and Payroll Documentation [CC] 5
3. Consider Receiving and Filing of Treasurer's Report [SA] 6

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8. Consider Approval of Warrant Register [MHA]	11
9. Consider Authorization of a \$4,816 Appropriation from the Federal Asset Forfeiture Fund to Purchase a New Fargo HDP5600 ID Card Printer [CC]	12
10. Consider Authorizing City Manager Edward C. Starr to Award a Contract and Sign an Agreement with the Lowest Responsive Responsible Bidder for the Demolition of Montclair Residential Properties Project in an Amount Not to Exceed \$60,000 Including a Construction Contingency [CC]	13
<b>C. Agreements</b>	
1. Consider Award of Contract for the Western and Central Zone 3 Montclair Street Rehabilitation Project to Gentry Brothers, Inc., in the Amount of \$2,773,601 [CC]	
Consider Approval of Agreement No. 16-106 with Gentry Brothers, Inc., for Construction of the Western and Central Zone 3 Montclair Street Rehabilitation Project [CC]	
Consider Authorization of a \$275,000 Construction Contingency for the Western and Central Zone 3 Montclair Street Rehabilitation Project [CC]	16
2. Consider Approval of Agreement No. 16-107, a Memorandum of Understanding Between the City Of Montclair and the Montclair Police Officers' Association [CC]	25
3. Consider Approval of Agreement No. 16-108 to Retain the Law Firm of Atkinson, Andelson, Loya, Ruud & Romo to Provide Legal and Consulting Services Related to Litigation and Employee Relations Matters [CC]	27
<b>D. Resolutions — None</b>	
<b>IX. PULLED CONSENT CALENDAR ITEMS</b>	
<b>X. RESPONSE — None</b>	
<b>XI. COMMUNICATIONS</b>	
<b>A. City Department Reports</b>	
1. City Clerk's Office — General Municipal Election Results	
2. Police Department — California Office of Traffic Safety Grant	
3. Human Services — Holiday Programs	
<b>B. City Attorney</b>	
1. Closed Session Pursuant to Government Code Section 54956.9(d)(1) Regarding Pending Litigation	
<i>Mundo v. Montclair</i>	

- 2. Closed Session Pursuant to Government Code Section 54957(b)  
Regarding Public Employee Discipline/Dismissal/Release
- 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 Real Estate Committee Meeting of October 17, 2016 [CC] 34
  - 2. Minutes of Personnel Committee Meeting of November 7, 2016 [CC] 35
- XII. ADJOURNMENT OF SUCCESSOR AGENCY BOARD OF DIRECTORS, MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS, MONTCLAIR HOUSING AUTHORITY COMMISSIONERS, AND MONTCLAIR COMMUNITY FOUNDATION BOARD OF DIRECTORS**

*(At this time, the City Council will meet in Closed Session regarding pending litigation.)*
- XIII. CLOSED SESSION ANNOUNCEMENTS**
- XIV. ADJOURNMENT OF CITY COUNCIL**

*The next regularly scheduled joint City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation meeting will be held on Monday, December 5, 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 City Clerk's Office at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.*

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

*I, Andrea M. Phillips, Deputy City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall, 5111, Benito Street, Montclair, California, on Thursday, November 17, 2016.*

# AGENDA REPORT

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**SUBJECT:** CONSIDER RECEIVING AND FILING OF  
TREASURER'S REPORT

**DATE:** November 21, 2016

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 1

**FILE I.D.:** FIN520

**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending October 31, 2016, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending October 31, 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 October 31, 2016.

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Prepared by:

*Janet Kuelbeck*

Fiscal Impact  
Finance Review:

*Donald L. Parker*

Proofed by:

*Andrea M Phillips*

Reviewed and  
Approved By:

*Donald L. Parker*

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# AGENDA REPORT

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

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

**BACKGROUND:** Mayor Pro Tem Raft has examined the Warrant Register dated November 21, 2016, and the Payroll Documentation dated October 30, 2016, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated November 21, 2016, totals \$681,873.22; and the Payroll Documentation dated October 30, 2016, totals \$597,040.71 gross, with \$404,003.82 net being the total cash disbursement.

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

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

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# AGENDA REPORT

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**SUBJECT:** CONSIDER RECEIVING AND FILING OF  
TREASURER'S REPORT

**DATE:** November 21, 2016

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 3

**FILE I.D.:** FIN510

**DEPT.:** SUCCESSOR RDA

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**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 October 31, 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 October 31, 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 October 31, 2016.

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Prepared by:

*Michael Piotrowski*

Fiscal Impact  
Finance Review:

*Donald L. Parker*

Proofed by:

*Andrea M. Phillips*

Reviewed and  
Approved By:

*Donald L. Parker*

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# AGENDA REPORT

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

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**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 October 31, 2016, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 10.01.16–10.31.16 in the amounts of \$22,949.03 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 October 31, 2016.

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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>

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## AGENDA REPORT

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**SUBJECT:** CONSIDER RECEIVING AND FILING OF  
TREASURER'S REPORT

**DATE:** November 21, 2016

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 5

**FILE I.D.:** FIN525

**DEPT.:** MHC

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**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 October 31, 2016, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending October 31, 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 October 31, 2016.

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Prepared by:

*Michael Piotrowski*

Fiscal Impact  
Finance Review:

*Donald L. Parker*

Proofed by:

*Andrea M. Phillips*

Reviewed and  
Approved By:

*Donald L. Parker*

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# AGENDA REPORT

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

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**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending October 31, 2016, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 10.01.16-10.31.16 in the amount of \$53,452.77 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 October 31, 2016.

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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>

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## AGENDA REPORT

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**SUBJECT:** CONSIDER RECEIVING AND FILING OF  
TREASURER'S REPORT

**DATE:** November 21, 2016

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 7

**FILE I.D.:** FIN525

**DEPT.:** MHA

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**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 October 31, 2016, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending October 31, 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 October 31, 2016.

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Prepared by:

*Michael Piotrowski*

Fiscal Impact  
Finance Review:

*Donald L. Parker*

Proofed by:

*Andrea M. Phillips*

Reviewed and  
Approved By:

*Donald L. Parker*

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# AGENDA REPORT

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

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending October 31, 2016, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 10.01.16-10.31.16 in the amount of \$353.00 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 October 31, 2016.

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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>

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## AGENDA REPORT

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**SUBJECT:** CONSIDER AUTHORIZATION OF A \$4,816  
APPROPRIATION FROM THE FEDERAL ASSET  
FORFEITURE FUND TO PURCHASE A NEW  
FARGO HDP5600 ID CARD PRINTER

**DATE:** November 21, 2016  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 9  
**FILE I.D.:** PDT362  
**DEPT.:** POLICE

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**REASON FOR CONSIDERATION:** The City Council is requested to authorize the use of Federal Asset Forfeiture funds to purchase a new Fargo HDP5600 ID Card Printer to replace the existing nonoperational printer in the Police Department.

**BACKGROUND:** The current printer is over five years old and is nonoperational. Multiple attempts have been made to repair this unit, but costs of repairs exceed the value of the current printer. This ID printer prints ID cards for all City employees, massage parlor operators, and the City's impound lot access cards.

Multiple bid quotations were not solicited for the printer because the pricing for this unit is set by the manufacture and is consistent from vendor to vendor. The Fargo HDP5600 ID Card Printer is the latest version of our current existing unit.

**FISCAL IMPACT:** If authorized by the City Council, the purchase of one Fargo HDP5600 ID Card Printer would result in an appropriation from Federal Asset Forfeiture Fund (1144) in the amount of \$4,816. The printer was ordered prior to City Council approval because of exigent circumstances and an extended delivery period. However, payment is pending City Council approval.

**RECOMMENDATION:** Staff recommends the City Council authorize a \$4,816 appropriation from the Federal Asset Forfeiture Fund to purchase a new Fargo HDP5600 ID Card Printer.

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Prepared by:

B. VENTURA  
Sharon P. Agajanian

Fiscal Impact  
Finance Review:

Donald L. Parker  
[Signature]

Proofed by:

Reviewed and  
Approved By:

[Signature]  
[Signature]

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## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO AWARD A CONTRACT AND SIGN AN AGREEMENT WITH THE LOWEST RESPONSIVE RESPONSIBLE BIDDER FOR THE DEMOLITION OF MONTCLAIR RESIDENTIAL PROPERTIES PROJECT IN AN AMOUNT NOT TO EXCEED \$60,000 INCLUDING A CONSTRUCTION CONTINGENCY	<b>DATE:</b> November 21, 2016 <b>SECTION:</b> ADMIN. REPORTS <b>ITEM NO.:</b> 10 <b>FILE I.D.:</b> PRK601 <b>DEPT.:</b> PUBLIC WORKS
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**REASON FOR CONSIDERATION:** Under current City policies, the City Manager is authorized to sign consultant agreements for \$15,000 or less. The city is currently out for bid for the Demolition of Montclair Residential Properties Project and has a scheduled bid opening date of December 1, 2016. In an attempt to complete the project prior to the years end, staff can gain two valuable weeks by having the City Manager sign the construction agreement rather than waiting until the December 19, 2016 Council Meeting.

**BACKGROUND:** In September 2016, the City solicited bid proposals for the Demolition of the Montclair Residential Properties project. The project would demolish three residential properties owned by the Montclair Housing Authority. The addresses included:

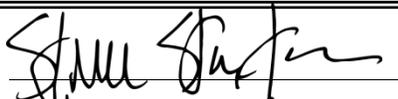
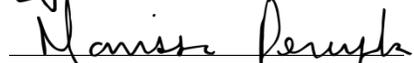
- 11244 Vernon Avenue
- 4304 Kingsley Street
- 4324 Kingsley Street

Following the September 15, 2016, bid opening, the City was presented with an offer from a potential developer that could use the Vernon Avenue structure and the vacant land surrounding the property. Staff is currently negotiating the use of the Vernon Avenue property with the business owner. At the October 17, 2016, City Council meeting, Council rejected all previous bids for the project and authorized staff to re-advertise the project, eliminating the Vernon Avenue property. The scheduled bid opening date for the re-advertised project is December 1, 2016.

Based on continued unauthorized entries and vandalism to the vacant properties, it is staff's intent to have the properties demolished as soon as possible. The two properties proposed for demolition happen to be located next to Lehigh Elementary School on Kingsley Street. With the school being closed in December for the holidays, staff would like to have the project completed while students and traffic are not present during the operation.

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

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Based on the City's calendar and the scheduled bid opening of December 1, 2016, the only possible way to complete this work in December is for the project to be awarded in the first week of December. There is a Council meeting scheduled for December 5, 2016, however, that does not allow time for the bids to be reviewed for accuracy or allow ample time for staff to prepare the Council Meeting agenda. It is staff's recommendation that the City Manager be authorized to award and sign the construction agreements with the awarding contractor.

**FISCAL IMPACT:** The subject project was added to the Fiscal Years 2016-2021 Capital Improvement Program (CIP). As the demolition is being done in connection with park construction, funding will come from Park Development Funds.

**RECOMMENDATION:** Staff recommends the City Council authorize City Manager Edward C. Starr to award a contract and sign an agreement with the lowest responsive responsible bidder for the Demolition of Montclair Residential Properties Project in an amount not to exceed \$60,000 including a construction contingency.

# Infrastructure Fund Capital Project Funding Information

Project Name: Demolition of Residential Properties  
 Project Details: Three properties owned by the City of Montclair are vacant and require demolition. 4304 Kingsley Street, 4324 Kingsley Street and 11244 Vernon Avenue

Preparation Date: 5/5/2016 (rev. 11/14/2016) Department: Public Works / Engineering  
 Project No. (Assigned by Finance): \_\_\_\_\_ Contact/Ext.: M. Hudson X.411

Phase	Fiscal Years						Total	Fund/Program
	Prior Years	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021		
Environmental								
Design								
R/W Acquisition								
Construction		60,000.00					60,000.00	Park Development Funds
<b>Total</b>	0.00	60,000.00	0.00	0.00	0.00	0.00	60,000.00	

15

**Approvals:**

Department: Public Works / Engineering Dept. By:  Date: November 14, 2016  
 Finance By: \_\_\_\_\_ Date: \_\_\_\_\_  
 City Council Date: \_\_\_\_\_  
 Revision Number: \_\_\_\_\_

**Total Project Cost:** \$60,000.00

## AGENDA REPORT

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**SUBJECT:** CONSIDER AWARD OF CONTRACT FOR THE WESTERN AND CENTRAL ZONE 3 MONTCLAIR STREET REHABILITATION PROJECT TO GENTRY BROTHERS, INC., IN THE AMOUNT OF \$2,773,601

CONSIDER APPROVAL OF AGREEMENT NO. 16-106 WITH GENTRY BROTHERS, INC., FOR CONSTRUCTION OF THE WESTERN AND CENTRAL ZONE 3 MONTCLAIR STREET REHABILITATION PROJECT

CONSIDER AUTHORIZATION OF A \$275,000 CONSTRUCTION CONTINGENCY FOR THE WESTERN AND CENTRAL ZONE 3 MONTCLAIR STREET REHABILITATION PROJECT

**DATE:** November 21, 2016  
**SECTION:** AGREEMENTS  
**ITEM NO.:** 1  
**FILE I.D.:** STA670  
**DEPT.:** PUBLIC WORKS

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**REASON FOR CONSIDERATION:** Awards of contracts and agreements with the City require City Council approval.

A copy of proposed Agreement No. 16-106 is attached for the City Council's review and consideration.

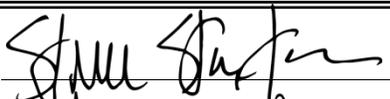
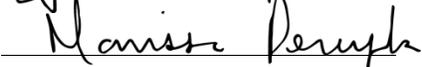
**BACKGROUND:** The Western and Central Zone 3 Montclair Street Rehabilitation Project is intended to repair uplifted curb, gutter, and sidewalk, as well as resurface residential streets throughout a large area of central and western Montclair. Project limits are from San Bernardino Street on the north, Central Avenue on the east, Orchard Street on the south, and Mills Avenue on the west.

On Thursday, November 3, 2016, Deputy City Clerk Phillips received and opened eight bid proposals for construction of the Western and Central Zone 3 Montclair Street Rehabilitation Project. The bid results are shown on the following page. Following the bid opening, the eight bid proposals were reviewed for completeness and accuracy. The bid proposal of the apparent low bidder, Gentry Brothers, Inc., provided all required documents and was deemed the lowest responsible, responsive bidder for the project. Gentry Brothers, Inc., has performed several street improvement projects within the City and is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the plans and specifications.

This project is a 45 working-day project, with work expected to begin prior to December 12, 2016, and be completed no later than February 17, 2017.

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

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Bid results are as follows:

<i><b>Bidder</b></i>	<i><b>Bid Amount</b></i>
Gentry Brothers, Inc.	\$2,773,601.00
All American Asphalt, Inc.	\$2,955,500.00
<i><b>Engineer's Estimate</b></i>	<i><b>\$3,000,000.00</b></i>
Hardy & Harper, Inc.	\$3,060,000.00
Sequel Contracting, Inc.	\$3,168,558.70
Sully-Miller Contracting	\$3,223,000
Excel Paving Company	\$3,473,655.60
R.J. Nobel Company	\$3,663,043.95
EBS General Engineering	\$3,749,165.70

The pavement rehabilitation work requires the removal of several trees that have uplifted curb, gutter, sidewalk, and pavement. Rather than include the removal of these trees as part of the construction contract, the City will use West Coast Arborists, already under contract with the City, to do the removals.

**FISCAL IMPACT:** The subject project was added to the Fiscal Years 2015–2021 Capital Improvement Program (CIP) and 2014 Lease Revenue Bond Proceeds were identified as the funding source.

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

1. Award contract for the Western and Central Zone 3 Montclair Street Rehabilitation Project to Gentry Brothers, Inc., in the amount of \$2,773,601.
2. Approve Agreement No. 16-106 with Gentry Brothers, Inc., for construction of the Western and Central Zone 3 Montclair Street Rehabilitation Project.
3. Authorize a \$275,000 construction contingency for the Western and Central Zone 3 Montclair Street Rehabilitation Project.

# Infrastructure Fund Capital Project Funding Information

Project Name: Zone 3 Western Monclair Street Rehabilitation Project  
 Project Details: This project will resurface residential streets within an area generally bound by San Bernardino Street on the north, Monte Vista Ave. on the east, Orchard Street on the south and Mills Avenue on the west. Scope of work includes PCC repairs and ADA pedestrian ramp upgrades.

Preparation Date: March 28, 2016 Department: Public Works / Engineering  
 Project No. (Assigned by Finance): \_\_\_\_\_ Contact/Ext.: M. Hudson X.411

Phase	Fiscal Years						Total	Fund/Program
	Prior Years	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021		
Environmental								
Design								
R/W Acquisition								
Construction		2,000,000.00					2,000,000.00	2014 Lease Rev bond proceeds
<b>Total</b>	0.00	2,000,000.00	0.00	0.00	0.00	0.00	2,000,000.00	

18

**Approvals:**

Department: Public Works / Engineering Dept. By:  Date: June 14, 2016  
 Finance By: \_\_\_\_\_ Date: \_\_\_\_\_  
 City Council Date: \_\_\_\_\_  
 Revision Number: \_\_\_\_\_

**Total Project Cost:** \$2,000,000.00

# Infrastructure Fund Capital Project Funding Information

Project Name: Zone 3 Central Monclair Street Rehabilitation Project  
 Project Details: This project will resurface residential streets within an area generally bound by San Bernardino Street on the north, Monte Vista Ave. on the west, Orchard Street on the south and Central Avenue on the east. Scope of work includes PCC repairs and ADA pedestrian ramp upgrades.

Preparation Date: March 28, 2016 Department: Public Works / Engineering  
 Project No. (Assigned by Finance): \_\_\_\_\_ Contact/Ext.: M. Hudson X.411

Phase	Prior Years	Fiscal Years					Total	Fund/Program
		2016/2017	2017/2018	2018/2019	2019/2020	2020/2021		
Environmental								
Design								
R/W Acquisition								
Construction		1,200,000.00					1,200,000.00	2014 Lease Rev bond proceeds
<b>Total</b>	0.00	1,200,000.00	0.00	0.00	0.00	0.00	1,200,000.00	

19

**Approvals:**

Department: Public Works / Engineering Dept. By:  Date: June 14, 2016  
 Finance By: \_\_\_\_\_ Date: \_\_\_\_\_  
 City Council Date: \_\_\_\_\_  
 Revision Number: \_\_\_\_\_

**Total Project Cost:** \$1,200,000.00

KNOW ALL MEN BY THESE PRESENTS: That the following Agreement is made and entered into as of the date executed by the City Clerk and the Mayor, by and between **GENTRY BROTHERS, INC.** a **CORPORATION**, hereinafter referred to as "CONTRACTOR" and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

**A. Recitals.**

- (i) Pursuant to Notice Inviting Sealed Bids or Proposals, bids were received, publicly opened, and declared on the date specified in said notice.
- (ii) CITY did accept the bid of CONTRACTOR.
- (iii) CITY has authorized the City Clerk and Mayor to enter into a written contract with CONTRACTOR for furnishing labor, equipment, and material for the construction of:
- (iv)

**WESTERN AND CENTRAL ZONE 3 MONTCLAIR  
STREET REHABILITATION PROJECT**

"PROJECT" hereinafter.

**B. Resolution.**

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK: CONTRACTOR shall furnish all necessary labor, tools, materials, appliances, and equipment for and do all work contemplated and embraced for the PROJECT. Said PROJECT to be performed in accordance with specifications and standards on file in the Office of the City Engineer and in accordance with bid prices hereinafter mentioned and in accordance with the instructions of the Engineer.
2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The aforesaid specifications are incorporated herein by reference thereto and made a part hereof with like force and effect as if all of said documents were set forth in full herein. Said documents, the Notice Inviting Bids, the Instructions to Bidders, the Proposal and any City-issued addenda, together with this written Agreement, shall constitute the contract between the parties. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by the CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this written Agreement shall control.
3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within ten (10) calendar days from the date of notice of award of the contract and to complete his portion of PROJECT within the time specified in the Special Provisions. CONTRACTOR agrees further to the assessment of liquidated damages in the amount

## AGREEMENT

specified in the Special Provisions or the Standard Specifications, whichever is higher, for each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

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

5. INSURANCE: The CONTRACTOR shall not commence work under this contract until he has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been obtained. The CONTRACTOR shall take out and maintain at all times during the life of this contract the following policies of insurance:

a. Compensation Insurance: Before beginning work, the CONTRACTOR shall furnish to the Engineer a policy of insurance or proper endorsement as proof that he has taken out full compensation insurance for all persons whom he may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this contract.

In accordance with the provisions of §3700 of the California Labor Code, every contractor shall secure the payment of compensation to his employees. CONTRACTOR, prior to commencing work, shall sign and file with CITY a certification as follows:

**"I am aware of the provisions of §3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."**

b. For all operations of the CONTRACTOR or any subcontractor in performing the work provided for herein, insurance with the following minimum limits and coverage:

- (1) Public Liability - Bodily Injury (not auto) \$1,000,000 each person; \$2,000,000 each accident.
- (2) Public Liability - Property Damage (not auto) \$500,000 each accident; \$1,000,000 aggregate.
- (3) Contractor's Protective - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.

## AGREEMENT

- (4) Contractor's Protective - Property Damage \$500,000 each accident; \$1,000,000 aggregate.
  - (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
  - (6) Automobile - Property Damage \$500,000 each accident.
- c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
- (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
  - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
- d. Each such policy of insurance provided for in paragraph b. shall:
- (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
  - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
  - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
  - (4) Contain a clause substantially in the following words:  
  
"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
  - (5) Otherwise be in form satisfactory to CITY.
- e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.

## AGREEMENT

6. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

The CONTRACTOR will indemnify CITY against and will hold and save CITY harmless from any and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of the CONTRACTOR, his agents, employees, subcontractors, or invitees provided for herein, whether or not there is concurrent passive or active negligence on the part of CITY, but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY, and in connection therewith:

- a. The CONTRACTOR will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations, or liabilities and will pay all costs and expenses, including attorneys' fees incurred in connection therewith.
- b. The CONTRACTOR will promptly pay any judgment or award rendered against the CONTRACTOR or CITY covering such claims, damages, penalties, obligations, and liabilities arising out of or in connection with such work, operations, or activities of the CONTRACTOR hereunder or reasonable settlement in lieu of judgment or award, and the CONTRACTOR agrees to save and hold the CITY harmless therefrom.
- c. In the event CITY is made a party to any action or proceeding filed or prosecuted against the CONTRACTOR for damages or other claims arising out of or in connection with the project, operation, or activities of the CONTRACTOR hereunder, the CONTRACTOR agrees to pay to CITY any and all costs and expenses incurred by CITY in such action or proceeding together with reasonable attorneys' fees.

Money due to the CONTRACTOR under and by virtue of the contract, as shall be considered necessary by CITY, may be retained by CITY until disposition has been made of such actions or claims for damage as aforesaid.

**AGREEMENT**

7. **NONDISCRIMINATION:** No discrimination shall be made in the employment of persons upon public works because of the race, color, sex, sexual preference, sexual orientation, or religion of such persons, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of Division 2, Part 7, Chapter 1 of the Labor Code in accordance with the provisions of § 1735 of said Code.

8. **INELIGIBLE SUBCONTRACTORS:** The CONTRACTOR shall be prohibited from performing work on this project with a subcontractor who is ineligible to perform on the project pursuant to § 1777.1 and § 1777.7 of the Labor Code.

9. **CONTRACT PRICE AND PAYMENT:** CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **November 3, 2016**.

10. **ATTORNEYS' FEES:** In the event that any action or proceeding is brought by either party to enforce any term or provision of this Agreement, the prevailing party shall recover its reasonable attorneys' fees and costs incurred with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

CONTRACTOR

CITY

**Gentry Brothers, Inc.**  
384 Live Oak Ave.  
Irwindale, CA. 91706

**CITY OF MONTLAIR, CALIFORNIA**

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

\_\_\_\_\_

Carolyn Raft  
Mayor Pro Tem

\_\_\_\_\_  
Title

**ATTEST:**

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

\_\_\_\_\_

Name

Andrea M. Phillips  
Deputy City Clerk

\_\_\_\_\_  
Title

**APPROVED AS TO FORM:**

\_\_\_\_\_

City Attorney

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 16-107, A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MONTCLAIR AND THE MONTCLAIR POLICE OFFICERS' ASSOCIATION	<b>DATE:</b> November 21, 2016 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 2 <b>FILE I.D.:</b> MPO350 <b>DEPT.:</b> ADMIN. SVCS.
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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 16-107 for the Memorandum of Understand (MOU) between the City of Montclair and Montclair Police Officers Association (MPOA).

A copy of proposed Agreement No. 16-107 is included in City Council agenda packets for the City Council's review and consideration.

**BACKGROUND:** The City of Montclair and MPOA have reached agreement on the provisions related to the terms and conditions of employment. The proposed MOU shall be effective upon date of ratification by the City Council for the period July 1, 2016, through June 30, 2017. After June 30, 2017, the existing terms, conditions, and provisions of the proposed MOU shall remain in effect; and City and employees agree to abide by those terms, conditions, and provisions unless otherwise altered by the meet-and-confer process or unless otherwise indicated in the proposed MOU.

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

- Article 7 (Section 7.01): This change relates to a one-time stipend of \$3,000 provided to employees represented by MPOA.
- Article 8 (Section 8.01): The change relates to an increase in the benefit fund contribution for employees represented by MPOA from \$1,025 to \$1,100 per month effective November 2016.
- Article 24: The change relates to the extension of the probationary period for newly appointed employees from a 12-month period to an 18-month period.
- Article 44: The change relates to the term of the Agreement.

**FISCAL IMPACT:** There is no fiscal impact associated with ratifying the proposed MOU between the City of Montclair and MPOA other than what has been included in the Fiscal Year 2016-17 Budget.

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

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**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 16-107, a Memorandum of Understanding between the City of Montclair and MPOA.

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 16-108 TO RETAIN THE LAW FIRM OF ATKINSON, ANDELSON, LOYA, RUUD & ROMO TO PROVIDE LEGAL AND CONSULTING SERVICES RELATED TO LITIGATION AND EMPLOYEE RELATIONS MATTERS

**DATE:** November 21, 2016

**SECTION:** AGREEMENTS

**ITEM NO.:** 3

**FILE I.D.:** PER575

**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 16-108 with the law firm of Atkinson, Andelson, Loya, Ruud & Romo to provide legal and consulting services related to litigation and employee relation matters. A copy of proposed Agreement No. 16-108 is attached for the City Council's review and consideration.

**BACKGROUND:** The City of Montclair has utilized legal services from various law firms for purposes of employer-employee relations, labor relations, grievances, disciplinary actions, and other litigation matters. Attorney Diane Robbins contacted Kevin Dale from the law firm of Atkinson, Andelson, Loya, Ruud & Romo to discuss providing services for the City of Montclair on employee relations matters and related litigation. City Attorney Robbins is familiar with Mr. Dale from services he provided to the City of Loma Linda. Mr. Dale is very knowledgeable on matters related to public employees, is an experienced labor negotiator, and provides general counsel services to various public agencies.

City Attorney Robbins consulted with Mr. Dale to develop a contract for the law firm of Atkinson, Andelson, Loya, Ruud & Romo to provide legal and consulting services to the City of Montclair effective November 15, 2016. Mr. Dale would be used primarily for employer-employee-related issues. The proposed hourly rates are competitive with the hourly rates of other law firms utilized by the City for legal and consulting services.

**FISCAL IMPACT:** The proposed fees for the subject legal services are contained in proposed Agreement No. 16-XX and summarized below:

*Proposed Hourly Rates*

Partners/Senior Counsel	\$295
Associates	\$240 - \$270
Paralegals	\$175

The City will pay for all reasonable and necessary expenses incurred by the firm such as telephone charges, incoming and outgoing faxes, photocopies, mailing fees,

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

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messenger services, computer database searches, word processing, and travel expenses including mileage at IRS rate, parking, meals, and lodging (excluding airfare).

Since these services are utilized on an as-needed basis, the exact fiscal impact is currently unknown. Funds for attorney services are currently included in the Fiscal Year 2016-17 Budget.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 16-108 to retain the law firm of Atkinson, Andelson, Loya, Ruud & Romo to provide legal and consulting services related to litigation and employee relations matters.

**ATTORNEY REPRESENTATION AGREEMENT**

**I. PARTIES**

This Attorney Representation Agreement ("Agreement") is entered into by and between the law firm of ATKINSON, ANDELSON, LOYA, RUUD & ROMO, a professional corporation, hereinafter referred to as "Attorney" or the "Law Firm" and the City of Montclair, hereinafter referred to as "Client."

**II. PURPOSE**

Client desires to retain and engage Law Firm to provide legal services and consultation relating to general employment law matters, labor negotiations and labor advice, labor relations and other services as requested by the Client. Law Firm accepts this engagement on the terms and conditions contained in this Agreement.

**III. TERMS AND CONDITIONS**

A. Fees for Services

1. Hourly Rate Services

Client agrees to pay the Law Firm at the following standard hourly rates:

Partners/Senior Counsel: \$295.00

Associates (depending on years of professional experience): \$240.00 - \$270.00

Paralegals: \$175.00

2. Costs and Expenses

The Law Firm will charge Client for telephone charges (\$.07 per minute), incoming and outgoing faxes (\$1.00 per page), photocopies (\$.20 per page), mailing fees, messenger services, computer database (e.g. Westlaw) searches (billed at vendor's standard retail rate), word processing (\$40.00 per hour), and travel expenses including mileage at IRS rate, parking, meals, and lodging (excluding airfare).

Costs relating to fees charged by third parties retained to perform services ancillary to the Law Firm's representation of Client are not included and are charged separately. These include, but are not limited to, deposition and court reporter fees, transcript costs, witness fees (including expert witnesses), process server fees, and other similar third party fees. The Law Firm shall not be obligated to advance costs on behalf of Client; however, for purposes of convenience and in order to expedite matters, the Law Firm reserves the right to advance costs on behalf of Client with Client's prior approval in the event a particular cost item exceeds \$2,000.00 in amount, and without the prior approval of Client in the event a particular cost item totals \$2,000.00 or less.

B. Billing Practices

1. A detailed description of the work performed and the costs and expenses advanced by the Law Firm will be prepared on a monthly basis as of the last day of the month and will be mailed to Client on or about the 15th of the following month, unless other arrangements are made. Payment of the full amount due, as reflected on the monthly statement, will be due to the Law Firm from Client by the 10th of the month following delivery of the statement, unless other arrangements are made. In the event that there are funds of Client in the Law Firm's Trust Account at the time a monthly billing statement is prepared, funds will be transferred from the Law Firm's Trust Account to the Law Firm's General Account to the extent of the balance due on the monthly statement and a credit will be reflected on the monthly statement.

2. Hourly rate services shall be charged to Client at a minimum increment of one-tenth hour, including reasonable travel time billed portal-to-portal. When time spent by Attorney on a particular service exceeds one-tenth hour, the charge will be rounded up to the next one-tenth hour increment.

3. Client agrees to review the Law Firm's monthly statements promptly upon receipt and to notify the Law Firm, in writing, with respect to any disagreement with the monthly statement.

C. Termination of Representation

Client has the right, at any time, and either with or without good cause, to discharge the Law Firm as its attorneys. In the event of such a discharge of the Law Firm by Client, however, any and all unpaid attorneys' fees and costs owing to the Firm by Client shall be immediately due and payable.

The Law Firm reserves the right to discontinue the performance of legal services on behalf of Client on a particular matter upon the occurrence of anyone or more of the following events:

1. Upon order of a court of law requiring the Law Firm to discontinue the performance of legal services;

2. Upon a determination by the Law Firm in the exercise of its reasonable and sole discretion, that state or federal legal ethical principles require it to discontinue the performance of legal services;

3. Upon a failure of Client to perform any of Client's obligations with respect to the payment of the Law Firm's fees, costs or expenses as reflected on the monthly bill; or,

4. Upon failure to cooperate with Law Firm as described in paragraph E.

In the event that the Law Firm ceases to perform legal services for Client, Client agrees that it will promptly pay to the Law Firm any and all unpaid fees and costs advanced. Further, the Client agrees that, with respect to any litigation where the Law Firm has made an appearance

in a court of law on its behalf, Client will promptly execute an appropriate Substitution of Attorney form. Any termination of Law Firm's representation on such a matter may be subject to approval by the applicable court of law.

D. Possible Third Party Conflicts

The Firm has a number of attorneys. The Firm may currently or in the future represent one or more other clients in matters involving Client. The Firm undertakes this engagement on the condition that the Firm may represent another client in a matter in which the Firm does not represent Client, even if the interests of the other client are adverse to those of Client (including appearance on behalf of another client adverse to Client in litigation or arbitration), provided the other matter is not substantially related to the Firm's representation of Client and in the course of representing Client attorneys of the Firm have not obtained confidential information of Client material to the representation of the other client ("Permitted Adverse Representation"). Client's consent to this arrangement is required because of its possible adverse effects on performance of the Firm's duties as attorneys to remain loyal and available to those other clients and to render legal services with vigor and competence. Also, if an attorney does not continue an engagement or must withdraw therefrom, the client may incur delay, prejudice or additional cost such as acquainting new counsel for the matter. Client agrees not to seek to disqualify the Firm from representing such other client in any Permitted Adverse Representation.

E. Client Cooperation

Client understands and agrees that, in order for the Law Firm to represent Client effectively, it is necessary for Client to assist and cooperate with the Law Firm during this engagement. Client agrees to: (1) make its employees and officials available to discuss issues as they arise; (2) attend and participate in meetings, preparation sessions and court proceedings, review drafts of documents, and perform other activities in connection with the representation; and (3) provide complete and accurate information and documents to us on a timely basis. Noncooperation will be grounds for the Law Firm's withdrawal from representing Client on a particular matter. It is essential that Client and the Law Firm maintain open communications.

F. Arbitration: Waiver of Jury Trial

The parties agree that all disputes which arise between the Client and the Law Firm, whether financial or otherwise regarding the attorney-client relationship, shall be resolved by binding arbitration. Each side shall bear their own costs and attorneys' fees. The parties agree to waive their right to a jury trial and to an appeal.

G. Protection of Client Confidences - High Tech Communication Devices

The Law Firm is aware of its important obligation to preserve the secrets and confidences of its clients which it holds in precious trust for them. To that end it is important that Client and the Law Firm agree from the outset what kinds of communications technology the Law Firm should employ in the course of representing Client. For example, the exchange of documents and other information using email or other types of electronic communications involves some risk that information will be retrieved by third parties with no right to see it. Even the use of facsimile machines can cause problems if documents are sent to numbers where the documents

sit in open view.

Therefore, Client should only provide the Law Firm with cellular numbers, facsimile numbers and email addresses which are acceptable to Client for receiving confidential communications from the Law Firm. Client agrees that the Law Firm may use any of the cellular numbers, facsimile numbers and email addresses other than those which you specify in writing that the Law Firm should not use.

H. Document Retention and Destruction

After a file on a matter is closed, Client has a right to request the Law Firm to return the file to Client. Absent such a request, the Law Firm shall retain the file on Client's behalf for a period of five (5) years. Following this period of time, the Law Firm will destroy such files.

I. Miscellaneous

1. Law Firm and Client agree that the Law Firm, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an employee of Client.
2. The Law Firm maintains errors and omissions insurance coverage applicable to the services to be rendered.

J. Entire Agreement

This Agreement represents the entire agreement between Client and the Law Firm unless a particular matter is covered by a separate written agreement. By execution of this Agreement, Client certifies that it has carefully reviewed and understands the contents of this Agreement and agrees to be bound by all of its terms and conditions. Furthermore, Client acknowledges that the Law Firm has made no representations or guarantees regarding the outcome, or the time necessary to complete or resolve a particular matter. No change or waiver of any of the provisions of this Agreement will be binding on either Client or the Law Firm unless the change is in writing and signed by both Client and the Law Firm.

**IV. DURATION**

This Agreement shall commence on November 15, 2016. The attorney-client relationship between the Firm and Client will cease at the conclusion of the matter(s) specified above. If the Firm is not asked by Client to provide advice for a period of one (1) year from the last date the Firm provided such advice, both Client and the Firm agree that the attorney-client

relationship terminated on the last date the Firm provided advice without further action or notice by either party.

“Law Firm”

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

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

By: \_\_\_\_\_  
Kevin R. Dale  
Partner

“Client”

CITY OF MONTCLAIR

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

By: \_\_\_\_\_  
Carolyn Raft  
Mayor Pro Tem

**MINUTES OF THE CITY OF MONTCLAIR REAL  
ESTATE COMMITTEE MEETING HELD ON  
MONDAY, OCTOBER 17, 2016 AT 5:30 P.M. IN  
THE CITY HALL CONFERENCE ROOM, 5111  
BENITO STREET, MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Council Member Dutrey called the meeting to order at 5:30 p.m.

**II. ROLL CALL**

Present: Council Member Dutrey (Chair); Mayor Eaton (Committee Member); City Manager Starr; Deputy City Manager/Economic and Community Development Executive Director Staats; Assistant Director of Housing/Planning Manager Caldwell; City Planner/Planning Manager Diaz; Associate Planner Gutierrez; Public Works Director/City Engineer Hudson; Senior Management Analyst Fuentes; City Attorney Robbins; Deputy City Clerk Phillips

Also

Present: Mr. Kevin Kent, Crestwood Communities

**III. APPROVAL OF MINUTES**

Minutes of the Real Estate Committee meeting of September 19, 2016, were approved.

**IV. PUBLIC COMMENT — None**

**V. DISCUSSION ITEMS**

**A. REQUEST SUBMITTED BY CRESTWOOD COMMUNITIES — Proposed Zone Change and General Plan Amendment from Commercial to Residential Designation at 4620 Holt Boulevard - 32 Condominium Units**

**Mr. Kent** requested the Committee consider recommending a zone change and General Plan amendment for the property at 4620 Holt Boulevard from commercial to residential because his development company, **Crestwood Communities**, is looking into developing a condominium community on it.

City Manager Starr indicated current City Council direction is to create efficient and coherent land uses throughout the City with the upcoming General Plan update to encourage developers to acquire adjacent properties and develop better quality projects.

Mr. Kent advised that **Crestwood Communities** is interested in purchasing the adjacent **Bowlium** property to incorporate into and expand the project, noting they were made aware that the property may be put up for sale soon.

Deputy City Manager/Economic and Community Development Executive Director Staats stated that staff just learned that the property may have recently been sold because the **Bowlium's** business license was just updated with a new owner. She added that the General Plan will include a land use study and analysis, noting staff has had an experience in the past where a developer initially proposed a zone change for a residential development and instead went with a car dealership, which ended up being very successful. She advised the analysis would be completed in the General Plan update to determine the best land use designations City before the plan is finalized.

The Committee decided to postpone making a recommendation on changing the designation for this property until the General Plan analysis is completed, at which time there may be more certainty with the property adjacent to the **Bowlium**.

**B. DEVELOPMENT PROPOSALS — PROJECTS NOT OFFICIALLY SUBMITTED FOR FORMAL CITY REVIEW:**

**1. Northeast Corner of Holt Boulevard and Amherst Avenue — Review of Preliminary Site Plan, Floor Plan, and Elevations for a 13,200 Square Foot Multiple Tenant Retail Commercial Building on 1.36 Vacant Acres – Dang Cindy Giang.**

City Planner/Planning Manager Diaz noted the developer has proposed a commercial shopping center with four to five lease spaces, with expressed interest from a bakery and a sandwich shop as possible tenants. He added the developer is not proposing a drive-thru restaurant on the property.

The Committee reviewed the preliminary site plan, floor plan, and elevations. The Committee discussed safety concerns related to the opening between the two buildings, further requesting that staff have the developer alter the plan to close off or gate that area.

The Committee recommended that staff allow the developer to move forward with the plans as long as discussed security concerns are addressed.

**C. UPDATE — Proposed Zone Change/General Plan Amendment from Residential to Commercial Designation for Properties at 4168, 4144, and 4122 Holt Boulevard**

Assistant Housing Director/Planning Manager Caldwell indicated this proposed zone change will require an update to the Holt Boulevard

Specific Plan as well as certain environmental analyses to satisfy **CEQA** requirements. She noted the proposal for the various required environmental studies (noise, traffic, etc.) is \$79,000, but staff could reduce the price to around \$50,000 by doing some of the work in-house.

The Committee discussed the cost of the studies, determined the cost is far too excessive to individually consider this zone change on its own, and recommended consolidating the proposed zone change into the General Plan Update.

**D. UPDATE — Amendment No. 1 to the North Montclair Downtown Specific Plan (NMDSP) Initial Study Scoping Meeting**

City Planner/Planning Manager Diaz advised a scoping hearing is set for this Wednesday, October 19 at 6:00 p.m. in the Council Chambers for the initial study related to the NMDSP. He noted **Dudek**, the City's environmental consultant, will be present to assist with the meeting.

**VI. OTHER ITEMS**

City Planner/Planning Manager Diaz advised that staff believes **Buffalo Wild Wings** has signed a lease for the former **Macaroni Grill** location.

Deputy City Manager/Economic and Community Development Executive Director Staats stated that **CIM** has not yet submitted its revised plans for demolition of the former **Broadway** building.

**VII. ADJOURNMENT**

At 5:56 p.m., Council Member Dutrey adjourned the Real Estate Committee.

Submitted for Real Estate Committee approval,

  
\_\_\_\_\_  
Andrea Phillips, Deputy City Clerk

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON MONDAY,  
NOVEMBER 7, 2016, AT 8:05 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Pro Tem Raft called the meeting to order at 8:05 p.m.

**II. ROLL CALL**

Present: Mayor Pro Tem Raft; Council Member Dutrey, and City Manager Starr

**III. APPROVAL OF MINUTES**

**A. Minutes of the Regular Personnel Committee Meeting of October 17, 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 October 17, 2016.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**

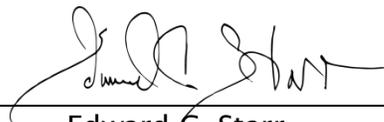
At 8:06 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 8:18 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 8:18 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



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Edward C. Starr  
City Manager