

CITY OF MONTCLAIR

**CITY COUNCIL
SUCCESSOR REDEVELOPMENT AGENCY,
MONTCLAIR HOUSING CORPORATION, MONTCLAIR
HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY
FOUNDATION MEETINGS**

AGENDA PACKET



**Monday, August 19, 2024
7:00 p.m.**

**Montclair City Council Chambers
5111 Benito Street
Montclair, CA 91763**

Mayor

Javier "John" Dutrey

Mayor Pro Tem

Tenice Johnson

Council Members

Bill Ruh

Corysa Martinez

Benjamin "Ben" Lopez

City Manager

Edward C. Starr

City Attorney

Diane E. Robbins

City Clerk

Andrea M. Myrick



**REGULAR JOINT MEETING OF THE
CITY COUNCIL, SUCCESSOR AGENCY, MONTCLAIR HOUSING CORPORATION,
MONTCLAIR HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY FOUNDATION**

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

Monday, August 19, 2024
7:00 p.m.

If you want to provide comments on an agenda item, including public hearing and closed session items, please complete a Speaker Card located in the Council Chambers. The Mayor/Chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate times during the meeting. Written comments (200-word limit per agenda item, and 200-word limit for all non-agenda items combined) can also be emailed to cityclerk@cityofmontclair.org at least one hour before the meeting begins.

*Watch Council meetings live on the City's official YouTube Channel at <https://www.youtube.com/@cityofmontclair>, or via Zoom using the following information: **Zoom Link:** <https://zoom.us/j/93717150550> / **Dial Number:** 1 (669) 900-6833 / **Meeting ID:** 937-1715-0550. Video recordings of Council meetings are available on the City's website and can be accessed by the end of the business day following the meeting at <https://www.cityofmontclair.org/council-meetings/>.*

AGENDA

- I. CALL TO ORDER** City Council [CC], Successor Agency Board [SA],
Montclair Housing Corporation Board [MHC],
Montclair Housing Authority Commission [MHA],
Montclair Community Foundation Board [MCF]

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

- A. Presentation by Monte Vista Water District: "Making Conservation a Way of Life"

VI. PUBLIC COMMENT

*During Public Comment, you may comment on any subject that **does not** appear on this agenda. Each speaker has up to five minutes. The meeting's presiding officer may provide more or less time to accommodate speakers with special needs or a large number of speakers waiting in line. (Government Code Section 54954.3).*

Under the provisions of the Brown Act, the meeting bodies are prohibited from participating in substantial discussion of or taking action on items not listed on the agenda.

VII. PUBLIC HEARINGS

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- A. Consider Adoption of Resolution No. 24-3453 Establishing a Five-Year Schedule of Maximum Monthly Rate Caps for Refuse and Sewer Program Services in Compliance with Proposition 218 [CC]

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VIII. CONSENT CALENDAR

- A. Approval of Minutes

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Consider Authorizing a \$35,000 Appropriation from the Economic Development Assets Fund for Rehabilitation of the Property Located at 9603 Mills Avenue, Montclair [CC]	
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- 4. Consider Adoption of Resolution No. 24-3454 Designating Authorized Agents of the City of Montclair for California Office of Emergency Services (Cal OES) Public Assistance Grants [CC]

Consider Approving for Submittal the Cal OES Form 130 Updating the City's Authorized Agents [CC] 234

IX. PULLED CONSENT CALENDAR ITEMS

X. COMMUNICATIONS

A. Department Reports — None

B. City Attorney

- 1. Request for City Council to Meet in Closed Session Pursuant to Government Code §54956.8 Regarding Real Property Negotiations [CC]

Property: APN: 1007-703-06-0000
Negotiating Parties: City of Montclair, CRP/VP Montclair Village Owner, LLC
City Negotiators: Edward C. Starr, City Manager
Under Negotiation: Recommendations Regarding Purchase Price

- 2. Request for City Council to Meet in Closed Session Pursuant to Government Code §54956.8 Regarding Real Property Negotiations [CC]

Property: APN: 1010-295-03-0000
Negotiating Parties: City of Montclair, CRP/Tessier, Daniel & Carlotta Living Trust
City Negotiators: Edward C. Starr, City Manager
Under Negotiation: Recommendations Regarding Purchase Price

C. City Manager/Executive Director

D. Mayor/Chairperson

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

- 1. Public Works Committee Meeting - April 18, 2024 [CC] 238

- 2. Personnel Committee Meeting - July 15, 2024 [CC] 242

XI. CLOSED SESSION

XII. CLOSED SESSION ANNOUNCEMENTS

XIII. ADJOURNMENT

The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Tuesday, September 3, 2024 at 7:00 p.m.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the meeting bodies after publication of the Agenda packet are available for public inspection in the Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Please call the City Clerk's Office at (909) 625-9416 or send an e-mail to cityclerk@cityofmontclair.org to request documents via e-mail.

If you need special assistance to participate in this meeting, call the City Clerk's Office at (909) 625-9416 or e-mail cityclerk@cityofmontclair.org. Notification 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. Myrick, 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 City's website at <https://www.cityofmontclair.org/agendas/> and on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763 on Thursday, August 15, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FLP175/FLP180
SECTION:	PUBLIC HEARINGS	DEPT.:	FINANCE
ITEM NO.:	A	PREPARER:	J. KULBECK
SUBJECT:	CONSIDER ADOPTION OF RESOLUTION NO. 24-3453 ESTABLISHING A FIVE-YEAR SCHEDULE OF MAXIMUM MONTHLY RATE CAPS FOR REFUSE AND SEWER PROGRAM SERVICES IN COMPLIANCE WITH PROPOSITION 218		

REASON FOR CONSIDERATION: The City of Montclair provides a number of property-related services to the community including the disposal of refuse and the operation and maintenance of a sewer system. The cost of providing these services is charged to ratepayers/property owners. The City Council may consider adjustments to the rates for property-related services; however, such rate adjustments are subject to Proposition 218's notification, protest, and hearing requirements. The City Council authorizes Proposition 218 public notifications and hearings for property-related fee adjustments and establishes fee caps related thereto. At this evening's meeting, the City Council is to conduct a public hearing to receive oral and written protests from residents and property owners regarding proposed refuse rate caps that would be in effect through July 2028.

BACKGROUND: The City of Montclair, through its contract solid waste hauler, Burrtec Waste Industries, Inc. (Burrtec), provides for the disposal of residential refuse. Services include the weekly pickup of solid waste, green waste, organic, and recyclables; on-demand pickup of large items; and neighborhood cleanup services.

The City also provides a variety of sewage-related programs: Services include the treatment and collection of sewage/wastewater on demand, 24 hours per day, 7 days per week, 365 days per year; sewer system maintenance; and sewer system infrastructure improvements. The City of Montclair maintains the sewer system; the Inland Empire Utilities Agency (IEUA), an independent agency, provides for the treatment of sewage.

Provision of the above utilities is essential to providing Montclair residents with a safe, healthy, and habitable community.

Proposition 218 Hearing Requirements. Article XIID, Section 6(a) of the State Constitution (Proposition 218), passed by the voters of California on November 5, 1996, requires municipalities to give detailed written notice to the owners of parcels upon which proposed fees or charges are to be applied. A public hearing shall be conducted not less than 45 days after mailing the notice. If written protests against a proposed fee or charge are presented by a majority of owners of such parcels, the fee adjustment shall not be implemented. If a majority protest is not received, the rate cap may go into effect by adoption of an enabling resolution and without further action.

The City Council shall consider all protests against the proposed rates; however, state law (Article XIID, Section 6 of the State Constitution) provides that only written protests submitted by property owners shall be counted to determine whether a majority protest to the proposed increases exists.

Written Protest Procedure. A property owner may file a written protest to the proposed increases in one of the following ways:

1. Through the United States mail to City of Montclair, Attn: City Clerk, P.O. Box 2308, Montclair, CA 91763 (must be received before the Public Hearing).
2. By deposit in the utility bill drop box at Montclair City Hall.
3. By hand delivery to the Montclair City Clerk during normal business hours (Monday through Thursday, 7:00 a.m. to 6:00 p.m.).
4. By hand delivery to the Montclair City Clerk at the date and time of the public hearing on August 19, 2024.

Written protests are to be received by the Montclair City Clerk no later than 7:00 p.m. on Monday, August 19, 2024, or by the conclusion of the public hearing.

Each written protest must include the parcel owner's name, service address, assessor's parcel number for the parcel served, and the parcel owner's signature. No more than one protest per parcel may be submitted.

Majority Protest. A majority protest shall exist only in the event that a majority of owners of the identified parcels submit written protests against the proposed fees to the City of Montclair. Written protests shall be received and counted by the Montclair City Clerk, and such written protests shall be part of the public record as defined in Section 6252 of the Government Code. If the count of written protests from property owners shows that a majority protest is received, the proposed fees shall not be implemented. If a majority protest fails, the City Council shall consider the adoption of proposed increases.

Methodology for Prospective Fees. The methodology of proposed fees noticed to property owners can include annual prospective adjustments or ranges of annual adjustments, provided the formula or fee methodology approved by property owners does not change or does not change in a way that would otherwise impose future increases that are higher than the fee formula approved by the City Council. In the event that rates higher than those projected are required to meet program needs, the City is required to conduct a new Proposition 218 notification, protest, and hearing process. Fees proposed herein do not exceed the proportional cost of the service attributable to each affected parcel, and revenues derived are not expected to exceed the cost of service.

City Council Directed Authorization to Proceed. At its meeting on June 17, 2024, the City Council adopted Resolution Nos. 24-3441 and 24-3442 authorizing the following actions which have been accomplished:

- Setting a public hearing on residential refuse and sewer rates for August 19, 2024, to receive public comment related to proposed rates.

- Establishing a schedule of proposed total monthly rates for refuse and sewer services.
- Authorizing staff to send notices of a public hearing regarding total monthly rates for refuse and sewer services to property owners of record upon whom proposed fees would be imposed.

Supreme Court Rules Proposition 218 Applicable. On July 24, 2006, the California Supreme Court published its decision on *Bighorn-Desert View Water Agency v. Beringson* addressing the property-related-fee provisions of Proposition 218. In relation to each of these services, the Court ruled that where the rate is set by a government agency, it is a "property-related" fee subject to the public hearing requirements of the measure.

Solid Waste Disposal Services

Pursuant to Title 6, Section 6.16.050 of the Montclair Municipal Code, the City Council may, from-time-to-time, consider adjustments to rates for solid waste disposal services.

Burrtec, the City's franchise solid waste hauler, is seeking an adjustment to residential and commercial refuse rates. Proposed rate adjustments include fees for recycling, organic waste, and sanitation to comply with state law mandates, provide enhanced service levels to the community, and provide commercial operators with a range of optional services.

Residential Refuse Rates

Agreement No. 18-26, by and between Burrtec Waste Industries (Burrtec) and the City of Montclair, provides for the annual adjustment of residential refuse service rates by a percentage increase not to exceed the *All Cities Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange Co. Area, All-Items Indexes, All Urban Consumers*, for the previous 12 months ending in January.

Burrtec last requested and received an adjustment to the residential refuse rate with an effective date of January 1, 2023. The proposed adjustment stemmed from two components: (1) an increase in refuse service costs related to CPI adjustments since July 2019, and (2) the increased costs for providing services related to SB 1383 regulations. This was the only residential refuse service rate increase to Montclair residents since 2019.

Burrtec is currently requesting a 2.25 percent rate adjustment with an effective date on or about August 1, 2024. The proposed adjustment stems from three components: (1) a 3.48 percent increase in refuse service costs related to CPI adjustments since January 2023, (2) increased costs for recyclable and green waste processing and disposal fees, and (3) the removal of the 2022 catch-up fee.

Residential Refuse Rate: Five-Year Schedule of Maximum Rate Caps

The proposed five-year schedule of rates is based on the terms and conditions contained in Agreement No. 18-26.

Table 2, attached as *Appendix 1*, reflects the proposed schedule of maximum refuse rates that can be assessed to residential ratepayers for the five-year rate period that runs from July 1, 2024, through July 1, 2028. **At no time during each of the annual rate periods can refuse rates exceed the applicable maximum monthly rate cap for the effective year.** If a request for refuse rate increases exceeds the effective maximum monthly rate cap for the applicable year, a new Proposition 218 public hearing would be required.

Proposed maximum residential refuse rate caps are based on a ten percent per annum adjustment.

Maximum residential refuse rate caps are not an indication of actual monthly residential refuse rates. In prior years, all approved increases were below maximum refuse rate caps, and below authorized increases pursuant to Agreement No. 18-26. On January 1, 2023, the refuse rate was increased to \$37.64 which is \$1.06 below the rate cap of \$38.70, and was the first increase to refuse rates since July 1, 2019.

Proposed Residential Refuse Rates Effective August 1, 2024

Concurrent with the Proposition 218 public hearing this evening to consider establishing a five-year schedule of maximum residential refuse rate caps, City staff is asking the Council to consider a proposed schedule of residential refuse rates effective on or about August 1, 2024.

Following is a discussion of components that constitute the monthly residential refuse rate and proposed cost adjustments for each rate component:

- *Refuse Service Rate:* The refuse service rate represents that portion of the rate paid to Burrtec for collecting and transporting refuse to the Materials Recovery Facility (MRF). The City's Agreement with Burrtec allows the refuse service rate to be adjusted each year by the CPI, not to exceed 5 percent annually. Burrtec is requesting a service rate adjustment of \$0.44, from \$12.73 to \$13.17.
- *Landfill Rate:* The landfill rate represents a pass-through of actual transportation and tipping fees paid by Burrtec. Currently, refuse generated in Montclair is transported from Burrtec's MRF in Fontana to several landfills within Burrtec's network of landfill disposal sites throughout Southern California. The rate is adjusted by a formula agreed upon in Agreement No. 18-26. Burrtec is requesting a \$1.00 adjustment in the landfill rate from \$6.57 to \$7.57.
- *Recycling Service Rates:* The recycling service rate represents the cost of collecting and transporting recyclables to the MRF. A service rate adjustment of \$0.14, from \$3.97 to \$4.11, is being proposed.
- *Materials Recovery Facility Fee:* The MRF component is affected by (1) the volume of recyclables processed; (2) the amount of refuse (contamination) found in the recyclables; and (3) the market value of recycled commodities over the preceding 12 months.

Pursuant to AB 341, all cities in the state were required to reach a 75 percent landfill recovery rate by 2020. As such, the amount of recyclable commodities that Burrtec is able to collect and process has increased significantly as a result of state law. Burrtec's cost of processing and disposing of recyclables has risen from \$34.23 per ton to \$59.95 per ton. Therefore, Burrtec is proposing a \$0.52 adjustment in the MRF rate from \$0.83 to \$1.35.

- *Greenwaste Disposal:* The Greenwaste Disposal Fee represents a pass-through of actual transportation and tipping fees paid by Burrtec. Increases for this rate component are typically tied to increases in fuel prices and tipping fees, and decreases in commodity volume.

The formula used to calculate the green waste component is essentially based on disposal volume plus the disposal charge per ton. Burrtec's disposal costs for this have risen from \$80.00 per ton to \$89.57 per ton. Therefore, Burrtec is proposing a \$0.40 increase in this cost component, from \$3.33 to \$4.03.

- *SB 1383 Compliance Fee:* The SB 1383 Compliance Fee represents costs related to state-mandated organic waste collection and diversion of such waste from landfills. This rate was subsidized by Burrtec for the first year of the program. A service rate adjustment of \$0.90 is being proposed.
- *2022 Catch-up Fee:* The 2022 Catch-up Fee represents a delay in refuse collection increases. A service rate decrease of \$2.85, from \$2.85 to \$0 is being proposed.
- *Household Hazardous Waste Fee:* The City has an agreement with the County of San Bernardino to provide household hazardous waste disposal facilities.

Disposal facilities are located at the following locations:

5050 Schaefer Avenue, Chino
1430 South Cucamonga Avenue, Ontario
1370 North Benson Avenue, Upland

Montclair residents may dispose of hazardous waste at no charge at the time of disposal and are annually assessed approximately \$6.60 per household (\$0.55 monthly). The Household Hazardous Waste Fee is based on the actual cost charged to the City by San Bernardino County and is intended as a pass-through cost to each ratepayer. A rate adjustment of \$0.07, from \$0.55 to \$0.62, is proposed.

- *General Sanitation Fee:* The general sanitation fee is a rate component assessed to residential ratepayers to reimburse for a portion of City costs related to general community maintenance issues including graffiti abatement, alleyway maintenance, illegal dumping, property cleanup, sanitation services, and removal of abandoned bulky items in neighborhoods and alleyways. Since adoption of the General Sanitation Fee in 2011, the service charge has remained below the actual/estimated cost of service. A rate adjustment of \$0.15, from \$2.82 to \$2.97, is proposed.

- *Administrative Fee:* The Administrative Fee is a charge imposed by the City to reimburse for the cost of administering the refuse service program—the current fee is \$3.99 per month. Service charges should approximate the actual/estimated cost of service. There is no anticipated adjustment in the Administrative Fee component.

Table 1 below identifies cost components of Montclair's *Total Monthly Household Refuse Rate* including current and proposed rates—proposed monthly residential refuse rates will be considered at a public hearing scheduled for August 19, 2024.

Table 1 also indicates the adoption of proposed Resolution No. 24-3453 would increase the *Total Monthly Household Refuse Rate* from \$37.64 to \$38.71, an increase of \$1.07. Senior households would continue to be charged a refuse rate that is 20 percent below the monthly refuse fee for nonsenior households—the monthly senior household rate would increase from \$30.11 to \$30.97, an increase of \$0.86.

Table 1
Total Monthly Household Refuse Rate Components
Current and Proposed Residential Refuse Rates

<i>Fee Components</i>	<i>Current</i>	<i>Proposed</i>
Refuse service rate	\$ 12.73	\$ 13.17
Recycling service rate	\$ 3.97	\$ 4.11
Refuse landfill/Transfer rate	\$ 6.57	\$ 7.57
MRF fees	\$ 0.83	\$ 1.35
Greenwaste disposal rate	\$ 3.33	\$ 4.03
SB 1383 Compliance Fee	\$ 0.00	\$ 0.90
Catch-up fee 2022 increase delayed to 1/1/23	\$ 2.85	\$ 0.00
<i>Total cost of services—paid to Burrtec</i>	\$ 30.28	\$ 31.13
General sanitation fee	\$ 2.82	\$ 2.97
Administrative fee	\$ 3.99	\$ 3.99
Household Hazardous Waste fee	\$ 0.55	\$ 0.62
<i>Total monthly cost to provide refuse collection</i>	\$ 37.64	\$ 38.71
TOTAL MONTHLY HOUSEHOLD RATE	\$ 37.64	\$ 38.71
TOTAL MONTHLY SENIOR HOUSEHOLD RATE	\$ 30.11	\$ 30.97
Monthly City subsidy per senior household	\$ 7.53	\$ 7.74
Miscellaneous:		
Extra Cart:		
Refuse	\$ 6.56	\$ 6.79
Recycling	\$ 1.48	\$ 1.53
Greenwaste	\$ 4.17	\$ 4.31

Senior Household Refuse Rate Subsidy Program

Montclair currently provides a monthly refuse rate subsidy program for senior households—to qualify, acountholders must be age 65 or older, live at the residence, and the refuse account must be in the customer's name. The current monthly household refuse rate for senior households is \$30.11— a savings of \$7.53 off the current Total Monthly Household Refuse Rate of \$37.64; the proposed Senior Household rate of \$30.97 effective on or about August 1, 2024, represents a savings of \$7.74 below the proposed Total Monthly Household Refuse Rate of \$38.71.

The subsidy program is not a rate discount off the Total Monthly Household Refuse Rate; rather, it is a General Fund subsidy that offsets the Total Monthly Household Refuse Rate currently charged to the households of non-senior residential refuse ratepayers. The General Fund subsidy is used to make full payments to Burrtec for refuse services provided to senior households. Staff recommends continuing the practice of providing a 20 percent discount off the monthly residential refuse rate for senior households.

Commercial Refuse Rates

Similar to the discussion for residential refuse rates, it is the City Attorney's opinion that Proposition 218 requires a public hearing for commercial refuse rates.

The process related to conducting a Proposition 218 public hearing for commercial refuse rates is similar to the process followed for residential refuse rates.

Agreement No. 18-26 provides for annual adjustment of commercial refuse service rates by a percentage increase not to exceed the *All Cities Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Area, All-Items Indexes, All Urban Consumers* for the previous 12 months ending in January.

Commercial Refuse Rate: Five-Year Schedule of Maximum Rate Caps

The proposed five-year schedule of commercial rates is based on the terms and conditions contained in Agreement No. 18-26.

Table 2, attached as **Appendix 1** to this report reflects a comparison of the current and proposed commercial rates requested by Burrtec. **Commercial refuse rates cannot exceed the applicable maximum Proposition 218 monthly rate caps previously established by the City Council.** If a proposed commercial rate increase exceeds the effective maximum allowable monthly rate cap for the applicable year, it would either be denied or a new Proposition 218 public hearing would be required.

Maximum commercial refuse rate caps approved through the Proposition 218 process are not an indication of actual monthly commercial refuse rates. The City of Montclair typically does not increase commercial refuse rates on an annual basis, and adjustments, when they do occur, usually fall well below the maximum Proposition 218 rate cap for the applicable year and below authorized increases pursuant to Agreement No. 18-26.

Following is a discussion of components that constitute the monthly commercial refuse rate and proposed cost adjustments for each rate component.

- *Service costs related to the provision of refuse services.* Service costs are subject to annual CPI adjustments pursuant to Agreement No. 18-26. Burrtec is requesting a 3.48 percent CPI adjustment for Commercial Rates.
- *Pass-through costs including a Greenwaste processing fee and/or the Landfill Disposal rate.* *Materials Recovery Facility Fee:* As indicated above, the MRF component is affected by (1) the volume of recyclables processed; (2) the amount of refuse (contamination) found in the recyclables; and (3) the market value of recycled commodities over the preceding 12 months.

Pursuant to AB 341, all cities in the state were required to reach a 75 percent landfill recovery rate by 2020. As such, the amount of recyclable commodities that Burrtec is able to collect and process has increased significantly as a result of state law.

The recent growth in the volume of recyclables has produced a downward trend in commodity prices and currently, foreign outlets have stopped accepting recyclables. The Disposal/Landfill rate for Commercial Bins and Roll-Offs is increasing from \$49.00 per ton to \$55.74 per ton and the Greenwaste rate is increasing from \$54.37 per ton to \$60.87 per ton.

- *Frequency Factor.* This component represents the number of times per week (or other designated period of days) that refuse is picked up for disposal. The frequency factor provides ratepayers with a graduating discount rate based on the number of times of service per week.
- *Bin Size.* Bins are provided in the following sizes: 1.5 yards (0.3250 tons); 2.0 yards 0.4333 tons); 3.0 yards (0.6500 tons); 3.0 yards/greenwaste (1.3000 tons); 3.0 yards compacted (1.9500 tons); and 4.0 yards/compacted (2.600 tons). Additionally, 95 and 65-gallon barrels are available. Bin/Barrel size, Disposal/Landfill, and Greenwaste disposal rates determine the monthly cost for this component.
- *Franchise Fee.* The franchise fee is an assessment against Burrtec for the exclusive right to be the primary solid waste hauler for the City of Montclair and consists of a 10 percent fee of gross revenue derived from services to commercial, institutional, and industrial premises, exclusive of revenue from the sale of recyclable materials and disposal tip fees. There is no increase in this fee component.
- *Pavement Impact Fee.* The pavement impact fee is an assessment against Burrtec to compensate the City for damage done to pavement caused by heavy refuse disposal trucks owned and operated by Burrtec and their frequent and regular use of City roads. This rate component consists of a 3.5 percent fee of gross revenue from services to commercial, institutional, and industrial premises, exclusive of revenue from sale of recyclable materials and disposal tip fees. There is no increase in this fee component.
- *Recycling Fee.* The recycling fee is increasing from \$3.14 per cubic yard to \$3.96 per cubic yard. The new rate of \$3.96 per cubic yard would result in a monthly fee of \$51.48, based on a typical 3-yard bin size, at a frequency rate of once per week.
- *Food Waste Bin.* Pursuant to SB 1383, all cities in the state are required to reach a 75 percent reduction in landfilled organic waste by 2025. Rates for food waste disposal were put in place in 2019. The collection rate for Commercial Food Waste Bins is increasing from \$94.75 per ton to \$106.08 per ton.
- *General Sanitation Fee.* The General Sanitation Fee remains at \$0.40 per yard and is multiplied by the collection frequency per month for commercial refuse accounts. The General Sanitation Fee for commercial refuse accounts is designed to contribute toward the cost of general community maintenance issues including graffiti abatement, alleyway maintenance, illegal dumping, property cleanup, sanitation services, and removal of abandoned bulky items in neighborhoods and alleyways. There is no increase in this fee component.

Elective Refuse Service Fees

Burrtec rates also include a category of elective refuse services for commercial ratepayers, for an additional cost that only be charged to accounts voluntarily agreeing to access these services.

Proposed elective services include the following:

- ✓ Extra Bin Pickup
- ✓ Locking Containers
- ✓ Steam Cleaning
- ✓ Bulky Item Trip
- ✓ Bulky Item Pickup
- ✓ Relocation Fee of Roll-Off Containers Rental Fee
- ✓ Rental Fee

Refuse Rate Comparisons

Comparative surveys do not typically offer clarity as to the cost of providing refuse rates; rather, such comparisons provide a simple tool for showing existing refuse rate ranges for comparable types of services. The following are significant factors when conducting rate comparisons:

- ✓ Cities do not typically publish or identify refuse rate components. Instead, they simply state the total fee for commercial and residential refuse rates. As such, it is difficult to identify what the rate components are for commercial and residential refuse rates. Some cities may incorporate a variety of rate components within their monthly refuse rate including but not limited to administration fees, street sweeping, sanitation fees, recycling fees, greenwaste fees, and pavement impact fees. As more and more cities begin to examine the rate structures used by neighboring communities, the use of varied rate components is becoming commonplace.
- ✓ Services included in various refuse rates are typically structured differently in each city, thereby making direct comparisons unreliable. For example, some cities may charge a general sanitation fee that covers graffiti abatement and street cleaning; while another city may charge a sanitation fee that only covers bulky item pick-up. As such, it is difficult to compare services provided by refuse haulers.
- ✓ Not all cities provide tiered refuse rates such as Non-senior and Senior Residential Refuse Rates. While some cities may offer a two-tiered system, the formula by which the rate is subsidized is oftentimes unknown.
- ✓ Economies of scale greatly affect the refuse service rate for cities. Typically, cities with much larger populations that produce vast amounts of refuse are provided much lower refuse service rates—a factor attributed to the lower cost per unit to provide refuse service. Examples include the cities of Rancho Cucamonga and Fontana. These cities have significantly larger populations and produce a higher volume of refuse in comparison to Montclair. Cities with smaller populations and producing small amounts of refuse tend to have higher refuse service rates, based on the higher cost per unit to provide refuse services.

Rate Comparisons for residential and commercial refuse services are shown below in Table 3 and Table 4 respectively.

**Table 3
Residential Rate Comparisons**

Jurisdiction	Hauler	Rate	Net Burrtec Rate
Rancho Cucamonga	Burrtec	\$33.44	\$27.83
Fontana	Burrtec	\$36.15	\$31.09
San Bernardino County	Burrtec	\$37.62	\$31.98
Upland	Burrtec	\$38.09	\$36.64
Chino	Waste Management	\$37.33	
Montclair (current)	Burrtec	\$37.64	\$30.28
Montclair (proposed)	Burrtec	\$38.71	\$31.13
Ontario	City of Ontario	\$43.81	

**Table 4
Commercial Rate Comparisons**

Jurisdiction	Rate
San Bernardino County	\$130.35
Ontario	\$172.83
Upland	\$183.37
Rancho Cucamonga	\$207.38
Montclair (current)	\$213.45
Montclair (proposed)	\$224.00

Sewer Maintenance Rates

Chapter 9.20 of the Montclair Municipal Code provides for the design, construction, alteration, use, maintenance, and replacement of the City Sewer System and the collection of appropriate fees that provide for the maximum beneficial use of the City Sewer System, groundwater resources, effluent-receiving waterways, wastewater discharges, and improvements/maintenance of the sewer system.

Revenues to support the City's sewer infrastructure and Sewer Maintenance Program derive from the Equivalent Dwelling Unit (EDU)—a fee structure imposed by the Inland Empire Utilities Agency (IEUA) and the City of Montclair with various fee components that support sewage treatment and sewer maintenance. Montclair ratepayers currently pay \$33.47 per month per EDU—known as the "*Total Monthly EDU Rate*."

Components of the EDU fee structure include the following:

1. Sewage treatment: The treatment of sewage effluent flowing through the sewer system—provided by IEUA.

2. Sewer maintenance: The maintenance of the sewer system that collects and transports sewage for treatment—provided by the City of Montclair.
3. Infrastructure replacement/rehabilitation: Long-term replacement and rehabilitation of deteriorating sections of the City's sewer system—provided by the City of Montclair.
4. Effluent/Contamination maintenance: The maintenance of sewer line obstructions related to foreign substances in the sewer system. This is a new component for FY 2024/25.

The largest cost component of the current *Total Monthly EDU Rate* (\$23.39 per month per EDU) goes to the IEUA for sewage treatment-related costs. The remaining balance of \$10.08 per month per EDU goes to the City to pay for all Sewer Program services, personnel, capital outlay, infrastructure improvement, and maintenance including the annual cleaning of each sewer line, the purchase of necessary equipment to perform maintenance, and the preparation and submission of various reports and studies to demonstrate compliance with regulatory requirements.

The City last conducted a public hearing to establish sewer rates in 2019. The maximum rates established at that time were for a five-year period, terminating in June 2023.

In 2023, IEUA adopted sewage treatment rates for a two-year period effective July 1, 2023, through June 30, 2025. The IEUA rate specified for Fiscal Year 2024–25 is \$24.79 per EDU.

Table 5 below shows current and proposed rates. The proposed rate caps are not necessarily the actual rates that will be recommended for adoption in later fiscal years. Part 1 Fees will be set at the amounts eventually adopted by the IEUA Board of Directors. Part 2 Fees will be determined each year based on previous years' expenditures and projected needs. Part 3 and Part 4 Fees will likely remain constant with increases only requested if staff determines an increase is warranted.

**Table 5
Current & Proposed Sewer Rates**

<i>Effective Date</i>	<i>Part 1 Fee</i>	<i>Part 2 Fee</i>	<i>Part 3 Fee</i>	<i>Part 4 Fee</i>	<i>Total</i>
Current	\$ 23.39	\$ 8.58	\$ 1.50	\$ -	\$ 33.47
Proposed:					
07/01/24	\$ 24.79	\$ 9.44	\$ 1.75	\$ 0.50	\$ 36.48
07/01/25	\$ 27.27	\$ 10.38	\$ 1.75	\$ 0.50	\$ 39.90
07/01/26	\$ 30.00	\$ 11.42	\$ 1.75	\$ 0.50	\$ 43.67
07/01/27	\$ 33.00	\$ 12.56	\$ 1.75	\$ 0.50	\$ 47.81
07/01/28	\$ 36.30	\$ 13.82	\$ 1.75	\$ 0.50	\$ 52.37

The proposed rates are maximum caps that cannot be exceeded without an additional Proposition 218 hearing and approval by the City Council.

Conclusion

Current and proposed rates effective on or about August 1, 2024, and proposed five-year maximum rate caps for commercial and residential refuse services are contained in **Table 2**, attached as **Appendix 1** and, maximum rate caps for sewer services are presented in **Table 5**, above.

Proposed refuse and sewer rate caps:

1. Comply with Proposition 218 notification/hearing requirements.
2. Proposed year-to-year rate caps typically reflect a 10 percent CPI adjustment over the previous year.

It is anticipated that proposed maximum rate caps would avoid triggering Proposition 218 requirements during the proposed five-year schedule of maximum rates for refuse and sewer accounts.

To achieve full compliance with Proposition 218 notification and hearing requirements, notifications of the following were mailed to property owners 45 days prior to the public hearing. These notices, in English and Spanish, advised property owners of the following:

1. Date of public hearing before the City Council
2. Maximum proposed rate caps
3. Computation formula
4. Proposed refuse and sewer rates effective on or about August 1, 2024

FISCAL IMPACT: Increasing maximum rate caps for residential and commercial refuse service would allow the City to meet its contractual obligations with Burrtec to apply CPI-related increases and other cost-related components without triggering Proposition 218 hearings each time a rate adjustment is considered; provided total rate adjustments do not exceed respective, maximum Proposition 218 rate caps for the applicable year in which they are proposed to go into effect.

Increasing maximum rate caps for sewer services would allow the City to meet its obligation to IEUA for sewage processing and provide for sewer system maintenance and replacement without triggering Proposition 218 hearings each time a rate adjustment is considered; provided total rate adjustments do not exceed respective, maximum Proposition 218 rate caps for the applicable year in which they are proposed to go into effect.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 24-3453 establishing a five-year schedule of maximum monthly rate caps for refuse and sewer services in compliance with Proposition 218.

RESOLUTION NO. 24-3453

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR SETTING A PROPOSED FIVE-YEAR SCHEDULE OF MONTHLY RESIDENTIAL AND COMMERCIAL MAXIMUM MONTHLY RATE CAPS FOR REFUSE AND SEWER SERVICES AND SETTING REFUSE AND SEWER RATES INITIALLY AT THOSE PROPOSED TO BE EFFECTIVE AUGUST 1, 2024

WHEREAS, Article XIID, Section 6(a) of the State Constitution (Proposition 218), passed by the voters of California on November 5, 1996, requires municipalities to give detailed written notice to the owners of parcels upon which proposed water-, refuse-, and/or sewer-related fees or charges are to be applied; and

WHEREAS, on July 24, 2006, the California Supreme Court published its decision on *Bighorn-Desert View Water Agency v. Beringson*, addressing the property-related fee provisions of Proposition 218, and concluding that in relation to water-, refuse-, and sewer-related services where the rates for such services are set by a government agency, such charges are "property-related" fees subject to the public hearing requirements of Proposition 218; and

WHEREAS, Proposition 218 requires that a public hearing shall be conducted not less than 45 days after the mailing of such notice of a public hearing on property-related fee adjustments; and

WHEREAS, if written protests against a proposed property-related fee or charge are presented by a majority of owners of the property owners and ratepayers, the fee adjustment shall not be implemented; and

WHEREAS, if a majority protest is not received from property owners and ratepayers, the proposed rate cap shall go into effect; and

WHEREAS, Chapter 6.16 of the Montclair Municipal Code establishes a mandatory refuse collection program and a process for the collection of service fees related thereto and Chapter 9.20 of the Monclair Municipal Code provides for the design, construction, alteration, use, maintenance, and replacement of the City Sewer System and the collection of appropriate fees that provide for the maximum beneficial use of the City Sewer System, groundwater resources, effluent-receiving waterways, wastewater discharges, and improvements/maintenance of the sewer system; and

WHEREAS, the City has reached its maximum authorization related to adjusting rates for residential refuse services, and future adjustment cannot be made without conducting a Proposition 218 protest hearing; and

WHEREAS, Burrtec Waste Industries, Inc., the City's solid waste hauler and the Inland Empire Utility Agency, the City's sewage processor, are requesting and are authorized annual rate adjustments pursuant to the terms of the existing franchise agreement and sewage processing agreements; and

WHEREAS, the City's General Fund now shares a significant responsibility for supporting the residential refuse programs and that without proposed Proposition 218 rate cap increases and the annual fee-related increases associated therewith, the fiscal viability of the residential refuse programs are jeopardized.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby establishes the maximum caps for residential refuse services below and that such caps for 2024 through 2028 represent a maximum limit, not an immediate rate adjustment, and that reaching the limit of the proposed caps is not expected to occur for approximately 5 years:

Residential					
<i>Service/Size/Pickup</i>	<i>Effective July 1,</i>				
	<i>2024</i>	<i>2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>
Household Rate	\$ 38.71	\$ 42.58	\$ 46.84	\$ 51.52	\$ 56.67
Bin 1.5/Frequency 1	\$ 151.26	\$ 166.39	\$ 183.03	\$ 201.33	\$ 221.46

BE IT FURTHER RESOLVED that the City Council of the City of Montclair hereby establishes the maximum caps for commercial refuse services contained in **Table 1**, attached as **Appendix 1** and that such caps for 2024 through 2028 represent a maximum limit, not an immediate rate adjustment, and that reaching the limit of the proposed caps is not expected to occur for approximately 5 years.

BE IT FURTHER RESOLVED that the City Council of the City of Montclair hereby establishes the maximum caps for residential and commercial sewer services below and that such caps for 2024 through 2028 represent a maximum limit, not an immediate rate adjustment, and that reaching the limit of the proposed caps is not expected to occur for approximately 5 years:

<i>Sewage Processing and System Maintenance</i>					
	<i>Effective July 1,</i>				
	<i>2024</i>	<i>2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>
IEUA Pass Through and Maintenance	\$ 36.48	\$ 39.90	\$ 43.67	\$ 47.81	\$ 52.37

BE IT FURTHER RESOLVED that such residential and commercial caps are subject to the Proposition 218 notification process which has been performed, as required. A public hearing was noticed for August 19, 2024 to provide property owners and ratepayers an opportunity to protest proposed maximum rate caps for residential refuse services in accordance with the requirements of Proposition 218.

BE IT FURTHER RESOLVED that such maximum caps are subject to majority written protest by property owners and ratepayers at a public hearing conducted pursuant to Proposition 218 and that a majority protest of property owners and ratepayers has not been received.

BE IT FURTHER RESOLVED that residential and commercial refuse rates shall be initially set as indicated under the 2024 column above and are effective August 1, 2024.

BE IT FINALLY RESOLVED that rate adjustments up to the proposed maximum rate caps for refuse services effective in 2025 through 2028 shall require City Council approval, either by Resolution or Ordinance, prior to implementation.

APPROVED AND ADOPTED this XX day of XX 2024.

Mayor

ATTEST:

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 24-3453 was duly adopted by the City Council of said city and was approved by the Mayor Pro Tem of said city at an adjourned regular meeting of said City Council held on the XX day of XX, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk

Table 2
Maximum Proposed Monthly Refuse Rates

Residential						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2024</i>	<i>2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>
Household Rate	\$ 37.64	\$ 38.71	\$ 42.58	\$ 46.84	\$ 51.52	\$ 56.67
Extra Barrel - Refuse	\$ 6.56	\$ 6.79	\$ 7.47	\$ 8.22	\$ 9.04	\$ 9.94
Extra Barrel - Recycling	\$ 1.48	\$ 1.53	\$ 1.68	\$ 1.85	\$ 2.04	\$ 2.24
Extra Barrel - Green Waste	\$ 4.17	\$ 4.31	\$ 4.74	\$ 5.21	\$ 5.73	\$ 6.30
Extra Pick-Up - Res. Barrel	\$ 18.69	\$ 18.69	\$ 20.56	\$ 22.62	\$ 24.88	\$ 27.37
Bin 1.5/Frequency 1	\$ 148.59	\$ 151.26	\$ 166.39	\$ 183.03	\$ 201.33	\$ 221.46
Bin 1.5 Recycling (Extra)	\$ 79.41	\$ 85.29	\$ 93.82	\$ 103.20	\$ 113.52	\$ 124.87
Residential Mixed Organics - Stand Alone Rates						
Barrel - 35 Gal/Frequency 1	\$ -	\$ 35.29	\$ 38.82	\$ 42.70	\$ 46.97	\$ 51.67
Barrel - 35 Gal/Frequency 2	\$ -	\$ 57.74	\$ 63.51	\$ 69.86	\$ 76.85	\$ 84.54
Barrel - 35 Gal/Frequency 3	\$ -	\$ 75.99	\$ 83.59	\$ 91.95	\$ 101.15	\$ 111.27
Barrel - 35 Gal/Frequency 4	\$ -	\$ 94.60	\$ 104.06	\$ 114.47	\$ 125.92	\$ 138.51
Barrel - 35 Gal/Frequency 5	\$ -	\$ 121.23	\$ 133.35	\$ 146.69	\$ 161.36	\$ 177.50
Barrel - 35 Gal/Frequency 6	\$ -	\$ 131.26	\$ 144.39	\$ 158.83	\$ 174.71	\$ 192.18
Barrel - 65 Gal/Frequency 1	\$ -	\$ 36.67	\$ 40.34	\$ 44.37	\$ 48.81	\$ 53.69
Barrel - 65 Gal/Frequency 2	\$ -	\$ 60.37	\$ 66.41	\$ 73.05	\$ 80.36	\$ 88.40
Barrel - 65 Gal/Frequency 3	\$ -	\$ 79.90	\$ 87.89	\$ 96.68	\$ 106.35	\$ 116.99
Barrel - 65 Gal/Frequency 4	\$ -	\$ 99.79	\$ 109.77	\$ 120.75	\$ 132.83	\$ 146.11
Barrel - 65 Gal/Frequency 5	\$ -	\$ 127.69	\$ 140.46	\$ 154.51	\$ 169.96	\$ 186.96
Barrel - 65 Gal/Frequency 6	\$ -	\$ 139.00	\$ 152.90	\$ 168.19	\$ 185.01	\$ 203.51
Barrel - 95 Gal/Frequency 1	\$ -	\$ 38.04	\$ 41.84	\$ 46.02	\$ 50.62	\$ 55.68
Barrel - 95 Gal/Frequency 2	\$ -	\$ 63.01	\$ 69.31	\$ 76.24	\$ 83.86	\$ 92.25
Barrel - 95 Gal/Frequency 3	\$ -	\$ 83.81	\$ 92.19	\$ 101.41	\$ 111.55	\$ 122.71
Barrel - 95 Gal/Frequency 4	\$ -	\$ 104.97	\$ 115.47	\$ 127.02	\$ 139.72	\$ 153.69
Barrel - 95 Gal/Frequency 5	\$ -	\$ 134.14	\$ 147.55	\$ 162.31	\$ 178.54	\$ 196.39
Barrel - 95 Gal/Frequency 6	\$ -	\$ 146.73	\$ 161.40	\$ 177.54	\$ 195.29	\$ 214.82
Commercial						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2024</i>	<i>2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>
Multifamily Commercial:						
Barrel	\$ 41.60	\$ 40.75	\$ 44.83	\$ 49.31	\$ 54.24	\$ 59.66
Bin 1.5/Frequency 1	\$ 161.99	\$ 163.84	\$ 180.22	\$ 198.24	\$ 218.06	\$ 239.87
Bin 1.5/Frequency 2	\$ 307.22	\$ 311.09	\$ 342.20	\$ 376.42	\$ 414.06	\$ 455.47
Bin 1.5/Frequency 3	\$ 452.16	\$ 458.93	\$ 504.82	\$ 555.30	\$ 610.83	\$ 671.91
Bin 2.0/Frequency 1	\$ 192.40	\$ 195.66	\$ 215.23	\$ 236.75	\$ 260.43	\$ 286.47
Bin 2.0/Frequency 2	\$ 358.38	\$ 367.59	\$ 404.35	\$ 444.79	\$ 489.27	\$ 538.20
Bin 2.0/Frequency 3	\$ 525.08	\$ 540.01	\$ 594.01	\$ 653.41	\$ 718.75	\$ 790.63
Bin 3.0/Frequency 1	\$ 275.00	\$ 280.40	\$ 308.44	\$ 339.28	\$ 373.21	\$ 410.53
Bin 3.0/Frequency 2	\$ 484.08	\$ 502.07	\$ 552.28	\$ 607.51	\$ 668.26	\$ 735.09
Bin 3.0/Frequency 3	\$ 694.12	\$ 723.24	\$ 795.56	\$ 875.12	\$ 962.63	\$ 1,058.89
Bin 3.0/Frequency 4	\$ 903.77	\$ 944.34	\$ 1,038.77	\$ 1,142.65	\$ 1,256.92	\$ 1,382.61
Bin 3.0/Frequency 5	\$ 1,113.77	\$ 1,165.48	\$ 1,282.03	\$ 1,410.23	\$ 1,551.25	\$ 1,706.38
Bin 3.0/Frequency 6	\$ 1,323.78	\$ 1,387.17	\$ 1,525.89	\$ 1,678.48	\$ 1,846.33	\$ 2,030.96

Table 2 (Continued)
Maximum Proposed Monthly Refuse Rates

Commercial						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2024</i>	<i>2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>
Multi-Family Mixed Organics - Stand Alone Rates						
Barrel - 35 Gal/Frequency 1	\$ -	\$ 35.29	\$ 38.82	\$ 42.70	\$ 46.97	\$ 51.67
Barrel - 35 Gal/Frequency 2	\$ -	\$ 57.74	\$ 63.51	\$ 69.86	\$ 76.85	\$ 84.54
Barrel - 35 Gal/Frequency 3	\$ -	\$ 75.99	\$ 83.59	\$ 91.95	\$ 101.15	\$ 111.27
Barrel - 35 Gal/Frequency 4	\$ -	\$ 94.60	\$ 104.06	\$ 114.47	\$ 125.92	\$ 138.51
Barrel - 35 Gal/Frequency 5	\$ -	\$ 121.23	\$ 133.35	\$ 146.69	\$ 161.36	\$ 177.50
Barrel - 35 Gal/Frequency 6	\$ -	\$ 131.26	\$ 144.39	\$ 158.83	\$ 174.71	\$ 192.18
Barrel - 65 Gal/Frequency 1	\$ -	\$ 36.67	\$ 40.34	\$ 44.37	\$ 48.81	\$ 53.69
Barrel - 65 Gal/Frequency 2	\$ -	\$ 60.37	\$ 66.41	\$ 73.05	\$ 80.36	\$ 88.40
Barrel - 65 Gal/Frequency 3	\$ -	\$ 79.90	\$ 87.89	\$ 96.68	\$ 106.35	\$ 116.99
Barrel - 65 Gal/Frequency 4	\$ -	\$ 99.79	\$ 109.77	\$ 120.75	\$ 132.83	\$ 146.11
Barrel - 65 Gal/Frequency 5	\$ -	\$ 127.69	\$ 140.46	\$ 154.51	\$ 169.96	\$ 186.96
Barrel - 65 Gal/Frequency 6	\$ -	\$ 139.00	\$ 152.90	\$ 168.19	\$ 185.01	\$ 203.51
Barrel - 95 Gal/Frequency 1	\$ -	\$ 38.04	\$ 41.84	\$ 46.02	\$ 50.62	\$ 55.68
Barrel - 95 Gal/Frequency 2	\$ -	\$ 63.01	\$ 69.31	\$ 76.24	\$ 83.86	\$ 92.25
Barrel - 95 Gal/Frequency 3	\$ -	\$ 83.81	\$ 92.19	\$ 101.41	\$ 111.55	\$ 122.71
Barrel - 95 Gal/Frequency 4	\$ -	\$ 104.97	\$ 115.47	\$ 127.02	\$ 139.72	\$ 153.69
Barrel - 95 Gal/Frequency 5	\$ -	\$ 134.14	\$ 147.55	\$ 162.31	\$ 178.54	\$ 196.39
Barrel - 95 Gal/Frequency 6	\$ -	\$ 146.73	\$ 161.40	\$ 177.54	\$ 195.29	\$ 214.82
Commercial with Recycling:						
Barrel - 95 Gal/Frequency 1	\$ 43.64	\$ 48.80	\$ 53.68	\$ 59.05	\$ 64.96	\$ 71.46
Barrel - 95 Gal/Frequency 2	\$ 74.39	\$ 85.75	\$ 94.33	\$ 103.76	\$ 114.14	\$ 125.55
Barrel - 95 Gal/Frequency 3	\$ 105.51	\$ 122.74	\$ 135.01	\$ 148.51	\$ 163.36	\$ 179.70
Barrel - 95 Gal/Frequency 4	\$ 136.61	\$ 159.71	\$ 175.68	\$ 193.25	\$ 212.58	\$ 233.84
Barrel - 95 Gal/Frequency 5	\$ 167.69	\$ 196.67	\$ 216.34	\$ 237.97	\$ 261.77	\$ 287.95
Barrel - 95 Gal/Frequency 6	\$ 198.79	\$ 233.65	\$ 257.02	\$ 282.72	\$ 310.99	\$ 342.09
Bin 1.5/Frequency 1	\$ 155.09	\$ 159.96	\$ 175.96	\$ 193.56	\$ 212.92	\$ 234.21
Bin 1.5/Frequency 2	\$ 292.09	\$ 302.46	\$ 332.71	\$ 365.98	\$ 402.58	\$ 442.84
Bin 1.5/Frequency 3	\$ 432.06	\$ 447.82	\$ 492.60	\$ 541.86	\$ 596.05	\$ 655.66
Bin 1.5/Frequency 4	\$ 555.16	\$ 580.95	\$ 639.05	\$ 702.96	\$ 773.26	\$ 850.59
Bin 1.5/Frequency 5	\$ 680.82	\$ 713.49	\$ 784.84	\$ 863.32	\$ 949.65	\$ 1,044.62
Bin 1.5/Frequency 6	\$ 806.61	\$ 846.08	\$ 930.69	\$ 1,023.76	\$ 1,126.14	\$ 1,238.75
Bin 2.0/Frequency 1	\$ 183.34	\$ 190.69	\$ 209.76	\$ 230.74	\$ 253.81	\$ 279.19
Bin 2.0/Frequency 2	\$ 342.43	\$ 358.14	\$ 393.95	\$ 433.35	\$ 476.69	\$ 524.36
Bin 2.0/Frequency 3	\$ 501.08	\$ 525.59	\$ 578.15	\$ 635.97	\$ 699.57	\$ 769.53
Bin 2.0/Frequency 4	\$ 645.68	\$ 683.04	\$ 751.34	\$ 826.47	\$ 909.12	\$ 1,000.03
Bin 2.0/Frequency 5	\$ 793.87	\$ 840.98	\$ 925.08	\$ 1,017.59	\$ 1,119.35	\$ 1,231.29
Bin 2.0/Frequency 6	\$ 942.10	\$ 998.99	\$ 1,098.89	\$ 1,208.78	\$ 1,329.66	\$ 1,462.63
Bin 3.0/Frequency 1	\$ 261.78	\$ 273.18	\$ 300.50	\$ 330.55	\$ 363.61	\$ 399.97
Bin 3.0/Frequency 2	\$ 460.08	\$ 487.65	\$ 536.42	\$ 590.06	\$ 649.07	\$ 713.98
Bin 3.0/Frequency 3	\$ 657.78	\$ 701.57	\$ 771.73	\$ 848.90	\$ 933.79	\$ 1,027.17
Bin 3.0/Frequency 4	\$ 855.65	\$ 915.51	\$ 1,007.06	\$ 1,107.77	\$ 1,218.55	\$ 1,340.41
Bin 3.0/Frequency 5	\$ 1,053.44	\$ 1,129.39	\$ 1,242.33	\$ 1,366.56	\$ 1,503.22	\$ 1,653.54
Bin 3.0/Frequency 6	\$ 1,251.69	\$ 1,343.93	\$ 1,478.32	\$ 1,626.15	\$ 1,788.77	\$ 1,967.65

Table 2 (Continued)
Maximum Proposed Monthly Refuse Rates

Commercial						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2024</i>	<i>2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>
Commercial Greenwaste:						
Barrel - 95 Gal/Frequency 1	\$ 44.28	\$ 46.79	\$ 51.47	\$ 56.62	\$ 62.28	\$ 68.51
Barrel - 95 Gal/Frequency 2	\$ 75.40	\$ 79.91	\$ 87.90	\$ 96.69	\$ 106.36	\$ 117.00
Barrel - 95 Gal/Frequency 3	\$ 103.03	\$ 109.46	\$ 120.41	\$ 132.45	\$ 145.70	\$ 160.27
Barrel - 95 Gal/Frequency 4	\$ 130.45	\$ 138.76	\$ 152.64	\$ 167.90	\$ 184.69	\$ 203.16
Barrel - 95 Gal/Frequency 5	\$ 166.17	\$ 176.69	\$ 194.36	\$ 213.80	\$ 235.18	\$ 258.70
Barrel - 95 Gal/Frequency 6	\$ 185.84	\$ 198.03	\$ 217.83	\$ 239.61	\$ 263.57	\$ 289.93
Bin 3.0/Frequency 1	\$ 212.02	\$ 210.94	\$ 232.03	\$ 255.23	\$ 280.75	\$ 308.83
Bin 3.0/Frequency 2	\$ 362.64	\$ 362.61	\$ 398.87	\$ 438.76	\$ 482.64	\$ 530.90
Bin 3.0/Frequency 3	\$ 513.32	\$ 514.34	\$ 565.77	\$ 622.35	\$ 684.59	\$ 753.05
Bin 3.0/Frequency 4	\$ 663.91	\$ 666.00	\$ 732.60	\$ 805.86	\$ 886.45	\$ 975.10
Bin 3.0/Frequency 5	\$ 814.58	\$ 817.68	\$ 899.45	\$ 989.40	\$ 1,088.34	\$ 1,197.17
Bin 3.0/Frequency 6	\$ 965.20	\$ 969.38	\$ 1,066.32	\$ 1,172.95	\$ 1,290.25	\$ 1,419.28
Commercial Compacted:						
Bin 3.0/Frequency 1	\$ 301.38	\$ 345.62	\$ 380.18	\$ 418.20	\$ 460.02	\$ 506.02
Bin 3.0/Frequency 2	\$ 541.95	\$ 632.50	\$ 695.75	\$ 765.33	\$ 841.86	\$ 926.05
Bin 3.0/Frequency 3	\$ 781.98	\$ 918.99	\$ 1,010.89	\$ 1,111.98	\$ 1,223.18	\$ 1,345.50
Bin 3.0/Frequency 4	\$ 1,021.88	\$ 1,205.19	\$ 1,325.71	\$ 1,458.28	\$ 1,604.11	\$ 1,764.52
Bin 3.0/Frequency 5	\$ 1,261.88	\$ 1,491.56	\$ 1,640.72	\$ 1,804.79	\$ 1,985.27	\$ 2,183.80
Bin 3.0/Frequency 6	\$ 1,502.46	\$ 1,778.46	\$ 1,956.31	\$ 2,151.94	\$ 2,367.13	\$ 2,603.84
Bin 4.0/Frequency 3	\$ 1,038.08	\$ 1,220.82	\$ 1,342.90	\$ 1,477.19	\$ 1,624.91	\$ 1,787.40
Commercial Recycling (Extra):						
Barrel - 65 Gal/Frequency 1	\$ -	\$ 35.90	\$ 39.49	\$ 43.44	\$ 47.78	\$ 52.56
Bin 1.5/Frequency 1	\$ 92.46	\$ 97.87	\$ 107.66	\$ 118.43	\$ 130.27	\$ 143.30
Bin 1.5/Frequency 2	\$ 169.36	\$ 179.76	\$ 197.74	\$ 217.51	\$ 239.26	\$ 263.19
Bin 1.5/Frequency 3	\$ 245.24	\$ 261.63	\$ 287.79	\$ 316.57	\$ 348.23	\$ 383.05
Bin 2.0/Frequency 1	\$ 100.39	\$ 107.75	\$ 118.53	\$ 130.38	\$ 143.42	\$ 157.76
Bin 2.0/Frequency 2	\$ 176.15	\$ 192.27	\$ 211.50	\$ 232.65	\$ 255.92	\$ 281.51
Bin 2.0/Frequency 3	\$ 252.45	\$ 276.78	\$ 304.46	\$ 334.91	\$ 368.40	\$ 405.24
Bin 3.0/Frequency 1	\$ 137.55	\$ 149.04	\$ 163.94	\$ 180.33	\$ 198.36	\$ 218.20
Bin 3.0/Frequency 2	\$ 213.14	\$ 238.84	\$ 262.72	\$ 288.99	\$ 317.89	\$ 349.68
Bin 3.0/Frequency 3	\$ 289.36	\$ 328.66	\$ 361.53	\$ 397.68	\$ 437.45	\$ 481.20
Bin 3.0/Frequency 4	\$ 364.94	\$ 418.43	\$ 460.27	\$ 506.30	\$ 556.93	\$ 612.62
Bin 3.0/Frequency 5	\$ 441.09	\$ 508.21	\$ 559.03	\$ 614.93	\$ 676.42	\$ 744.06
Bin 3.0/Frequency 6	\$ 516.72	\$ 598.02	\$ 657.82	\$ 723.60	\$ 795.96	\$ 875.56
Commercial Food Waste						
Barrel - 35 Gal/Frequency 1	\$ 53.21	\$ 56.71	\$ 62.38	\$ 68.62	\$ 75.48	\$ 83.03
Barrel - 35 Gal/Frequency 2	\$ 93.98	\$ 100.56	\$ 110.62	\$ 121.68	\$ 133.85	\$ 147.24
Barrel - 35 Gal/Frequency 3	\$ 130.72	\$ 140.23	\$ 154.25	\$ 169.68	\$ 186.65	\$ 205.32
Barrel - 35 Gal/Frequency 4	\$ 167.80	\$ 180.24	\$ 198.26	\$ 218.09	\$ 239.90	\$ 263.89
Barrel - 35 Gal/Frequency 5	\$ 212.63	\$ 228.29	\$ 251.12	\$ 276.23	\$ 303.85	\$ 334.24
Barrel - 35 Gal/Frequency 6	\$ 241.43	\$ 259.72	\$ 285.69	\$ 314.26	\$ 345.69	\$ 380.26
Barrel - 65 Gal/Frequency 1	\$ 78.69	\$ 76.43	\$ 84.07	\$ 92.48	\$ 101.73	\$ 111.90

Table 2 (Continued)
Maximum Proposed Monthly Refuse Rates

Commercial						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2024</i>	<i>2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>
Commercial Food Waste (Continued)						
Barrel - 65 Gal/Frequency 2	\$ 143.98	\$ 139.89	\$ 153.88	\$ 169.27	\$ 186.20	\$ 204.82
Barrel - 65 Gal/Frequency 3	\$ 204.94	\$ 199.19	\$ 219.11	\$ 241.02	\$ 265.12	\$ 291.63
Barrel - 65 Gal/Frequency 4	\$ 266.24	\$ 258.84	\$ 284.72	\$ 313.19	\$ 344.51	\$ 378.96
Barrel - 65 Gal/Frequency 5	\$ 335.87	\$ 326.50	\$ 359.15	\$ 395.07	\$ 434.58	\$ 478.04
Barrel - 65 Gal/Frequency 6	\$ 388.36	\$ 377.57	\$ 415.33	\$ 456.86	\$ 502.55	\$ 552.81
Bin 2.0/Frequency 1	\$ 285.47	\$ 273.26	\$ 300.59	\$ 330.65	\$ 363.72	\$ 400.09
Bin 2.0/Frequency 2	\$ 520.16	\$ 497.37	\$ 547.11	\$ 601.82	\$ 662.00	\$ 728.20
Bin 2.0/Frequency 3	\$ 738.48	\$ 705.65	\$ 776.22	\$ 853.84	\$ 939.22	\$ 1,033.14
Bin 2.0/Frequency 4	\$ 958.32	\$ 915.39	\$ 1,006.93	\$ 1,107.62	\$ 1,218.38	\$ 1,340.22
Bin 2.0/Frequency 5	\$ 1,209.44	\$ 1,155.40	\$ 1,270.94	\$ 1,398.03	\$ 1,537.83	\$ 1,691.61
Bin 2.0/Frequency 6	\$ 1,395.61	\$ 1,332.53	\$ 1,465.78	\$ 1,612.36	\$ 1,773.60	\$ 1,950.96
Commercial Permanent Roll-Off:						
6 Tons - 40 CY	\$ 494.88	\$ 535.13	\$ 588.64	\$ 647.50	\$ 712.25	\$ 783.48
8 Tons - 10/20/40 CY	\$ 590.11	\$ 646.61	\$ 711.27	\$ 782.40	\$ 860.64	\$ 946.70
Commercial Temporary Roll-Off:						
6 Tons - 40 CY	\$ 522.64	\$ 561.91	\$ 618.10	\$ 679.91	\$ 747.90	\$ 822.69
8 Tons - 10/20/40 CY	\$ 627.10	\$ 682.33	\$ 750.56	\$ 825.62	\$ 908.18	\$ 999.00
Commercial Recycling Roll-Off:						
6 Tons - 40 CY	\$ 197.84	\$ 195.01	\$ 214.51	\$ 235.96	\$ 259.56	\$ 285.52
8 Tons - 10/20/40 CY	\$ 197.84	\$ 195.01	\$ 214.51	\$ 235.96	\$ 259.56	\$ 285.52
Commercial Extra Services:						
Extra Pickup - Commercial Barrel	\$ 31.10	\$ 31.10	\$ 34.21	\$ 37.63	\$ 41.39	\$ 45.53
Extra Pickup - Commercial Bin	\$ 51.85	\$ 51.85	\$ 57.04	\$ 62.74	\$ 69.01	\$ 75.91
Extra Pickup - MultiFamily Bin	\$ 54.67	\$ 54.67	\$ 60.14	\$ 66.15	\$ 72.77	\$ 80.05
Extra Pickup - Compact Bin	\$ 124.65	\$ 124.65	\$ 137.12	\$ 150.83	\$ 165.91	\$ 182.50
Extra Pickup - Green Waste Bin	\$ 84.46	\$ 84.46	\$ 92.91	\$ 102.20	\$ 112.42	\$ 123.66
Extra Pickup - Food Waste Barrel	\$ 29.09	\$ 29.08	\$ 31.99	\$ 35.19	\$ 38.71	\$ 42.58
Extra Pickup - Food Waste Bin	\$ 107.48	\$ 107.48	\$ 118.23	\$ 130.05	\$ 143.06	\$ 157.37
Locking Container	\$ 7.87	\$ 7.87	\$ 8.66	\$ 9.53	\$ 10.48	\$ 11.53
Steam Cleaning (Compactors)	\$ 107.36	\$ 107.36	\$ 118.10	\$ 129.91	\$ 142.90	\$ 157.19
Bulky Item Trip Fee	\$ 50.09	\$ 50.09	\$ 55.10	\$ 60.61	\$ 66.67	\$ 73.34
Bulky Item Fee (each item)	\$ 14.30	\$ 14.30	\$ 15.73	\$ 17.30	\$ 19.03	\$ 20.93
Relocation Fee (Roll-Off)	\$ 107.36	\$ 107.36	\$ 118.10	\$ 129.91	\$ 142.90	\$ 157.19
Tilthopper	\$ 31.10	\$ 31.10	\$ 34.21	\$ 37.63	\$ 41.39	\$ 45.53
Liner Roll Off	\$ 137.74	\$ 142.52	\$ 156.77	\$ 172.45	\$ 189.70	\$ 208.67
Rental Fee (per day)	\$ 28.89	\$ 28.89	\$ 31.78	\$ 34.96	\$ 38.46	\$ 42.31
Scout Service	\$ 52.88	\$ 52.88	\$ 58.17	\$ 63.99	\$ 70.39	\$ 77.43
Contamination Fee	\$ -	\$ 60.90	\$ 66.99	\$ 73.69	\$ 81.06	\$ 89.17



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN520
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	FINANCE
ITEM NO.:	1	PREPARER:	J. KULBECK
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending July 31, 2024.

BACKGROUND: Included in the City Council's agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2024.

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 July 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN540
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	FINANCE
ITEM NO.:	2	PREPARER:	A. VONG/V. FLORES
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION		

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

BACKGROUND: Mayor Pro Tem Johnson has examined the Warrant Register dated August 5, 2024; the Warrant Register dated August 19, 2024; the Payroll Documentation dated July 14, 2024; and the Payroll Documentation dated July 28, 2024; the Payroll Documentation dated August 11, 2024, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated August 5, 2024, totals \$4,905,396.87.

The Warrant Register dated August 19, 2024, totals \$2,029,913.86.

The Payroll Documentation dated July 14, 2024, totals \$876,700.30 gross, with \$615,918.17 net being the total cash disbursement.

The Payroll Documentation dated July 28, 2024, totals \$926,825.68 gross, with \$649,806.47 net being the total cash disbursement.

The Payroll Documentation dated August 11, 2024, totals \$916,513.34 gross, with \$643,519.25 net being the total cash disbursement.

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



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN510
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	SA
ITEM NO.:	3	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors (Successor Agency Board) is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending July 31, 2024, pursuant to state law.

BACKGROUND: Included in the Successor Agency Board's agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending July 31, 2024.

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

RECOMMENDATION: Staff recommends the Successor Agency Board receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending July 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN530
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	SA
ITEM NO.:	4	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

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 July 31, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Successor to the Redevelopment Agency Warrant Register dated 07.01.24-07.31.24 in the amounts of \$5,313.92 for the Combined Operating Fund and \$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 Chair Johnson 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 July 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN525
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHC
ITEM NO.:	5	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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 July 31, 2024, pursuant to state law.

BACKGROUND: Included in the Montclair Housing Corporation Board agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2024.

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 July 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN545
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHC
ITEM NO.:	6	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending July 31, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Warrant Register dated 07.01.24-07.31.24 in the amount of \$32,122.29 for the Montclair Housing Corporation and finds it to be in order.

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

RECOMMENDATION: Vice Chair Johnson recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending July 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN525
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHA
ITEM NO.:	7	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The Montclair Housing Authority Commission is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending July 31, 2024, pursuant to state law.

BACKGROUND: Included in the Montclair Housing Authority Commission's agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2024.

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

RECOMMENDATION: Staff recommends the Montclair Housing Authority Commission receive and file the Treasurer's Report for the month ending July 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	FIN545
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHA
ITEM NO.:	8	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The Montclair Housing Authority Commission is requested to consider receiving and filing the Warrant Register for the month ending July 31, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Warrant Register dated 07.01.24-07.31.24 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

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

RECOMMENDATION: Vice Chair Johnson recommends the Montclair Housing Authority Commission approve the Warrant Register for the period ending July 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	LCC050
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	ADMIN. SVCS.
ITEM NO.:	9	PREPARER:	K. ROMAN
SUBJECT:	CONSIDER DESIGNATING MAYOR DUTREY AS VOTING DELEGATE FOR THE ANNUAL BUSINESS MEETING OF THE GENERAL ASSEMBLY AT THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE ON OCTOBER 18, 2024		

REASON FOR CONSIDERATION: The City of Montclair is a member of the League of California Cities. Policy development is a key part of the League of California Cities' legislative effectiveness. The League's Annual Conference Resolutions process is one way that city officials can directly participate in the development of League policy.

It is necessary that the City Council designate a voting delegate and up to two alternates to attend the League of California Cities Annual Conference so that the City of Montclair can participate in the vote on League policies.

BACKGROUND: The League's 2024 Annual Conference is scheduled for October 16-18, 2024, in Long Beach, California. An important part of the event is the General Assembly's Annual Business Meeting scheduled for 8:30 a.m. on Friday, October 18, 2024.

Participating cities will be given a vote at the Annual Business Meeting of the General Assembly if a voting delegate is determined in advance. Cities are eligible to appoint up to two alternate voting delegates. The City Council had previously appointed Council Member Ruh as the delegate and Council Member Martinez as the alternative; however, Council Member Ruh and Council Member Martinez are not available to attend this year's conference. Mayor Dutrey will be attending this year's conference.

FISCAL IMPACT: The City Council's designation of a voting delegate to vote at the Annual Business Meeting at League of California Cities Annual Conference would create no fiscal impact to the City's General Fund. Funds have been allocated in the FY 2025-26 budget for two Council representatives to attend the conference.

RECOMMENDATION: Staff recommends the City Council designate Mayor Dutrey as voting delegate for the Annual Business Meeting of the General Assembly at the League of California Cities Annual Conference on October 18, 2024



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	EQS215
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	FIRE
ITEM NO.:	10	PREPARER:	R. DIERCK
SUBJECT:	CONSIDER AUTHORIZING A \$246,137.55 APPROPRIATION FROM THE EQUIPMENT REPLACEMENT FUND FOR THE PURCHASE OF A 2024 FORD F-450 MEDIC SQUAD FROM FIRE APPARATUS SOLUTIONS FOR THE FIRE DEPARTMENT		

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the purchase of a 2024 Ford F-450 Medic Squad from the vendor Fire Apparatus Solutions. The Medic Squad currently owned by the Montclair Fire Department is 21 years old and in need of replacement. Fire Apparatus Solutions has been selected as the appropriate vendor due to its custom-built squads, meeting the specific needs and demands of Montclair Fire Department. The purchase of a new Ford F-450 Medic Squad would enhance vehicle reliability, provide improved levels of service delivery, and support services on emergency incidents to the residents and businesses of Montclair.

BACKGROUND: The Medic Squad primarily functions as a medical service vehicle staffed by two functioning Firefighter Paramedics. In Fiscal Year 2023-24 it was decided to move forward with reactivating the Medic Squad after years of not being in service due to fiscal constraints. The currently-approved North Montclair Downtown Specific Plan is anticipated to bring a significant increase in local population to the City, as well as an influx of outside visitors during the daytime, weekends, and other peak hours of activity. This anticipated population growth will bring an increase in emergency call volume. Furthermore, a Medic Squad provides critical support functions on various types of emergencies including fires, rescues, public assists, and many other types of responses. Having additional available personnel on scene of an emergency allows for greater effectiveness on manpower-intensive responses. Additional personnel and available equipment improves firefighter safety and makes a substantial impact on call outcome, greatly improving the chances of a citizen rescue or life-saving intervention.

Fire Apparatus Solutions currently provides Medic Squads throughout the Southern California region including San Bernardino County Fire Department. The current San Bernardino County Fire Medic Squad specification is built off a Ford platform matching other vehicles found within the Montclair Fire Department fleet. This allows replacement parts to be easily sourced and maintained and allows for any warranty issues to be remedied locally as Fire Apparatus Solutions provides service through their maintenance shop in Rialto, California. Furthermore, the crew-cab body style along with the designed cabinet configuration matches the specific needs of the Montclair Fire Department by offering adequate space and layout for personnel along with its currently held equipment inventory. Lastly, the vehicle features the appropriate type engine, which is best suited for the City's short distance responses and meets the desires and needs of the City's Fleet Department.

FISCAL IMPACT: The purchase of a new replacement Medic Squad for Fire Department operation was approved in the City of Montclair's Fiscal Year 2024-25 budget at the quoted cost of \$245,845. However, the quote saw a \$292.55 increase above the previously-approved budgeted amount. This increase came directly from the vendor's increased cost of production, since the original quote was obtained several months prior to budget approval.

If authorized by the City Council, funding for the purchase of a 2024 Ford F-450 Medic Squad from Fire Apparatus Solutions would result in an expenditure of \$246,137.55 from the Equipment Replacement Fund (Fund 1750).

RECOMMENDATION: Staff recommends the City Council authorize a \$246,137.55 appropriation from the Equipment Replacement Fund for the purchase of a 2024 Ford F-450 Medic Squad from Fire Apparatus Solutions for the Fire Department.



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024

FILE I.D.: VEH450/EQS230

SECTION: CONSENT - ADMIN. REPORTS

DEPT.: PUBLIC WORKS

ITEM NO.: 11

PREPARER: M. PARADIS

SUBJECT: CONSIDER AUTHORIZING A \$47,565.75 APPROPRIATION FROM THE EQUIPMENT REPLACEMENT FUND FOR THE PURCHASE OF A 2024 CHEVROLET SILVERADO 2500 PICKUP TRUCK FROM MARK CHRISTOPHER CHEVROLET, AND \$9,851.25 FOR THE INSTALLATION OF SAFETY LIGHTS, STROBES, AND A CROSS-BODY TOOL BOX FOR THE VEHICLE

CONSIDER DECLARING A 2000 CHEVROLET 2500 BI-FUEL PICKUP TRUCK (UNIT 220) AS SURPLUS AND AVAILABLE FOR SALE AT AUCTION

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the purchase of a 2024 Chevrolet Silverado 2500 pickup truck and related equipment to replace Unit 220, in accordance with the City’s Purchasing Manual.

BACKGROUND: The City currently owns a 2000 Chevrolet 2500 bi-fuel pickup truck (Unit 220) as listed below. Unit 220 has an intermittent computer fault on the compressed natural gas (CNG) system that cannot be diagnosed and repaired. The CNG system fault will not allow the vehicle to pass a smog test. Unit 220 has electrical system issues and high mileage that does not make the vehicle feasible to repair.

<i>Make/Model</i>	<i>VIN</i>	<i>License</i>	<i>Mileage</i>	<i>Est. Value</i>
Chevrolet 2500	1GCGC24RXYF504221	1079052	80,000	\$1,500

Staff obtained quotes for comparable vehicles from local dealerships as shown below:

<i>Company</i>	<i>Vehicle</i>	<i>Quote</i>
Fritts Ford	2024 Ford F-250	\$50,310.00
Mark Christopher Chevrolet	2024 Chevrolet 2500	\$47,565.75
Colley Ford	2024 Ford F-250 Silverado	No Response

The Public Works Operations Assistant Manager and the Equipment Maintenance Manager determined that the quote from Mark Christopher Chevrolet is the best value for the City. The new Chevrolet Silverado 2500 pickup truck will require the installation of safety lights and strobes for better visibility and safety, and a truck mounted cross-bed toolbox. The cost to install the additional equipment is \$9,851.25. The total cost of the vehicle plus the equipment is \$57,417. The new Chevrolet Silverado 2500 truck would replace Unit 220.

FISCAL IMPACT: Funds from the Equipment Replacement Fund in the amount of \$57,417 were allocated for a 2024 Ford Super Duty F-250 truck in the Fiscal Year 2024-25 Budget, and will instead be used toward the purchase of the 2024 Chevrolet Silverado 2500 truck and accessories.

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

1. Authorize a \$47,565.75 appropriation from the Equipment Replacement Fund for the purchase a 2024 Chevrolet Silverado 2500 Pickup Truck from Mark Christopher Chevrolet, and \$9,851.25 for the installation of safety lights, strobes, and a cross-body tool box for the vehicle.
2. Declare a 2000 Chevrolet 2500 bi-fuel pickup truck (Unit 220) as surplus and available for sale at auction.

BUYER		CO-BUYER		Deal #:	259698
CITY OF MONTCLAIR 5111 BENITO ST MONTCLAIR, CA 91763-0808 Work #: (909) 625-9468 Email: NONE				Deal Type:	Retail
				Deal Date:	07/09/2024
				Print Time:	11:16am
				Salesperson:	JONATHAN TRIMBLE

VEHICLE					
New	<input checked="" type="checkbox"/>	Stock #:	Description:	VIN:	Mileage:
Used	<input type="checkbox"/>	24819	2024 CHEVROLET TRUCK SILVERADO 2...	1GC0WLE72RF304124	2
Demo	<input type="checkbox"/>				

TRADE	

AFTERMARKETS			
		MSRP:	\$ 48,515.00
		Discount:	\$ 5,000.00
		Sale Price:	\$ 43,515.00
		Total Financed Aftermarkets:	\$ 0.00
		Total Trade Allowance:	\$ 0.00
		Trade Difference:	\$ 43,515.00
		Doc Fee:	\$ 85.00
		State & Local Taxes:	\$ 3,924.00
		Total License and Fees:	\$ 41.75
		Total Cash Price:	\$ 47,565.75
		Total Trade Payoff:	\$ 0.00
Total Aftermarkets:		Delivered Price:	\$ 47,565.75
		Cash Down Payment + Deposit:	\$ 0.00
		Sub Total:	\$ 47,565.75
		Service Agreement:	\$ 0.00
		Maintenance Agreement:	\$ 0.00
		GAP Insurance:	\$ 0.00
		Credit Life, Accident & Health:	\$ 0.00
		Other:	\$ 0.00
Rate:		Amount Financed:	\$ 47,565.75



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** VEH450/EQS210
SECTION: CONSENT - ADMIN. REPORTS **DEPT.:** COMMUNITY DEV.
ITEM NO.: 12 **PREPARER:** M. DIAZ
SUBJECT: CONSIDER AUTHORIZING A \$37,606.78 APPROPRIATION FROM THE EQUIPMENT REPLACEMENT FUND FOR THE PURCHASE OF A 2024 CHEVROLET COLORADO PICKUP TRUCK FROM ROTOLO CHEVROLET FOR THE CODE ENFORCEMENT DIVISION

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the purchase of a 2024 Chevrolet Colorado pickup truck for the Code Enforcement Division within the Department of Community Development.

BACKGROUND: Staff is requesting approval to purchase one 2024 Chevrolet Colorado work truck for use by the Code Enforcement (CE) Division. The new truck would be the second pickup truck vehicle in the Division’s fleet of vehicles. The Division currently uses a 2002 Chevrolet Silverado 1500 work truck that will eventually need to be replaced due to its age, high mileage (131,407 miles), and usual wear and tear.

The new pickup truck will provide the CE Division the ability to complete a number of tasks, including the need for immediate removal of large or bulky items discarded or abandoned in the public right-of-way or on public property. The new pickup truck will also allow the Division to move tools, paint buckets, and in specific situations collect and move personal items belonging to unhoused individuals as required by law. Utilizing the CE Division’s passenger vehicles for these tasks has not been an efficient means for handling these tasks.

In accordance with City policy, staff obtained three quotes from different dealerships as noted below. The lowest bid obtained was from the Rotolo Chevrolet dealership, which is the recommended vendor for this purchase.

Bid Quotations: 2024 Chevrolet Colorado Pickup Truck			
Vendor	Cost Quote	Added Equipment*	Total
Rotolo Chevrolet	\$33,765.20	\$3,841.58	\$37,606.78
Mountain View Chevrolet	\$34,638.28	\$3,841.58	\$38,479.86
Tom Bell Chevrolet	\$34,769.86	\$3,841.58	\$38,611.44

*See Added Equipment Details Below

The quotes for added equipment are from two sole source vendors with specific expertise in outfitting the City’s vehicles. Using the same vendors for this task ensures consistency with equipment, procedures for part replacement, and service. When the added equipment is out of warranty on the Code Enforcement vehicles, the City’s vehicle maintenance staff will perform routine service and any necessary repairs.

Added Equipment Details	
<i>Vendor/Equipment</i>	<i>Cost (for one Vehicle)</i>
Valley Truck Specialties (Spray-in Bed Liner)	\$610.00
10-8 Retrofit Inc. (Emergency Lighting)	\$3,231.58
Total	\$3,841.58

FISCAL IMPACT: Funding for the purchase of the Chevrolet Colorado pickup truck would result in an expenditure of \$37,606.78 from the Equipment Replacement Fund.

RECOMMENDATION: Staff recommends the City Council authorize a \$37,606.78 appropriation from the Equipment Replacement Fund for the purchase of a 2024 Chevrolet Colorado pickup truck from Rotolo Chevrolet for the Code Enforcement Division.



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** VEH125
SECTION: CONSENT - ADMIN. REPORTS **DEPT.:** PUBLIC WORKS
ITEM NO.: 13 **PREPARER:** M. HEREDIA
SUBJECT: CONSIDER DECLARING TWO NONCOMPLIANT VEHICLES AS SURPLUS AND AVAILABLE FOR DONATION TO THE CITY OF HUATABAMPO, SONORA IN MEXICO

REASON FOR CONSIDERATION: The City Council is requested to consider declaring City vehicles no longer compliant with the South Coast Air Quality Management District emission requirements as surplus and available for donation to the City of Huatabampo, Sonora in Mexico.

BACKGROUND: The following vehicles have reached the end of their service life and are no longer compliant with emission requirements by the South Coast Air Quality Management District. Additionally, these vehicles cannot be driven on any California roadway after January 1, 2023 and cannot be registered with the Department of Motor Vehicles.

Unit #	Year/Model	Serial/VIN #	Mileage	Est. Current Value
308 PW	1993 GMC Lift Truck	1GDM7H1J3PJ503024	22,714	\$ 5,500
311 PW	1997 GMC Asphalt Truck	1GDM7C1J8V519171	9,247	\$ 4,500

Representatives from the City of Huatabampo will pick up and transport the trucks to their agency in Sonora. They will also obtain insurance to transport the equipment across the border into Mexico.

FISCAL IMPACT: Donating the listed items would have no fiscal impact.

RECOMMENDATION: Staff recommends the City Council declare two noncompliant vehicles as surplus and available for donation to the City of Huatabampo, Sonora in Mexico.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	SEW080
SECTION:	CONSENT - AGREEMENTS	DEPT.:	COMMUNITY DEV.
ITEM NO.:	1	PREPARER:	S. GUTIERREZ
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 24-43-I-111, AN IRREVOCABLE ANNEXATION AGREEMENT WITH 2A LLC FOR A 2.42-ACRE SITE AT THE SOUTHWEST CORNER OF MISSION BOULEVARD AND BENSON AVENUE, ONTARIO, CA 91762 (APNS 1011-351-04 AND 1011-351-05) (CASE NO. 2024-27), SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: A request has been submitted to permit the connection of a property located outside the City’s boundaries to the City’s sewer system, which requires an Irrevocable Annexation Agreement. These agreements are subject to review and approval by the City Council.

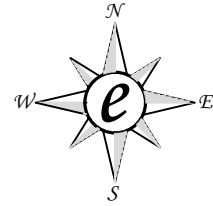
BACKGROUND: Proposed Irrevocable Annexation Agreement 24-43-I-111 would allow a connection to the sanitary sewer system owned and operated by the City of Montclair to serve a new residential development on a 2.42-acre site within the City’s Sphere of Influence. The zoning designation by the County of San Bernardino for the site is “Medium Density Residential” (MDR). On November 10, 2022, the County approved Tentative Tract Map No. 20348 and Minor Use Permit to allow the development of 31 residential condominiums, subject to having the project connected to a sanitary sewer system. The project is currently in plan check with the County.

The applicant is requesting approval to connect to the City-owned, eight-inch diameter sewer line present and available in Mission Boulevard adjacent to the subject property’s frontage, as shown in Exhibit A. The proposed sewer connection is consistent with the City’s policies and requirements. In exchange, the Irrevocable Annexation Agreement requires the property to be annexed to the City when feasible at a future date. If approved by the City Council, staff will forward Agreement No. 24-43-I-111 to the Local Agency Formation Commission (LAFCO) for review and approval. Following City Council and LAFCO approvals, the Agreement is recorded against the property and becomes binding on future owners, heirs, successors, or assigns. Staff recommends City Council approve the proposed Irrevocable Annexation Agreement to allow the requested City sewer connection for the new residential development.

FISCAL IMPACT: The proposed Irrevocable Annexation Agreement would pose no fiscal impact on the City’s General Fund at this time, but will have a positive impact when the property is connected to the sewer and begins to pay for sewer service.

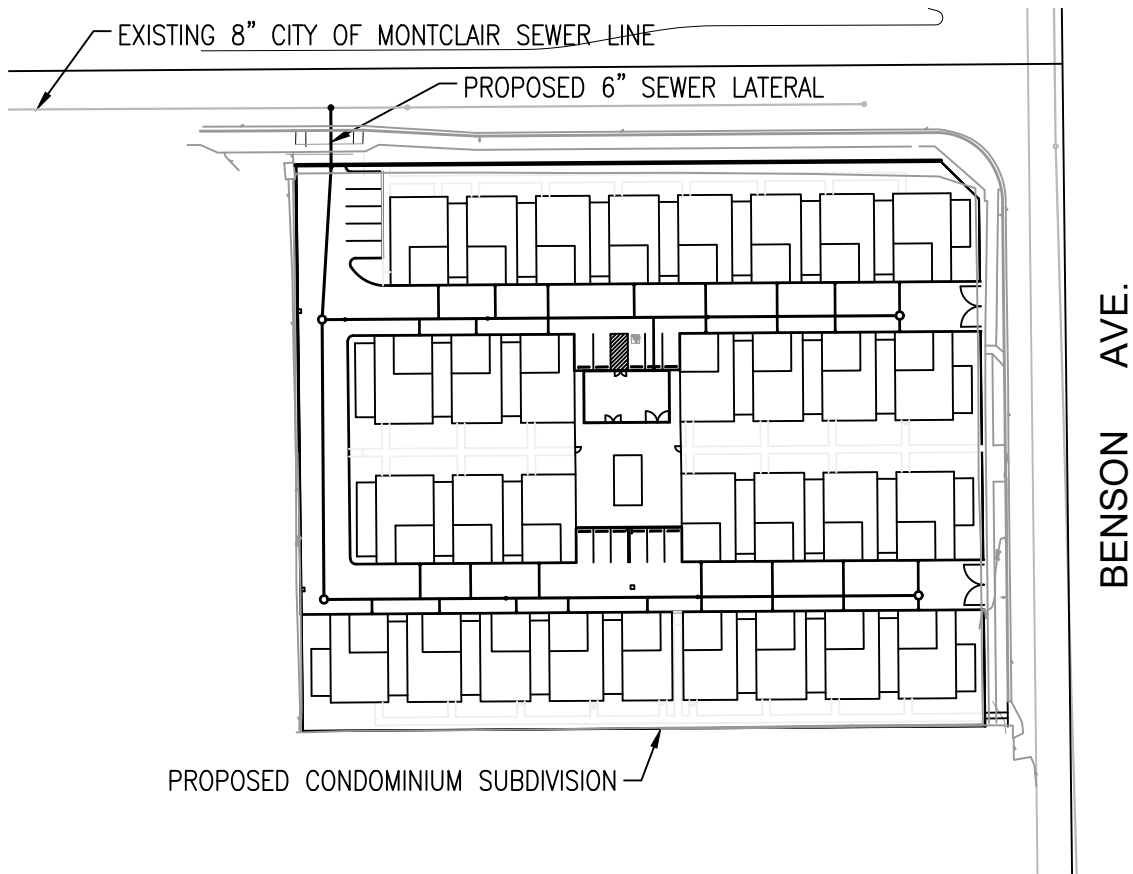
RECOMMENDATION: Staff recommends the City Council approve Agreement No. 24-43-I-111, an Irrevocable Annexation Agreement with 2A LLC, for a 2.42-acre site at the southwest corner of Mission Boulevard and Benson Avenue, Ontario, CA 91762 (APNs 1011-351-04 and 1011-351-05) (Case No. 2024-27), Subject to any Revisions Deemed Necessary by the City Attorney.

EXHIBIT
ANNEXATION FOR SEWER SERVICE
CITY OF MONTCLAIR
TRACT 20348



0 50 100
1 INCH = 100 FT.

MISSION BLVD.



ADDRESS:
5639 & 5681 MISSION BLVD.
ONTARIO, CA 91762
(UNINCORPORATED AREA)

ASSESSOR'S PARCEL NUMBERS:
1011-351-04 & 1011-351-05



ENCOMPASS ASSOCIATES, INC.

Recording Requested by:

Silvia Gutierrez
City of Montclair

When Recorded Mail To:

Silvia Gutiérrez
Senior Planner
City of Montclair
5111 Benito Street, P.O. Box 2308
Montclair, CA 91763

This Space for Recorder's Use Only

FREE RECORDING PURSUANT TO GOVERNMENT CODE §27383

**AGREEMENT NO. 24-43-I-111
AN IRREVOCABLE AGREEMENT TO ANNEX
TO THE CITY OF MONTCLAIR**

**2A LLC
2.42-ACRE SITE
AT THE SOUTHWEST CORNER OF MISSION BOULEVARD
AND BENSON AVENUE, ONTARIO, CA 91762
(APNS 1011-351-04-0000 AND 1011-351-05-0000)**

AGREEMENT NO. 24-43-I-111

**AN IRREVOCABLE AGREEMENT TO ANNEX
TO THE CITY OF MONTCLAIR**

This agreement is entered into this _____ day of _____, 2024, between 2A LLC, hereinafter referred to as "Owner," and the City of Montclair, hereinafter referred to as "City."

WHEREAS, the Owner is the legal property owner of the real property located at the southwest corner of Mission Boulevard and Benson Avenue, Ontario, CA 91762 (APNs 1011-351-04 and 1011-351-05) the land referred to herein below, as referenced by the San Bernardino County Tax Assessor Parcel Numbers (APNs 1011-351-04 and 05-0000), and is further described as follows:

MONTE VISTA TRACT NO 2 PTN LOTS 3 AND 4 BLK 19 DESC AS COM 167 FT W OF NE COR SD LOT 4 TH S PARALLEL WITH E LI SD LOT 309.98 FT TH W PARALLEL WITH N LI SD LOTS 203 FT TH N 309.98 FT TH E 203 FT TO POB EX N 15 FT FOR HWY 1.38 AC M/L

MONTE VISTA TRACT NO 2 E 167 FT N 309.98 FT LOT 4 BLK 19 EX N 15 FT HWY AND EX E 14 FT ST

WHEREAS, the subject property is approximately 2.42 acres in total size and located within unincorporated San Bernardino County and the Sphere of Influence of the City of Montclair; and

WHEREAS, the County zoning designation for the site is "Medium Density Residential (MDR)" and

WHEREAS, on November 10, 2022, the County of San Bernardino (County) approved PROJ 2020-00087, allowing Tentative Tract Map (No. 20348) to subdivide a thirty-one lot residential development in conjunction with a Minor Use Permit to allow the construction of thirty-one residential condominiums. The project is currently in plan in check with the County; and

WHEREAS, the Owner is required and desires to connect the property to the sanitary sewer system in the Roswell Avenue roadway, which is owned and maintained by the City of Montclair and

WHEREAS, the City is willing to allow a connection to said sanitary sewer system if a request is made at the earliest possible time to annex to the City of Montclair; and

WHEREAS, Owner desires to annex to the City of Montclair; and

WHEREAS, the City intends to pursue annexation of the Owner's property, but said annexation would cause a delay in connecting to said sewer line, which would create a substantial hardship for the Owner of said property; and,

WHEREAS, the agreements, conditions, and covenants contained herein are made for the direct benefit of the land subject to this Agreement and described herein and shall create an equitable servitude upon the land and operate as a covenant running with the land for the benefit of the Owner of the land and his/her heirs, successors, and assigns.

Irrevocable Annexation Agreement No. 24-43-I-111

NOW, THEREFORE, the party do agree as follows:

1. Owner do hereby give irrevocable consent to annex to the City of Montclair at such time as the annexation may be properly approved through appropriate legal proceedings, and Owner do further agree to provide all reasonable cooperation and assistance to the City in the annexation proceedings. Said cooperation is contemplated to include signing any applications of consent prepared by the City, and submitting any evidence reasonably within the control of the Owner to the various hearings required for the annexation. Said cooperation does not include, however, any obligation on behalf of the Owner to institute any litigation of judicial proceeding whatsoever to force annexation to the City.

2. The City of Montclair does hereby agree to allow a connection of said property to the sewer line owned by the City of Montclair, which is located in Roswell Avenue, at such time as all applicable permits have been obtained and associated fees have been paid.

3. The owner agrees to pay such annexation fees and costs and other municipal charges as would ordinarily be charged in the annexation of property to the City. Said fees shall be payable when the same becomes due and payable. (In some circumstances, these fees may be borne by the City.)

4. The owner shall pay all fees and charges and make all deposits required by the City to connect to and use the sewer, and the Owner agrees to be bound by all City ordinances, rules, and regulations with respect to the sewer system. The owner agrees to pay monthly sewer charges beginning on the date the City Council approves this agreement.

5. Owner shall be responsible for the maintenance and repair of the sewer lateral from the buildings, and/or structures to which the sewer lateral is connected to the public sewer main in the street or City easement. This responsibility includes both the portion of the sewer lateral on private property and the portion located beneath the street up to the point where the lateral connects to the public sanitary sewer main. The property owner's responsibilities include maintenance and repair of the lateral, overflow cleanup, and damages to the sewer main and/or pavement. The City may respond and take corrective action in the event of a sewage overflow from a lateral where there is an immediate threat to health or safety. However, the property owner shall be responsible for all costs incurred by the City.

6. Owner shall install any and all future improvements upon said property to the City's standards, except that the County standard(s) shall apply when more restrictive than the City standard(s).

7. Owner shall execute this agreement on behalf of himself, his heirs, successors, and assigns, and said agreement shall be irrevocable without the prior written consent of both parties hereto.

8. The benefit and responsibilities to the subject property shall inure to the benefit and responsibilities of subsequent owners, their heirs, successors, and assigns; and the agreements, conditions, and covenants contained herein shall be binding upon them and upon the land.

Irrevocable Annexation Agreement No. 24-43-I-111

9. This agreement shall be recorded with the Office of the Recorder of the County of San Bernardino.

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

CITY:

CITY OF MONTCLAIR, CALIFORNIA

OWNER(S):

2A LLC

Javier John Dutrey, Mayor

Date: _____

ATTEST:

Andrea Myrick, City Clerk

APPROVED AS TO FORM:

Diane E. Robbins, City Attorney

Name/Title:

Date: _____

Name/Title:

Date: _____



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	HSV105
SECTION:	CONSENT - AGREEMENTS	DEPT.:	HUMAN SVCS.
ITEM NO.:	2	PREPARER:	A. COLUNGA
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 24-62 WITH LIFESTYLE MANAGEMENT SOLUTIONS TO PROVIDE NUTRITION EDUCATION SERVICES FOR THE CITY'S SENIOR CITIZEN NUTRITION PROGRAM, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 24-62 with Lifestyle Management Solutions to provide nutrition education services for the City's Senior Citizen Nutrition Program.

BACKGROUND: On June 6, 2022, the City Council approved Agreement No. 22-57 with the San Bernardino County Department of Aging and Adult Services – Public Guardian (DAAS-PG) to provide a three year *Elderly Nutrition Program* (ENP) for participants aged 60 and over. The ENP requires the delivery of nutrition education from a registered dietician for participants, volunteers, and staff.

If approved, Lifestyle Management Solutions will be responsible for providing nutrition education services, including: monitoring the site for safe food handling and sanitation practices of facilities; providing input, reviewing, and approving the Nutrition Education Plan for staff and participants; providing nutrition education a minimum of four (4) times per year for food service staff (paid and volunteers) and participants; and providing technical support and assistance as needed.

Lifestyle Management Solutions is led by Gina Crome. Gina has earned a Master of Public Health and a Master of Science in Clinical Psychology. In addition, Gina is a Registered Dietitian, Certified Health Coach, Certified Behavior Change Specialist, and Certified Personal Trainer. With nearly twenty years of experience in the health field, Gina possesses the skills and experience needed to fulfill the contract requirements.

The City attempted to obtain quotes from other qualified organizations; however, only one organization responded that they were interested with a quote that was well above the grant funded budget level.

FISCAL IMPACT: There will be no cost to the General Fund as a result of this agreement to provide nutrition education services. The cost of nutrition education services, \$3,000, will be grant funded under Agreement No. 22-57 with DAAS. The term of agreement 24-62 is July 1, 2024 – June 30, 2025.

RECOMMENDATION: Staff recommends the City Council to consider approval of Agreement No. 24-62 with Lifestyle Management Solutions to provide nutrition education services for the City's Senior Citizen Nutrition Program, subject to any revisions deemed necessary by the City Attorney.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

HUMAN SERVICES – NUTRITION EDUCATION AND TRAINING

THIS AGREEMENT is made and effective as of July 1, 2024 between the City of Montclair, a municipal corporation (“City”) and ***Lifestyle Management Solutions, a California sole proprietorship*** (“Consultant”). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on July 1, 2024 and shall remain and continue in effect for a period of 12 months until tasks described herein are completed, but in no event later than June 30, 2025 unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

(a) The City agrees to pay Consultant quarterly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full. This amount is subject to receipt of grant funding and shall not exceed \$3,000 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

(b) If the City Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding

any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Defense, Indemnity and Hold Harmless. Consultant shall defend, indemnify, and hold harmless the City, its present and former officers, directors, employees, agents, staff, volunteers, mayor, council, boards, committees, and representatives, as broadly interpreted (collectively, the “Indemnified Parties”), of and from all claims, suits, demands, obligations, losses, damages, sums, or any other matters threatened or presently asserted, including but not limited to all legal fees, costs of defense and litigation expenses (including legal fees, expert fees and any other costs or fees, including those of adverse parties imposed on or sought against the Indemnified Parties), arising directly or indirectly out of any liability or claim of loss or liability for personal injury, bodily injury to persons, contractual liability, errors or omissions, breach, failure to perform, damage to or loss of property, or any other loss, damage, injury or other claim of any kind or nature arising out of the work to be performed by Consultant herein, caused by or arising out of the negligent acts or omissions, or intentional misconduct of Consultant, including its subcontractors, employees, agents, and other persons or entities performing work for Consultant.

(b) Contractual Indemnity. To the fullest extent permitted under California law, Consultant shall contractually indemnify, defend and hold harmless the Indemnified

Parties from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, amounts for good faith settlement, or costs of any kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees and costs), arising out of or related to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to Consultant’s officers, agents, representative, employees, independent Consultants, subconsultants/subcontractors or affiliated or related entities and/or its or their employees, agents and representatives, caused by or arising out of all negligent acts or omissions, or intentional misconduct of Consultant, including its subconsultants/subcontractors, employees, agents and other persons or entities performing work for Consultant. Indemnification shall include any claim that Consultant, or Consultant’s employees or agents, are or may be considered and treated as employees of the City or are entitled to any employee benefits from City including but not limited to those available under Public Employees Retirement Law. The obligation to indemnify, defend and hold harmless the Indemnified Parties shall apply to all liability as defined above regardless of whether the Indemnified Parties were or are alleged to have been negligent, except that it shall not apply to claims arising from the sole negligence or willful intentional misconduct of the Indemnified Parties. Consultant’s obligation to defend the Indemnified Parties is not contingent upon there being an acknowledgement of or determination of the merit of any claims, liability, demands, causes of action, suits, losses, expenses, errors, omissions and/or costs.

(c) Subconsultants/subcontractors and Indemnification. Consultant agrees to and shall obtain executed indemnity agreements in favor of the Indemnified Parties with provisions identical to those set forth from each and every Subconsultant, Subcontractor, or other person or entity involved by, for, with, or on behalf of Consultant in the performance of any aspect of this Agreement. In the event Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible for each and every Subconsultant, Subcontractor or other person or entity in terms of defense, indemnity and hold harmless obligations in favor of the Indemnified Parties as set forth above. This obligation to indemnify and defend the Indemnified Parties is binding on the successors, assigns, or heirs of Consultant and shall survive the full performance or termination of this Agreement. These indemnification provisions are independent of and shall not in any way be limited or superseded by the insurance requirements and insurance–related provisions of this Agreement.

(d) City Lost or Damaged Property – Theft. Consultant further agrees to pay or cause to be paid to the Indemnified Parties’ benefit, any and all damages, fines, penalties, and loss or theft of property of the City arising out of or related in any way to the negligent acts or omissions or intentional misconduct of Consultant or of Consultant’s officers, agents, representatives, employees, independent contractors, subconsultants or affiliated or related entities and/or its or their employees, agents and representatives, whether such actions, omissions to act, negligence or intentional conduct is or was authorized by this Agreement or not. City assumes no responsibility whatsoever for any property placed on the premises of City. Consultant further agrees to waive all rights of subrogation against the Indemnified Parties.

(e) Non–Waiver and Non–Exhaustion of City’s Further Rights and Remedies. No aspect of this provision shall in any way limit or effect the rights of the Indemnified Parties against the Consultant under the terms of this Agreement or otherwise. The indemnification provisions shall apply regardless of whether this Agreement is executed after Consultant begins the work and shall extend to claims arising after this Agreement is performed or terminated, including a dispute as to the termination of Consultant. The indemnity obligations of Consultant shall continue until it is determined by final judgment that the claim against the City and any Indemnified Parties is determined by final judgment and after exhaustion of any rights of appeal. Further, no aspect of this provision shall impact the City’s rights to contribution from Consultant, or for the City to dispute Consultant’s refusal to defend and indemnify City.

(f) Limitations on Scope of Indemnity. Notwithstanding the foregoing, Consultant shall not be responsible for indemnification for claims or losses caused by the sole negligence or intentional wrongdoing of Indemnified Parties. Further, the indemnity provided shall be interpreted as broadly as permitted under California law and as to agreements between parties and shall if required be reformed to be consistent with those laws to protect and save this provision for the protection of the Indemnified Parties.

(g) The obligations of Consultant under this or any other provision of this Agreement shall not be limited by the provisions of any workers’ compensation act or similar act. The Consultant expressly waives any statutory immunity under such statutes or laws as to the Indemnified Parties. The Consultant’s indemnity obligation set forth in this Section 9 shall not be limited by the limits of any policies of insurance required or provided by the Consultant pursuant to this Agreement.

(h) The Consultant’s covenant under this Section 9 shall survive the expiration or termination of this Agreement.

10. INSURANCE

(a) Types of Required Coverages

Without limiting the indemnity provisions of the Contract, the Consultant shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

- (1) **Automobile Liability Insurance:** Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1), including owned, non–owned and hired autos, or the exact equivalent, with minimum limits of \$100,000 for bodily injury and property damage, each accident. If Consultant owns no vehicles, auto liability coverage may be provided by means of a non–owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.

- (2) **Workers' Compensation:** If applicable, Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.

(b) Endorsements

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

- (1) The insurance coverages required by Section (a)(1) Automobile Liability Insurance shall contain the following provisions or be endorsed to provide the following:

Additional Insured: The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Contract. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

Additional Insured Endorsements shall not:

- 1. Be limited to "Ongoing Operations"
 - 2. Exclude "Contractual Liability"
 - 3. Restrict coverage to the "Sole" liability of consultant
 - 4. Exclude "Third-Party-Over Actions"
 - 5. Contain any other exclusion contrary to the Contract)
- (2) The policy or policies of insurance required by Section (a)(2) Workers' Compensation shall be endorsed, as follows:

Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(c) Notice of Cancellation

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

11. INDEPENDENT CONTRACTOR

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

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

(c) In regard to the professional services provided by Consultant and defined in Exhibit "A," City and Consultant specifically agree as follows:

- (1) While Consultant may perform certain services at the premises of City, Consultant is not required to do so and may perform services at his/her separate business location.
- (2) With the exception of agreed upon project completion dates and the agreement the Consultant will be available at reasonable business hours, the Consultant shall have the ability to set his/her own hours of operation.
- (3) Consultant represents that the services he/she performs under this Agreement are the same services Consultant is customarily engaged in his/her business. City acknowledges that Consultant does not perform services exclusively for City and that Consultant performs or is available to perform these same services to other clients.
- (4) Consultant will use his/her own discretion and independent judgment in the performance of the services rendered for City under the terms of this Agreement.

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City’s right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

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

16. NOTICES

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

To City: Marcia Richter
Human Services Director
City of Montclair
5111 Benito Street
Montclair, CA 91763

To Consultant: Lifestyle Management Solutions
30350 Via Brisa
Temecula, CA 92592

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only Gina Crome, shall perform the services described in this Agreement.

Consultant’s responsible employee may use assistants, under her direct supervision, to perform some of the services under this Agreement. Consultant shall provide City fourteen (14) days’ notice prior to the departure of the responsible employee

from Consultant's employ. Should she leave Consultant's employ, the City shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONFIDENTIALITY

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

22. DISCRIMINATION

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

23. ELDERLY ABUSE

In accordance with the State of California – Health and Human Services Agency requirements, Consultant and its employees shall comply with and return completed copies of Exhibit C, Statement Acknowledging Requirement to Report Suspected Abuse of Dependent Adults and Elders (SOC 341A).

24. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

CITY OF MONTCLAIR

CONSULTANT

By: _____
Javier John Dutrey, Mayor

By: _____
Gina M. Crome, Owner

Attest:

By: _____
Andrea Myrick, City Clerk

Approved as to Form:

By: _____
Diane Robbins, City Attorney

EXHIBIT A

During the term of this Agreement and in accordance with Title 22, Division 1.8 of the California Department of Aging Regulations and Section 2 above, **CONSULTANT** shall provide the services described below:

- a) At a minimum, quarterly monitor the City of Montclair’s Senior Nutrition site for safe food handling and sanitation practices.
- b) Develop or review and approve the cycle menus unless provided and signed by RD of approved caterer between February to April 2025. City must submit to the County in May 2025.
- c) Plan, organize and conduct Nutrition Education a minimum of four (4) times per fiscal year for food service staff (paid and volunteer) and participants in congregate meal programs.
 - i. Nutrition Education for congregate sites is defined as demonstrations, presentations, lectures or small group discussions, all of which may be augmented with printed materials. Training sessions shall be evaluated by those receiving the training.
 - ii. Nutrition Education shall be based on the particular need of congregate meal participants. An annual Needs Assessment shall be performed by the City to make this determination.
 - iii. Nutrition Education sessions must be reported monthly to the County (DAAS–PG) using the Nutrition Education Monthly Service Unit Report.
- d) Since the Staff Training/Nutrition Education Plan and annual Needs Assessment must be submitted by the City of Montclair to DAAS–PG by mid–July, Consultant shall be required to support that timeline accordingly.
- e) Provide technical support and assistance as needed.

Nutrition Education Units of Service:

Program: C–1 (Congregate Meals)	Program: C–2 (Home–Delivered Meals)
# of Units to be Provided: 350	# of Units to be Provided: N/A
# of Sites to be Presented at: 1	# of Participants to be Presented to: N/A

EXHIBIT B

Payment Schedule

<u>Month</u>	<u>Amount</u>
September, upon completion of quarterly visit	\$750.00
December, upon completion of quarterly visit	\$750.00
March, upon completion of quarterly visit	\$750.00
June, upon completion of quarterly visit	<u>\$750.00</u>
Total	\$3,000.00

EXHIBIT C

STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT SUSPECTED ABUSE OF DEPENDENT ADULTS AND ELDERS

NOTE: RETAIN IN EMPLOYEE/ VOLUNTEER FILE

NAME _____

POSITION _____ FACILITY _____

California law REQUIRES certain persons to report known or suspected abuse of dependent adults or elders. As an employee or volunteer at a licensed facility, you are one of those persons - a "mandated reporter."

PERSONS WHO ARE REQUIRED TO REPORT ABUSE

Mandated reporters include care custodians and any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not paid for that responsibility (Welfare and Institutions Code (WIC) Section 15630(a)). **Care custodian** means an administrator or an employee of most public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff (WIC Section 15610.17).

PERSONS WHO ARE THE SUBJECT OF THE REPORT

Elder means any person residing in this state who is 65 years of age or older (WIC Section 15610.27). **Dependent Adult** means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age and those admitted as inpatients in 24-hour health facilities (WIC Section 15610.23).

REPORTING RESPONSIBILITIES AND TIME FRAMES

Any mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be abuse or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting abuse or neglect, or reasonably suspects that abuse or neglect occurred, shall complete form SOC 341, "Report of Suspected Dependent Adult/Elder Abuse" for each report of known or suspected instance of abuse (physical abuse, sexual abuse, financial abuse, abduction, neglect (self-neglect), isolation, and abandonment) involving an elder or dependent adult.

Reporting shall be completed as follows:

- If the abuse occurred in a Long-Term Care (LTC) facility (as defined in WIC Section 15610.47) and resulted in serious bodily injury (as defined in WIC Section 15610.67), report by telephone to the local law enforcement agency immediately and no later than two (2) hours after observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local Long-Term Care Ombudsman Program (LTCOP), and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California Department of Social Services) within two (2) hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, was physical abuse, but did not result in serious bodily injury, report by telephone to the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local LTCOP, and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California Department of Social Services) within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, was physical abuse, did not result in serious bodily injury, and was perpetrated by a resident with a physician's diagnosis of dementia, report by telephone to the local law enforcement agency or the local LTCOP, immediately or as soon as practicably possible. Follow by sending the written report to the LTCOP or the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, and was abuse other than physical abuse, report by telephone to the LTCOP or the law enforcement agency immediately or as soon as practicably possible. Follow by sending the written report to the local law enforcement agency or the LTCOP within two working days.

- If the abuse occurred in a state mental hospital or a state developmental center, mandated reporters shall report by telephone or through a confidential internet reporting tool (established in WIC Section 15658) immediately or as soon as practicably possible and submit the report within two (2) working days of making the telephone report to the responsible agency as identified below:
 - If the abuse occurred in a State Mental Hospital, report to the local law enforcement agency or the California Department of State Hospitals.
 - If the abuse occurred in a State Developmental Center, report to the local law enforcement agency or to the California Department of Developmental Services.
- For all other abuse, mandated reporters shall report by telephone or through a confidential internet reporting tool to the adult protective services agency or the local law enforcement agency immediately or as soon as practicably possible. If reported by telephone, a written or an Internet report shall be sent to adult protective services or law enforcement within two working days.

PENALTY FOR FAILURE TO REPORT ABUSE

Failure to report abuse of an elder or dependent adult is a MISDEMEANOR CRIME, punishable by jail time, fine or both (WIC Section 15630(h)). The reporting duties are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report (WIC Section 15630(f)).

CONFIDENTIALITY OF REPORTER AND OF ABUSE REPORTS

The identity of all persons who report under WIC Chapter 11 shall be confidential and disclosed only among APS agencies, local law enforcement agencies, LTCOPs, California State Attorney General Bureau of Medi-Cal Fraud and Elder Abuse, licensing agencies or their counsel, Department of Consumer Affairs Investigators (who investigate elder and dependent adult abuse), the county District Attorney, the Probate Court, and the Public Guardian. Confidentiality may be waived by the reporter or by court order. Any violation of confidentiality is a misdemeanor punishable by jail time, fine, or both (WIC Section 15633(a)).

DEFINITIONS OF ABUSE

Physical abuse means any of the following: (a) Assault, as defined in Section 240 of the Penal Code; (b) Battery, as defined in Section 242 of the Penal Code; (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code; (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water; (e) Sexual assault, that means any of the following: (1) Sexual battery, as defined in Section 243.4 of the Penal Code; (2) Rape, as defined in Section 261 of the Penal Code; (3) Rape in concert, as described in Section 264.1 of the Penal Code; (4) Spousal rape, as defined in Section 262 of the Penal Code; (5) Incest, as defined in Section 285 of the Penal Code; (6) Sodomy, as defined in Section 286 of the Penal Code; (7) Oral copulation, as defined in Section 288a of the Penal Code; (8) Sexual penetration, as defined in Section 289 of the Penal Code; or (9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code; or (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions: (1) For punishment; (2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given; or (3) For any purpose not authorized by the physician and surgeon (WIC Section 15610.63).

Serious bodily injury means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation (WIC Section 15610.67).

Neglect (a) means either of the following: (1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise; or (2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise. (b) Neglect includes, but is not limited to, all of the following: (1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter; (2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment; (3) Failure to protect from health and safety hazards; (4) Failure to prevent malnutrition or dehydration; or (5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health (WIC Section 15610.57).

Financial abuse of an elder or dependent adult occurs when a person or entity does any of the following: (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both; (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both; or (3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70 (WIC Section 15610.30(a)).

Abandonment means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody (WIC Section 15610.05).

Isolation means any of the following: (1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls; (2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons; (3) False imprisonment, as defined in Section 236 of the Penal Code; or (4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors (WIC Section 15610.43).

Abduction means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court (WIC Section 15610.06).

AS AN EMPLOYEE OR VOLUNTEER OF THIS FACILITY, YOU MUST COMPLY WITH THE DEPENDENT ADULT AND ELDER ABUSE REQUIREMENTS, AS STATED ABOVE. IF YOU DO NOT COMPLY, YOU MAY BE SUBJECT TO CRIMINAL PENALTY. IF YOU ARE A LONG-TERM CARE OMBUDSMAN, YOU MUST COMPLY WITH FEDERAL AND STATE LAWS, WHICH PROHIBIT YOU FROM DISCLOSING THE IDENTITIES OF LONG-TERM RESIDENTS AND COMPLAINANTS TO ANYONE UNLESS CONSENT TO DISCLOSE IS PROVIDED BY THE RESIDENT OR COMPLAINANT OR DISCLOSURE IS REQUIRED BY COURT ORDER (Title 42 United States Code Section 3058g(d)(2); WIC Section 9725).

I, _____, have read and understand my responsibility to report known or suspected abuse of dependent adults or elders. I will comply with the reporting requirements.

SIGNATURE	DATE
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CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	PUB355
SECTION:	CONSENT - AGREEMENTS	DEPT.:	PUBLIC WORKS
ITEM NO.:	3	PREPARER:	M. PARADIS
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 24-63 WITH RYMAX ELECTRIC, INC., FOR THE INSTALLATION OF THE EMERGENCY GENERATOR AND ELECTRICAL CONDUCTORS AT THE CIVIC CENTER, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 24-63 with Rymax Electric, Inc. (Rymax) for the installation of the emergency generator and electrical conductors at the Civic Center.

A copy of Agreement No. 24-63 is attached for the City Council's review and consideration.

BACKGROUND: The City purchased an emergency generator to supply power to all buildings within the Civic Center in the event of power outage. To prepare the main electrical switch gear to be connected to the generator, electrical conductors will need to be installed through the Community Center and underground to the generator location within the Recreation Center parking lot.

The installation of the generator and electrical conductors between the generator and switch gear must be performed by a licensed and insured contractor. The City solicited an estimate from Rymax, the Vendor of Choice, for electrical repairs to the Police Department and all other City facilities. Rymax submitted an estimate for \$142,435 to install the generator and electrical conductors.

FISCAL IMPACT: On December 5, 2022, the City Council authorized the use of 2021 Lease Revenue Bond proceeds for this project.

RECOMMENDATION: Staff recommends that the City Council approve Agreement No. 24-63 with Rymax Electric, Inc., for the installation of the emergency generator and electrical conductors at the Civic Center, subject to any revisions deemed necessary by the City Attorney.

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 Rymax Electric, Inc., hereinafter referred to as "CONTRACTOR" and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

A. Recitals.

- (i) CITY accepts the CONTRACTOR's proposal.
- (ii) CITY authorizes the City Clerk and Mayor to enter into a written contract with CONTRACTOR for furnishing labor, equipment, and material for the construction of:

INSTALLATION OF EMERGENCY GENERATOR AND ELECTRICAL CONDUCTORS

"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 the CONTRACTOR'S proposal dated July 17, 2024, a copy of which is attached hereto as Exhibit "A". 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. In the event there is any conflict or inconsistency between the Contractor's proposal and this written Agreement, the provisions of this written Agreement shall control.
2. 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 60 days of executing the contract.
3. 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.
4. 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.
- (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;
 - (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.

5. 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.

6. 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.

7. 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.

8. 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 July 17, 2024.

9. 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

RYMAX ELECTRIC, INC.
1315 E. 9th Street
Upland, CA 91763

CITY OF MONTCLAIR, CALIFORNIA
5111 Benito Street
Montclair, CA 91763

By: _____

By: _____

Javier John Dutrey
Mayor

Name, Title

ATTEST:

By: _____

By: _____

Andrea M. Myrick
City Clerk

Name, Title

APPROVED AS TO FORM:

By: _____

Diane E. Robbins
City Attorney



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	LDU400/410
SECTION:	CONSENT - AGREEMENTS	DEPT.:	ECONOMIC DEV.
ITEM NO.:	4	PREPARER:	M. FUENTES
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 24-64 WITH KENDRY II APARTMENTS OWNER, LLC, AN OPERATIONS AND MANAGEMENT REGULATORY AGREEMENT REGARDING PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF ARROW HIGHWAY AND MONTE VISTA AVENUE, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: Through the entitlement process and beginning with the Paseos at Montclair North project, the City Council has required all multifamily projects in the City of Montclair to record a covenant on the property related to management and maintenance.

Agreement No. 24-64, the Operations & Management Regulatory Agreement ("Regulatory Agreement") would become the required covenant for the Alexan-Kendry Addition upon recordation.

A copy of the proposed Regulatory Agreement No. 24-64 is included in the City Council's agenda packet for review and consideration.

BACKGROUND: The purpose of the Regulatory Agreement is to create a recorded document that outlines the responsibilities of multifamily property owners in the City of Montclair for current and future property owners.

During the 1980s and 1990s, the City's Housing Improvement Task Force was charged with improving multifamily housing conditions within the community. A major focus of the Housing Improvement Task Force became the education of property owners regarding the management and maintenance responsibilities of their investment properties. To that end, staff was directed to develop covenants for all new multifamily developments that outline maintenance and managerial responsibilities and to provide the City with a means to enforce such covenants.

Alexan-Kendry Expansion

The Alexan-Kendry Expansion Project is located within the boundaries of the amended North Montclair Downtown Specific Plan (NMDSP). The proposed development is generally located at the southwest corner of Arrow Highway and Monte Vista Avenue adjacent to the existing Alexan-Kendry Apartments. The NMDSP was originally adopted by the City Council on May 16, 2006 and was amended by the City Council on March 20, 2017.

The NMDSP encourages development following urban-style design patterns focused around travel nodes within proximity to commercial shopping opportunities and public transit. The Planning Commission and City Council approved the 2.85 acres project to include 211 permanent apartment units in an urban-styled community. The City Council approved the Alexan-Kendry Expansion Project on July 18, 2022.

The project entitlements for the Alexan-Kendry Expansion Project are subject to compliance with a number of Conditions of Approval adopted by the Planning Commission and City Council. One of the Conditions of Approval included the following requirements:

The owner must consent, in writing, to record a covenant an Operations & Management Regulatory Agreement – Alexan-Kendry Expansion (hereafter Regulatory Agreement) against the entire property providing for the perpetual maintenance of all buildings and improvements, including roadways, drainage facilities, and water and sewer systems. The Regulatory Agreement shall be effective during the lifetime of the Project. Property shall thereafter be maintained following the property maintenance standards contained in the Montclair Municipal Code.

The Regulatory Agreement shall provide for the perpetual maintenance of all buildings and improvements for the subject multifamily residential project ("the Project") developed in the City for rental purposes. The Regulatory Agreement shall be recorded as a condition, covenant, and restriction on the property in perpetuity unless the City Council agrees to the removal of such covenant in the event of a change in land use. The Regulatory Agreement shall address the management, operations, and maintenance of the multifamily residential project and shall become a Covenant that will run with the land.

The Regulatory Agreement provides terms for compliance with the above-stated Condition of Approval. The more significant points of the Regulatory Agreement include the following conditions:

- The term of the Regulatory Agreement would commence upon recordation and continue in full force and effect in perpetuity until replaced with another regulatory document.
- The Regulatory Agreement contains exhibits related to Property Manager Job Description, Rules and Regulations, Residential Lease/Rental Agreement, Parking Management Plan, Parking Management Plan Tenant Acknowledgment, Master Refuse Removal Plan, Waste and Refuse Acknowledgment, and Periodic Improvement Plan.
- The developer/property owner would be required to manage the property through a property management company. The property management company retained by property owner would provide an on-site manager subject to the prior written approval of the Police Chief. In exercising approval rights, the Police Chief may require proof of ability and qualifications of the manager and Management Company. Upon 60 days of written notice from the City and showing reasonable cause, the property owner could be required to remove and replace the property manager and the property management company.
- The property management company retained by the property owner would have an employee on staff who is a California Certified Property Manager available to assist with project related management issues.

- Should the calls for police service of a serious nature in the project exceed a level reasonably considered normal and customary for this size of project as determined by the Police Chief for a consecutive two-month period, the property owner would be required to increase the amount and frequency of the courtesy patrols until such time as the Police Chief determines the calls have decreased to a normal service level.
- The property owner would direct the on-site manager to enforce all rules and regulations and apply appropriate tenant screening practices. Draft rules and regulations, a lease agreement, and rental criteria are included as exhibits to the Regulatory Agreement.
- The property owner has prepared a parking management plan. The plan shall require all residents to park in assigned garages or spaces and detail how compliance with on-site parking regulations will be enforced. The property owner or manager may not amend the Parking Management Plan without the approval of the City Council.
- As a part of the rental application, each potential renter of a unit shall be given a written notice detailing the on-site and off-site parking conditions and requirements at the complex. All executed rental lease agreements are required to contain the entire Parking Management Plan as an exhibit including a signed acknowledgment form which records the resident's agreement with the terms of the Parking Management Plan.
- The property owner would agree to keep the property in a well-maintained condition, would operate the property in a businesslike manner, would not commit or permit any waste or deterioration of the property, and would not abandon any portion of the property.
- To secure timely performance of the property owner's obligations in the Agreement, the property owner would create a lien in favor of the City against all portions of the property not dedicated to the City. If the property owner neglects, refuses or fails to fulfill to complete any obligation and the City determines the property owner to be in violation of the Regulatory Agreement, the City shall make a written demand upon the property owner. The property owner has 30 days to begin to remedy default of the Regulatory Agreement. If the work required by the City is not remedied by the property owner within the time frame established by the City, the City may cure the default at the expense of the property owner through a lien.
- The property owner agrees not to sell, transfer, or dispose of any building in the project unless the sale consists of a sale of the entire property to a purchaser or as part of a larger condominium sales effort where individual units are sold to individual purchasers on a building by building or unity by unit basis.
- It is acknowledged that the Regulatory Agreement would be replaced with Conditions, Covenants, and Restrictions in the event the project is converted to condominium ownership.
- The property owner shall supply the City with appropriate indemnification in connection with construction or performance under the terms of the Regulatory Agreement.

FISCAL IMPACT: Approval of Agreement No. 24-64 would have no fiscal impact on the General Fund. The purpose of the Agreement No. 24-64 is to attempt a proactive approach to dealing with any future safety or maintenance issues that could arise as a consequence of this project.

RECOMMENDATION: Staff recommends that the City Council approve Agreement No. 24-64 with Kendry II Apartments Owner, LLC, an Operations and Management Regulatory Agreement regarding property generally located at the southwest corner of Arrow Highway and Monte Vista Avenue, subject to any revisions deemed necessary by the City Attorney.

OPERATIONS & MANAGEMENT REGULATORY AGREEMENT

THIS OPERATIONS & MANAGEMENT REGULATORY AGREEMENT ("Regulatory Agreement"), dated as of _____, 2024 for reference purposes only, is made and entered into by and between the **CITY OF MONTCLAIR**, a California municipal ("City") and, Kendry II Apartments Owner, LLC a Delaware limited liability company ("Owner"), with reference to the following:

A. Owner has submitted requests for approval of certain land use entitlement applications including a Precise Plan of Design (PPD) ("Project Entitlements") to construct a proposed project with 137 residential apartments ("Project") on 2.85 (gross) acres of land generally located at the southwest corner of Arrow Highway and Monte Vista Avenue in the City of Montclair ("Subject Site"). The Subject Site is more particularly described in Exhibit "A" attached to this Operations and Maintenance Agreement and incorporated herein by reference. The Project can share operations and management activities with the existing 211-unit residential multi-family apartment project regulated by Document 2018-0147798.

B. The Subject Site is located within the boundaries of the North Montclair Downtown Specific Plan (NMDSP) that was originally approved by the City Council on May 15, 2006 by Resolution No. 06-2628. The NMDSP was amended by the City Council on March 20, 2017 by Resolution No. 17-3149 and on April 3, 2017 pursuant to Ordinance No 17-965. The Applicant is contemplating the development of this property and would develop the Subject Site in accordance with the provision of the Amended North Montclair Downtown Specific Plan.

C. The Project Entitlements were approved subject to compliance with certain conditions of approval:

Condition No. 17. Owner must consent, in writing, to record a covenant an Operations & Management Regulatory Agreement (hereafter Regulatory Agreement) against the entire property providing for the perpetual maintenance of all buildings and improvements, including roadways, drainage facilities, and water and sewer systems. The Regulatory Agreement shall be effective during the lifetime of the Project. Property shall thereafter be maintained following the property maintenance standards contained in the Montclair Municipal Code.

The Regulatory Agreement shall provide for the perpetual maintenance of all buildings and improvements for the subject multifamily residential project ("the Project") developed in the City for rental purposes. The Regulatory Agreement shall be recorded as a condition, covenant, and restriction on the property in perpetuity unless the City Council agrees to the removal of such covenant in the event of a change in land use. The Regulatory Agreement shall address the management, operations, and maintenance of the multifamily residential project and shall become a Covenant that will run with the land.

D. The purpose of this Regulatory Agreement is to comply with the requirements of Conditions of Approval found in the Precise Plan of Design.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises, covenants, conditions, and restrictions herein contained, the parties hereto declare, covenant and agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. **Singular and Plural Terms.** Any defined term used in the plural in this Regulatory Agreement shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.2. **Accounting Principles.** Any accounting term used and not specifically defined in this Regulatory Agreement shall be construed in conformity with, and all financial data required to be submitted under this Regulatory Agreement shall be prepared in conformity with, generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to the City Manager

1.3. **References and Other Terms.** Any reference to any other document shall include such document both as originally executed and as it may from time to time be modified. References herein to Articles, Sections, and Exhibits shall be construed as references to this Regulatory Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The term "document" is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms "including" and "include" mean "including (include) without limitation". References herein to statutes, laws, codes, ordinances or regulations by specific number shall mean such statute, law, code, ordinance or regulation as it existed as of the date of this Regulatory Agreement and as it may be amended from time to time thereafter.

1.4. **Exhibits Incorporated.** All attachments and exhibits to this Regulatory Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

2. TERM

The term of this Regulatory Agreement (“Term”) shall commence on the date it is recorded in the Official Records of the County and shall continue in full force and effect in perpetuity.

3. ON-SITE MANAGEMENT & SECURITY REQUIREMENTS

3.1. **Professional Management Selection**

Owner, through a licensed Property Management Company, shall manage the Project, or cause it to be managed. Any Property Management Company(ies) retained to act as agent for the Owner in meeting the obligation of providing an on-site manager (for residential units) shall be subject to prior written approval from the Executive Director Office of Public Safety/Police Chief, which approval shall not be unreasonably withheld or delayed, provided the on-site manager(s) or person(s) assigned from the applicable Property Management Company to manage the Project are appropriately qualified. In addition to the requirement of a professional management of the Project by a Property Management Company, Owner shall assure that an on-site manager and/or maintenance personnel resides on the premises of the Project at all times or at the adjacent 211-unit residential multi-family apartment project regulated by Document 2018-0147798 The Property Management Company and on-site manager(s) or person(s) assigned shall participate in any active City Crime-Free Housing Program offered by the City.

The Property Manager assigned by the Property Management Company shall be licensed pursuant to California Business and Professions Code, Section 10131 et. Seq., and will have demonstrated experience in leasing, operating, and maintaining a multifamily residential project. The Owner has not yet selected a Property Management Company. The Property Management Company and on-site resident manager shall be approved by the Executive Director of Public Safety/Police Chief prior to occupancy of any unit.

In exercising his/her approval rights hereunder, the Executive Director Office of Public Safety/Police Chief may require proof of ability and qualifications of the Property Management Company based upon (i) prior experience, (ii) other factors determined by the Executive Director Office of Public Safety/Police Chief as necessary. Furthermore, upon sixty (60) days prior written demand from City with cause shown, the Executive Director Office of Public Safety/Police Chief may request that Owner replace the Property Management Company. In any agreement with a Property Manager or Property Management Company ("Management Agreement"), the Owner shall expressly reserve the right to terminate such agreement without cause. Notwithstanding, City agrees that a request for the removal of a Property Manager or Management Company shall be subject to a thirty (30)-day notice of default and a reasonable opportunity to cure before any such termination is effective.

Under no circumstances shall the property owner take on the property management responsibilities for the project, unless such property owner possesses property management accreditation as provided for in this subsection, has demonstrated experience, and is approved by the Executive Director Office of Public Safety/Police Chief.

Subsequent changes in the Property Management Company or Manager of the Project shall obtain the prior written approval of the Executive Director Office of Public Safety/Police Chief as so indicated above.

Any subsequent changes in the Property Management Company shall be approved pursuant to the requirements stated in Section 3.1 above.

3.2. **Management Responsibilities**

Owner shall assure compliance with the following management responsibilities during the term of this Regulatory Agreement:

- (1) Management Obligations-Residential. The Owner shall maintain the legally required presence of an on-site manager pursuant to California Code of Regulations, Title 25, Section 42. The on-site manager may be located at the 211-unit residential multi-family apartment project regulated by Document 2018-0147798. The Property Management Company shall ensure that tenant application and screening practices are developed and enforced, that all rules and regulations are developed and enforced and that use of all facilities are managed. The Owner, through the Property Management Company, shall make best efforts to ensure that the Project is well maintained pursuant to the standards developed in this Regulatory Agreement and the City of Montclair Municipal Code.
- (2) Registration and Management of Rentals. The Owner, with its Property Management Company, shall develop all rules, documents and procedures to assure all rental/lease occupancies of residential units are professionally managed including but not limited to:

- Application(s)
- Crime-Free Addendum and other required addenda
- Tenant screening tools"

- (3) Compliance with Rules. Renters/lessees occupying units within the Project shall be subject to all rules and regulations developed by the Property Management Company. The Property Management Company shall establish a system for remedying violations and seeking compliance with the rules and regulations. The rules established by the Property Management Company shall include provisions for eviction of renters/lessees for material violations of the rules and regulations of the Project.
- (4) Maintenance of Interior of Units. The Property Management Company shall develop and implement rules for maintenance and upkeep of the interior of the rental units.
- (5) Alcoholic Beverages/Controlled Substances. Tenant rules shall prevent the consumption of alcoholic beverages or controlled substances in common areas anywhere in the Project except in those areas allowed by law and expressly designated by Owner/Property Management Company. Areas allowing the consumption of alcoholic beverages or controlled substances, if not subject to a California Alcohol Beverage Control license, shall be subject to the approval of the Executive Director, Office of Public Safety/Police Chief or his/her designee, with consent not to be unreasonably withheld.

3.3. **Security Requirements.** Owner shall provide the following security and security monitoring measures during the term of this Regulatory Agreement:

- (1) Owner agrees to direct the Property Management Company to enforce property rules and regulations as they are periodically updated and published in the lease signed by each tenant/resident. Owner shall supply the City a copy of all updated rules and regulations upon request.
- (2) Owner shall utilize the California Lease (or rental) Agreement for residential 10tenancies. Owner shall direct the Property Management Company to enforce all of its provisions. Owner shall supply the City a copy of any updated form lease/rental documents and/or community rules and regulations upon request.
- (3) Owner shall direct Property Management Company to investigate each potential resident's suitability, according to all applicable laws, to fulfill all obligations to comply with the rules established for the Project.
- (4) To the extent allowed by law, Owner shall prohibit residential lessee or tenant from subleasing or temporarily renting the leased or rented unit including such temporary rentals as Airbnb or similar rental services. This prohibition against such subleases shall be included in the lease or rental agreement.
- (5) Owner shall provide the following security and security monitoring measures during the term of this Regulatory Agreement:
 - i. Owner shall develop a "Security Plan" acceptable and approved by the Montclair Police Department which, at a minimum, shall include the installation, operation, and maintenance of security cameras throughout the Project.

- ii. At any time during the term of the Regulatory Agreement, should the calls for Police service or calls for Police response at the Project exceed a level reasonably considered normal and customary for the size of the Project, as determined by the Executive Director Office of Public Safety/Police Chief, during any consecutive two-month period, the Owner shall be required to provide a State-licensed security patrol through a company retained by the Owner at Owner's expense.
- iii. The State-licensed security patrol company shall be retained by the Owner, with the prior approval of the Executive Director Office of Public Safety/Police Chief, for a period of time to be reasonably determined by the Executive Director Office of Public Safety/Police Chief. The approval of such a State-licensed security company shall not be unreasonably withheld. The frequency of patrols and Owner's cost for payment of such patrols shall be reasonable in light of the number and nature of calls for Police responses in subsection ii above.

3.4. **Balconies, Patios, and Porches.**

Owner and/or Property Management Company shall provide for and enforce the following outdoor storage regulations during the term of this Regulatory Agreement:

- (1) Balconies, patios, and/or porches on residential units approved for use as private usable open space must be kept free from being enclosed or covered by a tenant in any way and must not be used for storage purposes. Storage of materials that detract from the appearance of buildings is prohibited in the above-mentioned locations as well as anywhere that is directly visible to the public.
- (2) All rental agreements/leases for the project must include a rule preventing the storage of boxes or materials, placement of indoor furniture, visible exercise equipment, hanging clothing, building of enclosures, the installation of makeshift screening materials, or any other similar item in or on a balcony, patio, or porch.

3.5. **Cable and Satellite Service Equipment.**

Placement of antennas for radio and television reception may be permitted within a balcony, terrace, deck or patio that is intended for exclusive use of the subject tenant, subject to applicable law and the following criteria:

- (1) For the purpose of this Section, the word "antenna" shall include a single dish antenna, usually in a circular shape with a parabolic curve design constructed of a solid or open mesh surface, not more than two feet (2'-0") in diameter, either surface-mounted or by means of a freestanding tripod that is placed entirely within the permitted areas.
- (2) Only one (1) antenna per dwelling unit shall be permitted
- (3) The method of attachment and or arrangement of said antenna shall be accomplished in the least visually distracting manner as possible.
- (4) No antennas shall be placed, attached, or installed in any common areas of the development including the roof, hallways, common courtyards, walkways, or the exterior walls of the apartment building.

- (5) No overhead or external wiring of the antennas shall be permitted.

3.6. **Parking Management Plan and Parking Management.**

Owner has prepared and must implement the mechanics of a Parking Management Plan (PMP) showing all resident, employee, guest parking, and public parking areas pursuant to entitlement approvals of the City. The PMP shall require all residents to park in assigned spaces and detail how compliance with on-site parking regulations will be enforced for the Project. All parking spaces shall be identified with a unique number that shall be stenciled on the pavement and regularly maintained. The PMP shall be approved by the City Council prior to its recordation and implementation. The PMP shall not be amended by the Owner without the prior approval of the City Council. The PMP may periodically be updated at the request of the City. The PMP shall also include the following (subject to applicable law):

- (1) Any tandem parking spaces identified in the PMP shall be assigned to the same dwelling unit. For purposes of the PMP, each tandem space shall count toward the fulfillment of the total requirement of parking spaces for the project.
- (2) The PMP shall provide that no utility trailers, commercial or construction vehicle of any length, buses or passenger vans, watercraft, or recreational vehicles shall be permitted to be stored or parked overnight on any private street and/or parking areas within the Project. "Recreational Vehicle" shall mean recreational vehicles, motor homes, campers, utility trailers, watercraft, travel trailer, truck camper, camping trailer, off-road vehicles, land conveyances, vessels, aircraft, boats, trailers, van conversions, customized trucks, and other similar type vehicles that are designed for human habitation for recreational or emergency purposes, or that require a special driver's license (e.g., noncommercial Class A or Class B) to operate.
- (3) The PMP shall provide that any enclosed garage spaces or covered parking spaces provided shall, at all times, be assigned to a unit within the Project pursuant to the PMP. Storage within a garage shall be allowed only to the extent the garage includes a dedicated storage cabinet or storage area that does not impede or obstruct direct access to the parking space(s) within the garage.
- (4) Any tandem parking spaces identified in the PMP shall be assigned to the same dwelling unit. For purposes of the PMP, each tandem space shall count toward fulfillment of the total requirement of parking spaces for the residential portion of the project. Any tandem parking spaces identified in the PMP shall be considered a second parking space assigned to the same dwelling unit. Tandem spaces shall only be assigned to and utilized for the parking of registered vehicles assigned to the residents of the same unit. Tandem spaces shall not be assigned and/or rented out to other residents or users.
- (5) The Property Management Company may not introduce, require, stipulate, or incorporate into a lease or rental payments a separate fee for any surplus parking that exceeds the minimum threshold for assigned parking based on per-unit parking requirements as specified in the NMDSP and the PMP for the project. Owner may charge an additional rental fee for reserved parking spaces above the required minimum noted above to the extent they exceed required guest spaces.
- (6) As part of the initial rental/lease application process, each potential renter/lessee of a unit within the Project shall be given written notice of the PMPs on-site parking and off-site parking conditions and requirements. All executed rental lease agreements will

contain a detailed summary of the PMP as an exhibit including a signed acknowledgement form which records the resident's agreement with the terms of the PMP. In addition, the prospective tenant(s) shall receive an electronic version of the entire PMP, either as an email or other electronic format specified by the renter. The entire PMP shall also be available for review in the office of the on-site property manager and available online on the Project's website for residents/tenants to view.

- (7) Every residential unit shall be assigned and permitted to use at least one (1) parking space as part of the base rent for each unit and shall be so stipulated in the PMP and subsequent rental/lease agreements

4. MAINTENANCE, OPERATION, PRESERVATION AND REPAIR OF PROPERTY

4.1. **Maintenance: Periodic Improvements Required.** Owner, through its Property Management Company, shall keep the Project well-maintained (including, without limitation, private streets and drives, all buildings and on-site structures; signage; sidewalks; parking lots; parking structures, exterior building mounted and/or site lighting fixtures; landscaping; open space/recreation areas onsite, dog park areas, storm drain system including all storm water treatment devices associated with the Water Quality Management Plan, fencing; foundations and pools, if any; and other Improvements) and shall operate the Project in a businesslike manner; shall prudently preserve and protect both its own and City's interests in connection with the Project, shall not commit or permit any waste or deterioration of the Project; shall not abandon any portion of the property; and shall not otherwise act in such a way as to unreasonably increase the risk of any damage to the Project or create a nuisance. Such maintenance shall include, without limitation, the following:

- (1) Keeping the exterior surfaces of buildings painted, plastered or otherwise appropriately treated to be in sound condition;
- (2) Replacing broken or severely etched windows and other glass surfaces promptly;
- (3) Keeping the property free from any accumulation of debris, graffiti, and waste materials (including pet waste);
- (4) Keeping trees, lawns, shrubs and other plant materials trimmed and in healthy condition, and replacing missing or dead plant materials;
- (5) Maintaining all exterior light fixtures (building mounted and freestanding) in full operating condition. Non-functioning, broken or damaged light fixtures/support structures shall be promptly repaired and/or replaced with the same fixture type as originally approved
- (6) Remove graffiti on any building or associated improvement, and /or within 48 hours after its appearance. If the paint color does not match an existing wall surface for any reason, the entire wall must be painted;
- (7) Keeping paved surfaces and other hardscaping elements clean and in good condition, free of dirt and grime, gum, or grease, potholes, excessive staining or unsightly accumulation of leaded motor oil/automotive fluids, significant surface cracks, dangerous uplifted walkways, or other conditions which impede paths of travel;

- (8) No outdoor pay telephone or vending machine (including delivery lockers) shall be installed on any public street, easement, or par. Vending machines may be allowed within building or in private outdoor recreation areas when machines are located out of view to the street and are placed with an alcove space that is architecturally integrated into the design of the building, subject to satisfaction of the Community Development Director;
- (9) Prohibiting auto repairs, car washing, storage of unregisters and/or inoperable vehicles, within parking areas of the Project;
- (10) Keeping the on-site storm drain system in working order and in good repair at all times including the storm water treatment devices associated with the Water Quality Management Plan;
- (11) Keeping all private streets, drive aisles, and exterior parking area within the Project free of weeds, debris, trash, graffiti, and potholes. Owner shall be responsible for maintenance and repaving of all private streets and drive aisle surfaces;
- (12) Maintain the Project grounds and adjacent public street parkways free from pet waste and/or damage at all times to deter odors, and maintain sanitary conditions. The Management Company shall:
 - A. Conduct routine inspection and clean-up activities of the Project site to ensure pet waste is removed and property damage caused by animals is properly repaired and prevented.
 - B. Notify residents and guests in writing of their responsibility to clean up after their pets.
 - C. Post signs with specific pet rules around the site as necessary. Sign copy shall be in English and Spanish, and set in a font type (or graphic) that is large enough to be easily read and understood.
 - D. Provide adequate disposable bag dispensers, or other means of removing feces, and refuse cans for disposal. Trash cans shall be regularly emptied with contents disposed of properly.
- (13) Keeping refuse collection facilities (e.g. trash chutes, rooms or enclosures) shall be maintained in a sanitary, orderly, and functional condition at all times. Sanitary shall mean free of scattered trash and food debris, spills or splatter on floors and/or walls, free of odors to the highest degree possible, and free of insects and rodents;
- (14) Implementing and keeping a waste and refuse collection system in good operating order at all time. The Property Management Company must develop a written policy regarding the method of waste and refuse collection for all tenants and lessees consistent with the approved Solid Waste Removal Plan (SWRP). Each tenant must be informed of the waste and refuse collection system prior to executing a rental or lease agreement. The Owner/Property Management Company may not charge an additional fee related to the type of collection method of waste and refuse.
- (15) All refuse collection system or areas (e.g. trash chutes, rooms or enclosures) shall be power washed a minimum of two (2) times per month (or more frequently as needed), by the Property Management Company or by means of a hired company qualified to power wash or steam clean all refuse collection facilities and/or equipment. Such

activity shall be performed with proper equipment containing a water recovery system or self-contained unit to recycle the wash (waste) water, as approved by the city. All spills and leaks shall be cleaned up immediately using a spill kit and/or appropriate Best Management Practices (BMP) that utilize absorbents or equivalent "dry" methods.

4.2. **Restrictions on Alterations and Repairs.** Owner shall not remove, demolish or alter any Improvement, except to make non- structural and any required structural repairs which preserve or increase the property's value, and shall promptly restore, in a good and workmanlike manner, and Improvement (or other aspect or portion of the property) that is damaged or destroyed from any cause.

4.3. **Periodic Improvements Required.** Notwithstanding the obligations of subsection 4.1 and 4.2 above, Owner shall undertake periodic improvements to the property.

4.4. **Lien.** To secure the timely performance of Owner's obligations under Sections 4.1 and 4.2 above and this Section 5.1, Owner hereby creates in favor of City a lien against all portions of the property not dedicated to City or some other governmental agency for a public purpose (the "Lien"). If Owner neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of Section 4.1 or 4.2 above, or if City determines there is a violation by Owner of any federal, state, or local law, ordinance, regulation, related to the Project, City may at any time thereafter declare such violations to be a public nuisance and Owner to be in default or violation of this Regulatory Agreement and make written demand upon Owner to immediately remedy the default or violation ("Notice"). Owner shall substantially commence the work required to remedy the default or violation within thirty (30) days of the Notice. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, City may provide the Notice verbally, and Owner shall substantially commence the required work within twenty-four (24) hours thereof.

4.5. **Failure to Remedy; City Action.** If the work required to remedy the noticed default or violation set forth in Section 5.1 above is not diligently prosecuted to a completion reasonably acceptable to City within the time frame contained in the Notice, then City may, after prior written notice to Owner providing Owner an opportunity to cure, complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its reasonable discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole expense of Owner and shall be secured by such lien. In the event City elects to complete or arrange for completion of the work required pursuant to this Section then, after reasonable written notice providing Owner an opportunity to cure, City may require all work by Owner or its contractors to cease in order to allow adequate coordination by City. City may recover its costs for enforcement and abatement of nuisance pursuant to California Government Code, Section 54988.

4.6. **Compliance.** Owner shall comply with all laws and requirements of governmental agencies (including, without limitation, all requirements relating to the obtaining of governmental agency approvals) and all governmental agency approvals relating to Owner, the property or Owner's business thereon.

4.7. **The Lien.** The Lien shall be authorized pursuant to California Government Code, Section 54988 and shall be subordinate to any and all secured financing that Owner may obtain from time to time with respect to the property, without the need for further documentation. If, however, a lender should request additional subordination documentation, Owner shall provide City with requests to subordinate in writing.

5. OTHER AFFIRMATIVE COVENANTS

5.1. **Affirmative Covenants.** Throughout the Term, Owner covenants and agrees:

- (1) **Pay Claims and Indebtedness.** Subject to all rights of offset, setoff, contest and defenses that Owner may have, promptly to pay (i) such amounts, chargeable against Owner or the property, as City reasonably deems necessary to protect and preserve the property and this Regulatory Agreement, and (ii) all encumbrances, charges, and liens on the property, with any interest on them, which, in the judgment of the City Manager are, or appear to be, prior or superior to this Regulatory Agreement.
- (2) **Notice of Certain Matters.** To give notice to City, within thirty (30) days of Owner's learning thereof, of each of the following:
 - i. Any dispute between Owner and any governmental agency (other than City) relating to the property, the adverse determination of which might materially, adversely affect the property; and
 - ii. Any change in Owner's principal place of business.

6. SALE OR TRANSFER OF PROPERTY

6.1. **Property Sales Restrictions.** Owner covenants and agrees not to sell, transfer or otherwise dispose of any building within the property, or any portion of a building unless such sale is either: a) a sale of the entire property to a purchaser, or b) as part of a larger condominium sales effort where individual units are sold to individual purchasers, on a building by building or unit by unit basis, consistent with the rules and regulations of the California Department of Real Estate. This section shall not be deemed, construed or interpreted to prohibit any transfer of the property to any lender, or its designees, under a financing secured by the property with or without City's consent. In addition, it acknowledged that this Regulatory Agreement may, at some point in the future, be replaced with amended Conditions, Covenants & Restrictions to be administered by a homeowners' association formed upon the conversion of the Project to condominium ownership. Nothing contained herein shall prohibit the removal of all or a portion of the covenants contained herein upon formation of homeowners' association for a condominium project in compliance with the approved conditions of approval for the Project, including, but not limited to, requiring the formation of a homeowner's association prior to the conversion or sale of any unit as a condominium. Owner shall not be responsible or liable for the acts, actions or omissions of any such homeowner's association.

6.2. **Transfers in Violation.** The property and any interest in title to it shall not be transferred or conveyed to any person or entity except as provided in this Regulatory Agreement. Any such conveyance or other transfer in violation of the terms of this Regulatory Agreement shall be voidable at the election of City.

7. INDEMNIFICATION.

7.1. **Indemnification.** Owner shall defend, indemnify and hold the City, its officials, officers, employees, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions or negligent or willful misconduct of Owner, its officers, employees, and agents, arising out of or in connection with the performance or construction of the Project

or this Regulatory Agreement, including without limitation the payment of all consequential damages, attorney's fees and other related costs and expenses. Owner shall defend, at Owner's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City its officials, officers, employees, and agents. Owner shall pay and satisfy any judgment, award or decree that may be rendered against City its officials, officers and employees, and agents officials, officers or employees, in any such suit, action or other legal proceeding. Owner shall reimburse City and its officials, officers and employees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Owner's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City officials, officers, employees, agents or volunteers.

8. NONDISCRIMINATION

8.1. **Nondiscrimination.** Owner covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons on account of any protected class under California or Federal law including but not limited to: race, color, creed, religion, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property, or any part thereof, nor shall Owner itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub lessees, or vendors of the property.

9. PERIODIC REVIEW

9.1. **Periodic Review.** Under direction of the City Manager, the City shall review this Regulatory Agreement annually, on or before the anniversary of the Effective Date, in order to ascertain the good faith compliance by Owner with the terms of the Regulatory Agreement. Owner shall submit an Annual Monitoring Report, in a form acceptable to the City, within 30 days after written notice from the Director.

9.2. **Special Review.** The City Council may order a special review of compliance with this Regulatory Agreement at any time.

10. DEFAULTS

The occurrence of any of the following, whatever the reason therefor, shall constitute an "Event of Default" by Owner:

- (1) Owner fails to perform any obligation under this Regulatory Agreement, and such failure is not cured within thirty (30) days after Owner's receipt of written notice that such obligation was not performed; provided that, if cure cannot reasonably be effected within such thirty (30)-day period, such failure shall not be an Event of Default so long as Owner (in any event, within thirty (30) days after receipt of such notice) commences cure, and thereafter diligently prosecutes such cure to completion; or.
- (2) Owner is enjoined or otherwise prohibited by any governmental agency (other than City) from occupying all or any of the property and such injunction or prohibition continues unstayed for ninety (90) days or more for any reason; unless Owner is diligently attempting to have such injunction or prohibition stayed or lifted and Owner demonstrates, to the reasonable satisfaction of the City Manager, a reasonable likelihood that such stay or lifting will occur within a reasonable time.

11. REMEDIES

11.1. Remedies in General.

It is acknowledged by the parties that City would not have entered into this Regulatory Agreement if it were to be liable in damages under this Regulatory Agreement, or with respect to this Regulatory Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Regulatory Agreement, except that City shall not be liable in damages to Owner, or to any successor in interest of Owner, or to any other person, and Owner covenants not to sue for damages or claim any damages:

- (1) For any breach of this Regulatory Agreement or for any cause of action which arises out of this Regulatory Agreement; or
- (2) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Regulatory Agreement; or
- (3) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Regulatory Agreement.

It is understood and agreed that Owner, at the time of approval of the Project, indicated their voluntary agreement to accept the conditions of approval for the Project, including this Regulatory Agreement.

11.2. Cumulative Remedies: No Waiver. City's rights and remedies under this Regulatory Agreement are cumulative and in addition to all rights and remedies provided by law. The exercise by City of any right or remedy shall not constitute a cure or waiver of any default, nor invalidate any notice of default or any act done pursuant to any such notice, nor prejudice City in the exercise of any other right or remedy. No waiver of any default shall be implied from any omission by City to take action on account of such default if such default persists or is repeated. No waiver of any default shall affect any default other than the default expressly waived, and any such waiver shall be operative only for the time and to the extent stated. No waiver of any provision of this Regulatory Agreement shall be construed as a waiver of any subsequent breach of the same provision. City's consent to or approval of any act by Owner requiring further consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act. City's acceptance of the late performance of any obligation shall not constitute a waiver by City of the right to require prompt performance of all further obligations. City's acceptance of any performance following the sending or filing of any notice of default shall not constitute a waiver of City's right to proceed with the exercise of its remedies for any unfulfilled obligations; and City's acceptance of any partial performance shall not constitute a waiver by City of any rights relating to the unfulfilled portion of the applicable obligation. City shall have the right to pursue damages for Owner's defaults but in no event shall Owner be entitled to damages of any kind from City, including, but not limited to, damages for economic loss, lost profits, or any other economic or consequential damages of any kind or nature.

12. COVENANTS TO RUN WITH THE LAND

Owner hereby subjects the property to the covenants, reservations and restrictions set forth in this Regulatory Agreement. City hereby declares its express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors in interest to all or any

part of the property; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying all or any part of the property, or any interest therein, shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

13. BURDEN AND BENEFIT

City and Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the property by the tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which this Regulatory Agreement was made. Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which this Regulatory Agreement was made.

14. UNIFORMITY; COMMON PLAN

The covenants, reservations and restrictions hereof shall apply uniformly to the property in order to establish and carry out a common plan for the use, development and improvement of the property.

15. MISCELLANEOUS

15.1. **Governing Law.** This Regulatory Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

15.2. **Amendments.** This Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the Official Records.

15.3. **Notice.** All notices, certificates or communications shall be sufficiently given and shall be deemed given on the second day following the date on which the same have been personally delivered or mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Owner:

With a copy to:

If to City: City of Montclair
 Attn: Mikey Fuentes, Director of Economic Development
 5111 Benito Street, P.O. Box 2308
 Montclair, CA 91763

With a copy to: City of Montclair
Attn: City Attorney
5111 Benito Street, P.O. Box 2308
Montclair, CA 91763

Any of the foregoing persons may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or communications shall be sent.

15.4. **Severability.** If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

15.5. **Multiple Counterparts.** This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

15.6. **Construction of Titles.** The captions, headings and titles of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

15.7. **No Partnership with City.** Owner is, and shall be deemed to be, an independent contractor and is not an employee of City and shall not become an agent of City.

15.8. **Attorney's Fees.** In case any action at law or in equity, including an action for declaratory relief, is brought against Owner to enforce the provisions of this Regulatory Agreement, the losing party agrees to pay reasonable attorney's fees and other reasonable expenses incurred by the prevailing party.

15.9. **Successors and Assigns.** The terms and provisions of this Regulatory Agreement bind and benefit the heirs, legal representatives, successors and assigns of the parties.

15.10. **Exhibits.** Each of the Exhibits attached hereto is hereby incorporated herein by this reference.

16. MORTGAGE PROTECTION

The terms of this Article 17 are for benefit of any mortgagee of the Owner providing construction financing for the Project (a "Mortgagee") and may be relied upon and shall be enforceable by the Mortgagee as if the Mortgagee were a party to this Regulatory Agreement. If the City receives notice from a Mortgagee requesting a copy of any future notice of default that may be given to Owner, and specifying the address for service thereof, then the City shall deliver to Mortgagee, concurrently with service thereon to Owner (the "Notice of Default"). No Notice of Default shall be deemed to have been duly given to the Owner unless and until a copy thereof shall have been so given to Mortgagee. Mortgagee shall have the right (but not the obligation) to cure or remedy, or to commence to cure or remedy, the default claimed within the applicable time periods for cure specified in this Regulatory Agreement, plus an additional thirty (30) days. If, such however, the default is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession of the Project, such Mortgagee shall seek to obtain possession with

diligence and continuity through a receiver or otherwise, and shall thereafter remedy or cure such default or noncompliance promptly and with diligence after obtaining possession. So long as Mortgagee is pursuing cure of the default, the City shall not exercise any right or remedy under this Regulatory Agreement on account of default. The City shall accept performance by Mortgagee of any covenant, condition, or agreement on the part of the Owner to be performed hereunder with the same force and effect as though performed by the Owner.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, **City and Owner have executed this Regulatory Agreement by duly authorized representatives, all on the date first written hereinabove.**

“OWNER”

Kendry II Apartments Owner, L.L.C., a Delaware limited liability company

By: **Kendry II Apartments Venture, L.P.**, a Delaware limited partnership, its sole member

By: **CCH 118 Montclair Arrow Addition, L.P.**, a Delaware limited partnership, its general partner

By: **Maple Multi-Family Development, L.L.C.**, a Texas limited liability company, its general partner

By: _____
Name: Alec Schiffer
Its: Vice President

“CITY”

City of Montclair, a California municipal corporation

By: _____
Name: Javier “John” Dutrey
Its: Mayor

APPROVED AS TO FORM:

By: _____
Diane Robbins, City Attorney

Date: _____

EXHIBIT "A"
REGULATORY AGREEMENT LEGAL DESCRIPTION

REAL PROPERTY IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS;

PARCEL C AS SHOWN ON CERTIFICATE APPROVING A LOT LINE ADJUSTMENT NO. 83-1, AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 22, 1983 AS INSTRUMENT NO. 83-302330 OF OFFICIAL RECORDS OF SAID COUNTY, TOGETHER WITH PARCELS 1 AND 2 AS SHOWN ON CERTIFICATE APPROVING A LOT LINE ADJUSTMENT NO. 2003-2 AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 19, 2003 AS INSTRUMENT NO. 2003-0936556 OF OFFICIAL RECORDS OF SAID COUNTY, THE PERIMETER OF SAID REAL PROPERTY BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2, SAID CORNER BEING THE INTERSECTION OF THE CENTERLINES OF ARROW HIGHWAY AND MONTE VISTA AVENUE AS SHOWN ON PARCEL MAP NO. 19795, FILED IN PARCEL MAP BOOK 250, PAGES 19 THROUGH 23 INCLUSIVE, RECORDS OF SAID COUNTY; THENCE SOUTH 00°00'00" EAST ALONG THE CENTERLINE OF SAID MONTE VISTA AVENUE A DISTANCE OF 315.14 FEET TO THE NORTHEAST CORNER OF PARCEL 3 AS SHOWN ON SAID PARCEL MAP NO. 19795; THENCE ALONG THE NORTHERLY LINES OF PARCELS 3 AND 4 OF SAID PARCEL MAP NO. 19795 THE FOLLOWING THREE COURSES; NORTH 88°18'35" WEST 330.07 FEET; THENCE NORTH 00°00'19" EAST 9.69 FEET; THENCE NORTH 88°37'25" WEST 66.20 FEET TO A POINT ON THE EASTERLY LINE OF MAGNOLIA AVENUE; THENCE ALONG THE EASTERLY LINE OF MAGNOLIA AVENUE AS SHOWN ON SAID PARCEL MAP NO. 19795, NORTH 00°00'19" EAST 305.80 FEET TO A POINT OF INTERSECTION WITH THE CENTERLINE OF ARROW HIGHWAY; THENCE SOUTH 88°18'35" EAST ALONG THE CENTERLINE OF SAID ARROW HIGHWAY, A DISTANCE OF 396.25 FEET TO THE INTERSECTION WITH THE CENTERLINE OF MONTE VISTA AVENUE, AND THE POINT OF BEGINNING LYING WITHIN TRA 11008.

REAL PROPERTY IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS; PARCEL C AS SHOWN ON CERTIFICATE APPROVING A LOT LINE ADJUSTMENT NO. 83-1, AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 22, 1983 AS INSTRUMENT NO. 83-302330 OF OFFICIAL RECORDS OF SAID COUNTY, TOGETHER WITH PARCELS 1 AND 2 AS SHOWN ON CERTIFICATE APPROVING A LOT LINE ADJUSTMENT NO. 2003-2 AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 19, 2003 AS INSTRUMENT NO. 2003-0936556 OF OFFICIAL RECORDS OF SAID COUNTY, THE PERIMETER OF SAID REAL PROPERTY BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2, SAID CORNER BEING THE INTERSECTION OF THE CENTERLINES OF ARROW HIGHWAY AND MONTE VISTA AVENUE AS SHOWN ON PARCEL MAP NO. 19795, FILED IN PARCEL MAP BOOK 250, PAGES 19 THROUGH 23 INCLUSIVE, RECORDS OF SAID COUNTY; THENCE SOUTH 00°00'00" EAST ALONG THE CENTERLINE OF SAID MONTE VISTA AVENUE A DISTANCE OF 315.14 FEET TO THE NORTHEAST CORNER OF PARCEL 3 AS SHOWN ON SAID PARCEL MAP NO. 19795; THENCE ALONG THE NORTHERLY LINES OF PARCELS 3 AND 4 OF SAID PARCEL MAP NO. 19795 THE FOLLOWING THREE COURSES; NORTH 88°18'35" WEST 330.07 FEET; THENCE NORTH 00°00'19" EAST 9.69 FEET; THENCE NORTH 88°37'25" WEST 66.20 FEET TO A POINT ON THE EASTERLY LINE OF MAGNOLIA AVENUE; THENCE ALONG THE EASTERLY LINE OF MAGNOLIA AVENUE AS SHOWN ON SAID PARCEL MAP NO. 19795, NORTH 00°00'19" EAST 305.80 FEET TO A POINT OF INTERSECTION WITH THE CENTERLINE OF ARROW HIGHWAY; THENCE SOUTH 88°18'35" EAST ALONG THE CENTERLINE OF SAID ARROW HIGHWAY, A DISTANCE OF 396.25 FEET TO THE INTERSECTION WITH THE CENTERLINE OF MONTE VISTA AVENUE, AND THE POINT OF BEGINNING LYING WITHIN TRA 11011.



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	PER250
SECTION:	CONSENT - AGREEMENTS	DEPT.:	ADMIN. SVCS.
ITEM NO.:	5	PREPARER:	A. MYRICK

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 24-66 WITH LIEBERT CASSIDY WHITMORE FOR PARTICIPATION IN THE EAST INLAND EMPIRE EMPLOYMENT RELATIONS CONSORTIUM AND PREMIUM LIEBERT LIBRARY SUBSCRIPTION, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY

REASON FOR CONSIDERATION: The City’s current Agreement with Liebert Cassidy Whitmore (LCW) for participation in the East Inland Empire Employment Relations Consortium (ERC) is scheduled for renewal on July 1, 2024. The City Council is requested to consider approval of proposed Agreement No. 24-66 with LCW, a copy of which is attached for the City Council’s review and consideration.

BACKGROUND: For over 30 years, the City of Montclair has participated in LCW’s East Inland Empire ERC. The City’s participation entitles officials and employees to receive group training sessions, unlimited free telephone consultations with the law firm’s attorneys, and a monthly employment relations newsletter. Participating agencies may also receive specialized training for an added cost. As laws related to employment relations are constantly evolving, participating in this consortium is crucial to keeping City employees abreast of such changes.

The contract’s renewal includes the Premium Liebert Library Subscription, which includes unlimited access to LCW workbooks in digital format and over 200 sample forms, model policies, and checklists that can be downloaded and used by staff as templates.

The term of the proposed Agreement is for July 1, 2024 to June 30, 2025.

FISCAL IMPACT: The annual fee for participating in the Consortium is \$4,255. Funds to cover the cost are included in the Fiscal Year 2024-2025 Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 24-66 with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium and Premium Liebert Library Subscription, subject to any revisions deemed necessary by the City Attorney.

June 7, 2024

Marcia Richter
Assistant City Manager/Human Services Director
City of Montclair
5111 Benito Street
Montclair, CA 91763
mrichter@cityofmontclair.org

Re: *East Inland Empire Employment Relations Consortium*

Dear Ms. Richter:

We look forward to another successful year with the East Inland Empire Employment Relations Consortium. The consortium committee has selected a wide variety of topics for your managers and supervisors. We are pleased to provide the consortium with Five (5) full days of training, our monthly newsletter and telephone consultation.

Enclosed is an Agreement for Special Services for your signature.

You'll note that the attached invoice gives you the option of subscribing (or renewing) your Liebert Library membership. Library subscription is optional and is included here for your convenience.

Planning meeting notes were emailed separately, and we will send the 2024-2025 workshop schedule out within the next two months.

Some members have requested information regarding our customized training. We provide training outside of the consortium on a variety of topics, all of which can be customized to include your policies and procedures. The rates vary depending on the presenter. We are willing to provide this customized training for an individual agency or a group of agencies so that the rate can be pro-rated.

If you have any questions about this program or our services, do not hesitate to contact me at (310) 981-2055 or cweldon@lcwlegal.com.

Very truly yours,

LIEBERT CASSIDY WHITMORE

Cynthia S. Weldon

Cynthia S. Weldon
Director of Marketing and Training

Enclosures

AGREEMENT FOR SPECIAL SERVICES

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

WHEREAS Agency has the need to secure expert training and consulting services to assist Agency in its workforce management and employee relations; and

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

NOW, THEREFORE, Agency and Attorney agree as follows:

Attorney's Services:

During the period beginning July 1, 2024 through June 30, 2025, Attorney will provide the following services to Agency (and the other aforesaid public agencies):

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

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

2. Availability of Attorney for Agency to consult by telephone. Consortium calls cover questions that the attorney can answer quickly with little research. They do not include the review of documents, in depth research, written responses (like an opinion letter) or advice on on-going legal matters. The caller will be informed if the question exceeds the scope of consortium calls. Should the caller request, the attorney can assist on items that fall outside the service, but these matters will be billed at the attorney's hourly rate. (See additional services section.)
3. Providing of a monthly newsletter covering employment relations developments.

Fee:

Attorney will provide these special services to Agency for a fee of Three Thousand Five Hundred Twenty Five Dollars (\$3,525.00) payable in one payment prior to August 1, 2024. The fee, if paid after August 1, 2024 will be \$3,625.00.

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

Additional Services:

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

The range of hourly rates for Attorney time is from Two Hundred Seventy to Four Hundred Fifty Dollars (\$270.00 - \$450.00) per hour for attorney staff, Two Hundred Ninety Dollars (\$290.00) per hour for Labor Relations/HR Consultant and from One Hundred Fifty to One Hundred Eighty-Five Dollars (\$150.00 - \$185.00) per hour for services provided by paraprofessional and litigation support staff. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour. Attorney reviews its hourly rates on an annual basis and if appropriate, adjusts them effective July 1.

Independent Contractor:

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

Term:

The term of this Agreement is July 1, 2024 through June 30, 2025. The term may be extended for additional periods of time by the written consent of the parties.

LIEBERT CASSIDY WHITMORE
A Professional Corporation

CITY OF MONTCLAIR
A Municipal Corporation

By: 

J. Scott Tiedemann / Managing Partner

By: _____

Name: _____

Date: 6-30-24

Title: _____

Date: _____

INVOICE

Marcia Richter
 Assistant City Manager/Human Services Director
 City of Montclair
 5111 Benito Street
 Montclair, CA 91763

(MO060-10000)
 INVOICE NUMBER: 268204

East Inland Empire Employment Relations Consortium

Membership: July 1, 2024 through June 30, 2025

Please make your check out for one of the following amounts:

ERC Membership	\$3,525.00	<input type="checkbox"/>
ERC Membership w/ Basic Liebert Library Subscription (optional) <i>Basic Subscription provides access to LCW workbooks in digital format. You can search all workbooks, but cannot print or download the books.</i>	\$3,930.00	<input type="checkbox"/>
ERC Membership w/ Premium Liebert Library Subscription (optional) <i>Premium Subscription provides unlimited access to LCW workbooks in digital format, as well as over 200 sample forms, model policies and checklists that can be downloaded and used as templates.</i>	\$4,425.00	<input type="checkbox"/>

Note: Please send us a copy of this invoice along with your payment.

For more information about the Liebert Library, please visit www.liebertlibrary.com, or email library@lcwlegal.com.

*If ERC Membership paid after August 1, 2024 amount due is \$3,625.00
 (Includes \$100.00 late fee)*



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** GRT125
SECTION: CONSENT - AGREEMENTS **DEPT.:** HUMAN SVCS.
ITEM NO.: 6 **PREPARER:** A. COLUNGA
SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 24-67 WITH BLAIS & ASSOCIATES, INC. FOR GRANT WRITING SERVICES, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY

CONSIDER AUTHORIZING A \$100,000 APPROPRIATION FROM THE CONTINGENCY RESERVE FUND FOR COSTS RELATED TO AGREEMENT NO. 24-67

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 24-67 with Blais & Associates, Inc. (Blais) for grant writing services.

BACKGROUND: In 2017, the City of Montclair began utilizing Blais for their grant writing services. The City has seen much success in working with Blais, with twelve major grant awards that will transform the City totaling nearly eighteen million dollars, including:

- \$5,701,000 for Safe Routes to School Implementation
- \$5,137,000 for Reeder Ranch Park
- \$4,174,097 for the Sunset Park Beautification Project
- \$771,000 for the Ramona Avenue/Howard Street Roundabout
- \$750,000 for the San Antonio Creek Trail Crossing Designs
- \$362,070 for the Orchard Street Pedestrian Safety Improvements
- \$249,930 for Pedestrian Crossing Enhancements
- \$227,554 for the Pacific Electric Bridge Replacement
- \$200,000 for the Active Transportation Plan
- \$177,000 for the San Antonio Creek Trail Multimodal Plan
- \$95,901 for Homeless Outreach
- \$76,320 for the Energy Efficiency and Conservation Block Grant

Utilizing Blais and Associates grant writing services, the City of Montclair has applied for twenty-nine grants, eight of which are currently under review. Additionally, seven grant applications are in process to be submitted. Some of the federal grants the City is applying for are extremely complex and require a high level of effort, which leads to higher grant writing costs. The return on investment to the City is forty dollars in funding received for every dollar spent on grant writing services.

The City would like to continue to pursue grant funding when possible to address a variety of needs in the community. There are current funding announcements that staff would like to pursue, along with announcements of future opportunities. Each of these funding opportunities requires an extraordinary amount of time and specific expertise.

Future costs to prepare grant applications depends on the level of complexity of each grant opportunity. Agreement 24-67 includes a monthly fixed fee of \$3,071 for grant research, consultation, and monitoring. It is anticipated that aggregate expenses for grant writing services from Blais will be at least \$100,000 through the end of the fiscal year.

Before the execution of the original agreement with Blais, City staff went through a vetting process to make sure that Blais was the best value for the City. Therefore, proposals from other firms were not sought. Staff recommends it is in the best interest and value of the City to continue utilizing Blais to provide grant writing services. However, the City is not obligated to exclusively work with Blais for grant writing services.

FISCAL IMPACT: Staff estimates preparing future grant applications will cost at least \$100,000 through the end of the fiscal year. The term of the agreement for grant writing services is July 1, 2024 through June 30, 2025.

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

1. Approve Agreement No. 24-67 with Blais & Associates, Inc. for grant writing services, subject to any revisions deemed necessary by the City Attorney.
2. Authorize a \$100,000 appropriation from the Contingency Reserve Fund for costs related to Agreement No. 24-67.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

GRANT WRITING

THIS AGREEMENT is made and effective as of August 19, 2024, between the City of Montclair, a municipal corporation ("City") and Blais and Associates, LLC, a Texas limited liability company ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on August 19, 2024 and shall remain and continue in effect for a period of 11 months until tasks described herein are completed, but in no event later than June 30, 2025, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full.. This amount shall not exceed \$100,000 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

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

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Defense, Indemnity and Hold Harmless. Contractor shall defend, indemnify, and hold harmless the City, its present and former officers, directors, employees, agents, staff, volunteers, mayor, council, boards, committees, and representatives, as broadly interpreted (collectively, the "Indemnified Parties"), of and from all claims, suits, demands, obligations, losses, damages, sums, or any other matters threatened or presently asserted, including but not limited to all legal fees, costs of defense and litigation expenses (including legal fees, expert fees and any other costs or fees, including those of adverse parties imposed on or sought against the Indemnified Parties), arising directly or indirectly out of any liability or claim of loss or liability for personal injury, bodily injury to persons, contractual liability, errors or omissions, breach, failure to perform, damage to or loss of property, or any other loss, damage, injury or other claim of any kind or nature arising out of the work to be performed by Contractor herein, caused by or arising out of the negligent acts or omissions, or intentional misconduct of Contractor, including its subcontractors, employees, agents, and other persons or entities performing work for Contractor.

(b) Contractual Indemnity. To the fullest extent permitted under California law, Contractor shall contractually indemnify, defend and hold harmless the Indemnified Parties from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, amounts for good faith settlement, or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees and costs), arising out of or related to, in whole or in part, the performance of this Agreement by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to Contractor's officers, agents, representative, employees, independent contractors, subcontractors or affiliated or related entities and/or its or their employees, agents and representatives, caused by or arising out of all negligent acts or omissions, or intentional misconduct of Contractor, including its subcontractors, employees, agents and other persons or entities performing work for Contractor. Indemnification shall include any claim that Contractor, or Contractor's employees or agents, are or may be considered and treated as employees of the City, or are entitled to any employee benefits from City including but not limited to those available under Public Employees Retirement Law. The obligation to indemnify, defend and hold harmless the Indemnified Parties shall apply to all liability as defined above regardless of whether the Indemnified Parties were or are alleged to have been negligent, except that it shall not apply to claims arising from the sole negligence or willful intentional misconduct of the Indemnified Parties. Contractor's obligation to defend the Indemnified Parties is not contingent upon there being an acknowledgement of or determination of the merit of any claims, liability, demands, causes of action, suits, losses, expenses, errors, omissions and/or costs.

(c) Subcontractors and Indemnification. Contractor agrees to and shall obtain executed indemnity agreements in favor of the Indemnified Parties with provisions identical to those set forth from each and every Subcontractor, Sub consultant, or other person or entity involved by, for, with, or on behalf of Contractor in the performance of any aspect of this Agreement. In the event Contractor fails to obtain such indemnity

obligations, Contractor shall be fully responsible for each and every Subcontractor, Subconsultant or other person or entity in terms of defense, indemnity and hold harmless obligations in favor of the Indemnified Parties as set forth above. This obligation to indemnify and defend the Indemnified Parties is binding on the successors, assigns, or heirs of Contractor and shall survive the full performance or termination of this Agreement. These indemnification provisions are independent of and shall not in any way be limited or superseded by the insurance requirements and insurance-related provisions of this Agreement.

(d) City Lost or Damaged Property – Theft. Contractor further agrees to pay or cause to be paid to the Indemnified Parties’ benefit, any and all damages, fines, penalties, and loss or theft of property of the City arising out of or related in any way to the negligent acts or omissions or intentional misconduct of Contractor or of Contractor’s officers, agents, representatives, employees, independent contractors, subcontractors or affiliated or related entities and/or its or their employees, agents and representatives, whether such actions, omissions to act, negligence or intentional conduct is or was authorized by this Agreement or not. City assumes no responsibility whatsoever for any property placed on the premises of City. Contractor further agrees to waive all rights of subrogation against the Indemnified Parties.

(e) Non-Waiver and Non-Exhaustion of City’s Further Rights and Remedies. No aspect of this provision shall in any way limit or effect the rights of the Indemnified Parties against the Contractor under the terms of this Agreement or otherwise. The indemnification provisions shall apply regardless of whether this Agreement is executed after Contractor begins the work and shall extend to claims arising after this Agreement is performed or terminated, including a dispute as to the termination of Contractor. The indemnity obligations of Contractor shall continue until it is determined by final judgment that the claim against the City and any Indemnified Parties is determined by final judgment and after exhaustion of any rights of appeal. Further, no aspect of this provision shall impact the City’s rights to contribution from Contractor, or for the City to dispute Contractor’s refusal to defend and indemnify City.

(f) Limitations on Scope of Indemnity. Notwithstanding the foregoing, Contractor shall not be responsible for indemnification for claims or losses caused by the sole negligence or intentional wrongdoing of Indemnified Parties. Further, the indemnity provided shall be interpreted as broadly as permitted under California law and as to agreements between parties and shall if required be reformed to be consistent with those laws to protect and save this provision for the protection of the Indemnified Parties.

(g) The obligations of Contractor under this or any other provision of this Agreement shall not be limited by the provisions of any workers’ compensation act or similar act. The Contractor expressly waives any statutory immunity under such statutes or laws as to the Indemnified Parties. The Contractor’s indemnity obligation set forth in this Section 9 shall not be limited by the limits of any policies of insurance required or provided by the Contractor pursuant to this Agreement.

(h) The Contractor’s covenant under this Section 9 shall survive the expiration or termination of this Agreement.

10. INSURANCE

The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

(a) Types of Required Coverages

Without limiting the indemnity provisions of the Contract, the Contractor shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

- (1) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$3,000,000 per occurrence, and \$5,000,000 aggregate total bodily injury, personal injury, and property damage.
- (2) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1), including owned, non-owned and hired autos, or the exact equivalent, with minimum limits of \$5,000,000 for bodily injury and property damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- (3) Workers’ Compensation: Workers’ Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- (4) Professional Liability: Professional Liability insurance with limit of not less than \$3,000,000 each claim. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusion that may potentially affect the work to be performed.

(b) Endorsements

Insurance policies shall not be in compliance if they include any limiting provision or endorsement. The insurance policies shall contain, or be endorsed to contain, the following provisions:

(1) Commercial General Liability

Additional Insured: The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

Additional Insured Endorsements shall not:

1. Be limited to "Ongoing Operations"
2. Exclude "Contractual Liability"
3. Restrict coverage to the "Sole" liability of contractor
4. Exclude "Third-Party-Over Actions"
5. Contain any other exclusion contrary to the Agreement

Additional Insured Endorsements shall be at least as broad as ISO Forms CG 20 10 11 85; or CG 20 and 10 and CG 2037.

Primary Insurance: This insurance shall be primary and any other insurance, whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement, shall be in excess of, and shall not contribute with, this insurance. Coverage shall be at least as broad as ISO CG 20 01 04 13.

(2) Auto Liability

Additional Insured: The City, its elected officials, officers, employees, volunteers, boards, agents, and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Contractor.

Primary Insurance: This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

(3) Workers' Compensation

Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(c) Notice of Cancellation

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(d) Waiver of Subrogation

Required insurance coverages shall not prohibit Contractor from waiving the right of subrogation prior to a loss. Contractor shall waive all rights of subrogation against the indemnified parties and policies shall contain or be endorsed to contain such a provision. This provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

(e) Evidence of Insurance

All policies, endorsements, certificates, and/or binders shall be subject to approval by the City as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the City. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

(f) Deductible or Self-Insured Retention

Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention. The City may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the Contractor or the City.

(g) Contractual Liability/Insurance Obligations

The coverage provided shall apply to the obligations assumed by the Contractor under the indemnity provisions of this Agreement. The insurance obligations under this Agreement shall be: (1) all the insurance coverage and/or limits carried by or available to the Contractor; or (2) the minimum insurance coverage requirements and/or limits shown in this Agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the Contractor under this Agreement.

(h) Failure to Maintain Coverage

Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Contract. In addition, the City may either immediately terminate this

Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.

In the event that the Contractor's operations are suspended for failure to maintain required insurance coverage, the Contractor shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

(i) Acceptability of Insurers

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing in accordance with the City.

(j) Claims Made Policies

If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial Contractor's Agreement with the City and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

(k) Insurance for Subcontractors

Contractor shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Agreement, including adding the City as an Additional Insured, providing Primary and Non-Contributory coverage and Waiver of Subrogation to the Subcontractors' policies. The Commercial General Liability Additional Insured Endorsement shall be on a form at least as good as CG 20 38 04 13.

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

(c) Consultant shall comply with all applicable federal, state and local Conflict of Interest laws, including the Political Reform Act (California Government Code, Section 81000, *et. seq.*) and California Government Code, Section 1090, *et. seq.* Consultant covenants that neither he/she nor any officer or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement. Further, Consultant covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to the City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by the Consultant. The Consultant's covenant under this Section shall survive the termination of this Agreement.

16. NOTICES

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

To City: Alyssa Colunga
 Assistant Director of Human Services &
 Grants Manager
 City of Montclair
 5111 Benito
 Montclair, CA 91763

To Consultant: Blais and Associates, LLC
Attn: Jordan P. Carter
2807 Allen Street, Suite 2050
Dallas, TX 75204

17. ASSIGNMENT AND SUBCONTRACTING

The Contractor shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, nor any monies due hereunder, without prior written consent of the City. The City's consent to an assignment of rights under this Agreement shall not release the Contractor from any of its obligations or alter any of its obligations to be performed under this Agreement. Any attempt at assignment or delegation by the Contractor in violation of this Section 17 shall be void and of no legal effect and shall constitute grounds to terminate this Agreement for cause. The Contractor shall not subcontract any performance required under this Agreement without the City's prior written consent.

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF REQUEST FOR PROPOSALS

Deleted.

22. CONFIDENTIALITY

Information and materials obtained by the Consultant from City during the performance of this Agreement shall be treated as strictly confidential and shall not be used by the Consultant for any purpose other than the performance of this Agreement. Consultant's covenant under this Section shall survive the expiration or termination of this Agreement.

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement and any application of the terms shall remain valid and enforceable under this Agreement or California law.

25. CLAIMS AGAINST CITY

Contractor must comply with the claim procedures set forth in Government Code sections 900, *et. seq.*, and/or Montclair Municipal Code, Chapter 1.16, as applicable, prior to filing any lawsuit against the City. Such claims and any subsequent lawsuit based upon the claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

26. AUTHORITY TO EXECUTE THIS AGREEMENT

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

27. NO THIRD PARTY BENEFICIARIES

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

28. COST OF LITIGATION

If any legal action is necessary to enforce any provision of this Agreement or for damages by reason of an alleged breach of any provisions of this Agreement (whether in contract, tort or both), the prevailing Party shall be entitled to receive from the losing Party all attorneys' fees, costs and expenses in such amount as the courts may determine to be reasonable. In awarding the cost of litigation, the court shall not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses and attorneys' fees paid or incurred in good faith.

29. AUTHORITY TO EXECUTE THIS AGREEMENT

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

30. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

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

CITY OF MONTCLAIR

Blais and Associates, LLC

By: _____
Javier John Dutrey, Mayor

By: _____
Jordan Carter, CEO

Attest:

By: _____
Andrea Myrick, City Clerk

Date: _____

Approved as to Form:

By: _____
Diane E. Robbins, City Attorney

Date: _____

EXHIBIT A

FEE PROPOSAL

B&A provides services on a customized basis, tailored to specifically meet each client's needs. This means the City will only pay for desired services as requested. Below provides B&A's proposed tasks.

- *Grant Research and Support Services (Ongoing)*. B&A can also provide grant intelligence and monitoring services for all applicable federal, state, and regional grant funding opportunities and we will alert the City when an announcement is released. This effort includes notification of open grant solicitations utilizing our proprietary Fact Sheets. B&A will also maintain a Grant Activity Report (GAR) and organize monthly grant coordination conference calls. The GAR ensures that all are aware of the specifics of each prospective grant program. B&A will provide key decision-making guidance regarding the "go" or "no-go" determinations on specific grant programs, as well as respond to various questions from staff. Direct consultation time with B&A supports the client's ability to achieve a high return on investment for grant program efforts.
- *Grant Application Development (Quoted upon request)*. Grant application development activity levels are based on the availability of applicable grant programs, status, and availability of competitive projects for those programs. B&A will submit grant applications in a timely manner and in accordance with all program guidelines. *B&A will only charge as grant writing projects are requested and approved to proceed.*
- *Grant Reporting and Management Services (Quoted upon request)*. B&A has a dedicated and experienced grant management team standing ready to administer all requirements and deadlines for any grants that the client has been awarded. B&A defines a scope of work and provides an estimate for the client's review and authorization in order for work to proceed. B&A reviews the draft grant contract/agreement to ensure it aligns with the grant application (no major deviations in scope of work, schedule, and budget), helps identify rules and regulations that may warrant increased attention and focus, and assists with progress reporting and reimbursement requests. B&A proactively ensures the grant agreement is successfully executed on-time, that the client can successfully administer and utilize a grant (given the conditions and requirements of the award), and that the agreement correctly articulates the scope of work, budget, and schedule. *B&A will only charge as grant management projects are requested and approved to proceed.*
- *Grant Management Software (Quoted upon request)*. B&A developed a proprietary grant management software system to significantly improve and make more efficient the entire project management, coordination, reporting, and administration process from beginning-to-closeout of managing the full life of a grant award. This allows our clients the option to manage their own grants in a more efficient manner or to collaboratively work with B&A as desired on awarded grants. Please see www.grantmat.com or request a demo to discuss how BGAPS can help.

SCHEDULE OF ESTIMATED FEES

Task	Description	Frequency	Monthly Cost	Annual Cost
Grant Funding Research Consultation, Monitoring, and Fact Sheets	Monitor/send targeted grant opportunities, summaries, and fact sheets; Develop Monthly Grant Activity Reports (GARs); Monthly calls to review opportunities and grants in-progress; Go/no-go consultation; Participate in coordination calls with client; Develop Year-End Grant Roll-Up Reports.	Monthly fixed fee of \$3,071.	\$3,071	\$36,855
Grant Proposal Development & Submittal*	Full scope collaborative grant writing development to include submission (cost will vary by application complexity and client involvement).	Quoted upon request. This suggested budget estimates one mid-complexity grant at \$8,100/each and one high-complexity grant at \$15,525/each per year.	\$1,969	\$23,625
Grant Management Services**	Grant management and reporting services (cost will vary by application complexity and client involvement).	Quoted upon request. B&A estimates one full-service grant management project at \$750/month.	\$750	\$9,000
BGAPS Grant Management Software	Proprietary grant management software system.	Quoted upon request.	TBD	TBD
			Estimated Annual Cost	\$69,480
			Estimated Monthly Cost	\$5,790

*All grant proposal development projects are quoted upon request based on specific project requirements (costs typically range between \$5,000 - \$25,000 per grant application).

**All grant reporting and management projects are quoted upon request based on specific project requirements (costs typically range between \$500 - \$2,500/month per grant).



STANDARD FEE SCHEDULE

Description	Fee
Professional Services	Fixed Fee
External Consultants (e.g., BCA analysis)	Cost – no markup
Mileage	Prevailing standard IRS rate
Travel (tolls, taxi, airfare, hotel)	Cost – no markup
Printing, Copying, Binding, etc.	Cost – no markup
Shipping, Express Mail, or Courier	Cost – no markup

B&A performs work on a fixed fee not-to-exceed basis. Each project is independently and carefully analyzed to determine the projected scope of work. B&A then provides a fixed fee not-to-exceed quote for client review and approval prior to beginning work. Any additional one-off requests or activities that fall outside of the scope of work are performed and billed at a time and materials basis. This streamlined approach enables B&A to serve as a good steward of the client’s capital resources and be the most efficient and effective grant services provider possible. B&A may adjust rates annually to align with the cost of doing business. All external consultant fees and direct out-of-pocket direct expenses are billed at cost (no markup).

Our proposed rates shall remain firm for a period of 90 calendar days from the date of submission of this fee schedule. Invoices are provided monthly, payable within 30 days after receipt.

B&A actively integrates the following “cost saving” practices into its operational procedures:

- All out-of-pocket expenses are billed at cost, with zero markup to our clients.
- B&A utilizes company discounted commercially available printing services (e.g., Staples), as needed, for bulk printing, copying, and binding support, which significantly reduces required direct costs.
- B&A utilizes company discounted commercially available shipping and delivery services (e.g., FedEx, UPS, or USPS), as needed, for delivery of hard copy materials, which significantly reduces required direct costs.
- B&A can, at the client’s request, provide receipts for all direct expenses.





CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** HSV070, ATH215, 218, 020
SECTION: CONSENT - AGREEMENTS **DEPT.:** HUMAN SVCS.
ITEM NO.: 7 **PREPARER:** F. SALTOS
SUBJECT: CONSIDER APPROVAL OF AGREEMENT NOS. 24-68, 24-69, AND 24-70 WITH
MONTCLAIR LITTLE LEAGUE AND GOLDEN GIRLS SOFTBALL LEAGUE FOR USE OF
BALL FIELD FACILITIES

REASON FOR CONSIDERATION: Montclair Little League and Golden Girls Softball League (the Leagues) have requested the use of City facilities for their winter sports activities in proposed Agreement Nos. 24-68, 24-69, and 24-70.

Copies of Agreement Nos. 24-68, 24-69, and 24-70 are attached for City Council review and consideration.

BACKGROUND: Pursuant to Agreement Nos. 24-68 and 24-69, Montclair Little League is requesting the use of the two southern and two northern fields at Saratoga Park and the southern field at Kingsley Park on weekdays and Saturdays for its baseball activities. Pursuant to Agreement No. 24-70, Golden Girls Softball League would use the two fields at Vernon Park for its softball activities on weekdays and Saturdays. Sunday field use by all leagues is not permitted.

The Leagues have each requested the use of lights for activities that may be conducted after dark. The cost of electrical services associated with such lighting and alarm fees will be covered by the City. In addition the City of Montclair will have Public Works custodians clean the restrooms. The Leagues are responsible to provide a deposit of \$300 for a cleaning fee if needed during the contract period.

FISCAL IMPACT: Approval of the proposed Agreements would result in a cost to the City of approximately \$8,600 total in lighting and alarm fees and \$6,200 in restroom cleaning fees through Public Works Department, for a total of \$14,800. Maintenance costs for the fields are incorporated in the Fiscal Year 2024-25 Budget. The terms of proposed Agreement Nos. 24-68, 24-69, and 24-70 with Montclair Little League and Golden Girls Softball League are from September 3, 2024, through December 28, 2024.

RECOMMENDATION: Staff recommends that the City Council approve Agreement Nos. 24-68, 24-69, and 24-70 with Montclair Little League and Golden Girls Softball League for use of ball field facilities.

**AGREEMENT NO. 24-68
WITH MONTCLAIR LITTLE LEAGUE
FOR USE OF SARATOGA PARK**

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Montclair Little League, hereinafter called "LEAGUE." This Agreement is contingent upon the LEAGUE fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

WITNESSETH:

WHEREAS, CITY presently has baseball fields in Saratoga Park (two northern and two southern fields) generally located at the southwest corner of Vernon Avenue and Kingsley Street, Montclair, California, and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for Little League baseball (including the Challenger Division for children with disabilities) practices and games at such times and hours set forth in Section 1(aa). The term of this Agreement is for September 3, 2024 through December 28, 2024.

SECTION 1: LEAGUE hereby agrees as follows:

- a. Provide CITY a list of all your participants and coaches. All must sign CITY approved waiver and submit to CITY liaison prior to participating.
- b. Not to use the premises for any other purpose, except as above indicated. Opening and closing ceremonies will be permitted. Any other events or clinics will require written notice one month in advance for approval. The League shall not hold special events which conflict with City sponsored community special events.
- c. Not to sublet the field.
- d. Not to make any improvements or alterations or mow grass on said premises.
- e. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.
- f. Not to erect any barriers or fences of any kind unless approved by CITY.
- g. Not to use herbicides at the park for any purpose.

- h. Not to disconnect or make changes to existing phone line account.
- i. Not to allow hitting balls into the chain link fences for batting practice.
- j. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.
- k. To provide a special parking area for participants in the Challenger Division, at the times of their games, by cordoning off the southeast portion of the parking lot; to provide the equipment and personnel needed to set up the special parking area; to see that all equipment is removed and properly stored after each use; to provide personnel to monitor the cordoned off area during its use.
- l. CITY to maintain restroom facilities and CITY to furnish all supplies for each well-maintained restroom. LEAGUE to police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.
- m. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.
- n. To ensure when a barbecue is used (a permit is required to be obtained by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.
- o. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers,

and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.

- p. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snack bar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.
- q. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.
- r. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Department at 625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.
- s. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.
- t. To deposit, with the CITY representative, the sum of Five Hundred Dollars (\$500) as a security deposit, to ensure the proper and prompt payment of any incurred damages to facilities associated with the LEAGUE. In the event all potential damages are paid by the end of this Agreement term, the deposit will be refunded.
- u. To provide the CITY representative with a list of the Board of Directors, including names, addresses, and telephone numbers.
- v. To provide CITY with participant rosters, practice and game schedules. Fields will be allocated to the League accordingly. The City reserves the right to allocate any field not in use by the League. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.
- w. To provide CITY with financial statements upon request for audit purposes.
- x. To designate one individual as the LEAGUE's representative to work with the CITY's representative.

- y. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency, of which LEAGUE had knowledge.
- aa. It is agreed that LEAGUE may use said baseball fields from September 3, 2024, through December 28, 2024, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays, generally commencing at 8:00 a.m. No games or activities will be conducted past 9:45 p.m.
- bb. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept, in full force and effect, for the mutual benefit of CITY and LEAGUE, comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence, and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and non contributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice, in writing, by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.
- cc. INDEMNIFICATION: LEAGUE shall defend, indemnify and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- dd. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.
- ee. To conduct all operations in compliance with the Americans with Disabilities Act.
- ff. LEAGUE shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for LEAGUE meetings.

- gg. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3 feet by 5 feet. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2 inches. The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc., and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.
- hh. LEAGUE may place shade cloth as necessary to dug outs on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Shade cloth is not allowed to stay up on Sundays. Shade cloth must be no greater than what may be required to provide adequate coverage over dug outs. Shade cloth will be attached to dug out structure using clip on rings. The City will determine if a shade cloth is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said shade cloth. The CITY has the right to remove and dispose of any shade cloth that is not displayed following the above mentioned procedures. If LEAGUE does not remove or replace shade cloth as requested by CITY within 24 hours, CITY may prohibit use of fields and snack bar facilities to LEAGUE until request has been met.
- ii. Locks are issued by the City to secure areas of the park and have access to those areas such as snack bar shutters for maintenance. If locks are needed to replace a lost or damaged lock contact the City immediately. The League at no time shall use personal locks to secure any area. If a personal lock is found the League will be notified and will have 24 hours to remove it. If not removed the City will remove it by any means necessary and the City will not be held responsible for the League's lock.

SECTION 2: CITY hereby agrees as follows:

- a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.
- b. To pay for all water used on premises.
- c. To have full control over watering the entire premises. LEAGUE shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.
- d. To provide emergency call-out telephone numbers for use by LEAGUE. A Contact List containing the emergency telephone numbers is attached.
- e. To provide to LEAGUE, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.
- f. Upon approval of the Director of Human Services, LEAGUE's cleaning deposit shall rollover any unused monies into the next Agreement.

- g. To designate a CITY representative to work with LEAGUE on all non-maintenance issues relating to the use of CITY facilities.
- h. To provide alarm service at no charge to LEAGUE.

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities. The CITY may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the LEAGUE at least ten (10) days prior written notice.

APPROVED AND ADOPTED this 19th day of August, 2024.

LEAGUE:

CITY:

MONTCLAIR LITTLE LEAGUE

CITY OF MONTCLAIR

Name:

President

Javier John Dutrey
Mayor

Name:

Secretary

ATTEST:

Andrea M. Myrick
City Clerk

**CITY OF MONTCLAIR
CONTACT LIST FOR SPORTS LEAGUES
SEPTEMBER 2024**

Reason for Contact	Authority	Contact	Telephone Number
After-Hours/ Emergency	Montclair Police Department	Dispatch	(909) 621-4771 9-1-1 (Emergency)
Sports League Administration	City's Sports League Liaison	Fernando Saltos	(909) 625-9496
Building Maintenance	Pub. Works Facilities/Maint. Asst. Manager	Mathew Paradis	(909) 625-9443 Cell: (909) 721-1860
Grounds Maintenance	Public Works Operations Asst. Manager	Alex Cardona	(909) 625-9467 Cell: (909) 762-1372
Vandalism	Public Works Department		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429

**AGREEMENT NO. 24-69
WITH MONTCLAIR LITTLE LEAGUE
FOR USE OF KINGSLEY PARK**

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Montclair Little League, hereinafter called "LEAGUE." This Agreement is contingent upon the LEAGUE fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

WITNESSETH:

WHEREAS, CITY presently has a baseball field generally located at the northwest end of Kingsley Elementary School at Benson Avenue and Kingsley Street, Montclair, California, and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for Junior/Senior Little League baseball practices and games at such times and hours set forth in Section 1(y). The term of this Agreement is for September 3, 2024 through December 28, 2024.

SECTION 1: LEAGUE hereby agrees as follows:

- a. Provide CITY a list of all your participants and coaches. All must sign CITY approved waiver and submit to CITY liaison prior to participating.
- b. Not to use the premises for any other purpose, except as above indicated. Opening and closing ceremonies will be permitted. Any other events or clinics will require written notice one month in advance for approval. The League shall not hold special events which conflict with City sponsored community special events.
- c. Not to sublet the field.
- d. Not to make any improvements or alterations or mow grass on said premises.
- e. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.
- f. Not to erect any barriers or fences of any kind unless approved by CITY.
- g. Not to use herbicides at the park for any purpose.

- h. Not to disconnect or make changes to existing phone line account.
- i. Not to allow hitting balls into the chain link fences for batting practice.
- j. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.
- k. CITY to maintain restroom facilities and CITY to furnish all supplies for each well-maintained restroom. LEAGUE to police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.
- l. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.
- m. To ensure when a barbecue is used (a permit is required to be obtained by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.
- n. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.
- o. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snack bar as

Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.

- p. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.
- q. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Department at 625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.
- r. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.
- s. To deposit, with the CITY representative, the sum of Five Hundred Dollars (\$500) as a security deposit, to ensure the proper and prompt payment of any incurred damages to facilities associated with the LEAGUE. In the event all potential damages are paid by the end of this Agreement term, the deposit will be refunded.
- t. To provide the CITY representative with a list of the Board of Directors including names, addresses, and telephone numbers.
- u. To provide CITY with participant rosters, practice and game schedules. Fields will be allocated to the League accordingly. The City reserves the right to allocate any field not in use by the League. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.
- v. To provide CITY with financial statements upon request for audit purposes.
- w. To designate one individual as the LEAGUE's representative to work with the CITY's representative.
- x. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency of which LEAGUE had knowledge.
- y. It is agreed that LEAGUE may use said baseball fields from September 3, 2024, through December 28, 2024, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m.. No games or activities will be conducted past 9:45 p.m.

- z. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept in full force and effect for the mutual benefit of CITY and LEAGUE comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice in writing by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them, or certificate(s) evidencing the insurance.
- aa. INDEMNIFICATION: LEAGUE shall defend, indemnify, and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- bb. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.
- cc. To conduct all operations in compliance with the Americans with Disabilities Act.
- dd. LEAGUE shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for LEAGUE meetings.
- ee. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3'X 5'. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2". The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.

- ff. LEAGUE may place shade cloth as necessary to dug outs on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Shade cloth is not allowed to stay up on Sundays. Shade cloth must be no greater than what may be required to provide adequate coverage over dug outs. Shade cloth will be attached to dug out structure using clip on rings. The City will determine if a shade cloth is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said shade cloth. The CITY has the right to remove and dispose of any shade cloth that is not displayed following the above mentioned procedures. If LEAGUE does not remove or replace shade cloth as requested by CITY within 24 hours, CITY may prohibit use of fields and snack bar facilities to LEAGUE until request has been met.

- gg. Locks are issued by the City to secure areas of the park and have access to those areas such as snack bar shutters for maintenance. If locks are needed to replace a lost or damaged lock contact the City immediately. The League at no time shall use personal locks to secure any area. If a personal lock is found the League will be notified and will have 24 hours to remove it. If not removed the City will remove it by any means necessary and the City will not be held responsible for the League's lock.

SECTION 2: CITY hereby agrees as follows:

- a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.
- b. To pay for all water used on premises.
- c. To have full control over watering the entire premises. LEAGUE shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.
- d. To provide emergency call-out telephone numbers for use by LEAGUE. A Contact List containing the emergency telephone numbers is attached.
- e. To provide to LEAGUE, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.
- f. Upon approval of the Director of Human Services, LEAGUE's cleaning deposit shall rollover any unused monies into the next Agreement.
- g. To designate a CITY representative to work with LEAGUE on all non-maintenance issues relating to the use of CITY facilities.
- h. To provide alarm service at no charge to LEAGUE.

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities. The CITY may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the LEAGUE at least ten (10) days prior written notice.

APPROVED AND ADOPTED this 19th day of August, 2024.

LEAGUE:

CITY:

MONTCLAIR LITTLE LEAGUE

CITY OF MONTCLAIR

Name:

President

Javier John Dutrey
Mayor

Name:

Secretary

ATTEST:

Andrea M. Myrick
City Clerk

**CITY OF MONTCLAIR
CONTACT LIST FOR SPORTS LEAGUES
SEPTEMBER 2024**

Reason for Contact	Authority	Contact	Telephone Number
After-Hours/ Emergency	Montclair Police Department	Dispatch	(909) 621-4771 9-1-1 (Emergency)
Sports League Administration	City's Sports League Liaison	Fernando Saltos	(909) 625-9496
Building Maintenance	Pub. Works Facilities/Maint. Asst. Manager	Mathew Paradis	(909) 625-9443 Cell: (909) 721-1860
Grounds Maintenance	Public Works Operations Asst. Manager	Alex Cardona	(909) 625-9467 Cell: (909) 762-1372
Vandalism	Public Works Department		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429

**AGREEMENT NO. 24-70
WITH MONTCLAIR GOLDEN GIRLS SOFTBALL LEAGUE
FOR USE OF VERNON PARK**

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Montclair Little League, hereinafter called "LEAGUE." This Agreement is contingent upon the LEAGUE fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

WITNESSETH:

WHEREAS, CITY presently has softball fields (the east and west fields) generally located at the southeast corner of the Vernon Junior High School complex, south of the corner of Benson Avenue and San Bernardino Street, Montclair, California; and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for girls softball practices and games at such times and hours set forth in Section 1(y). The term of this Agreement is for September 3, 2024 through December 28, 2024.

SECTION 1: LEAGUE hereby agrees as follows:

- a. Provide CITY a list of all your participants and coaches. All must sign CITY approved waiver and submit to CITY liaison prior to participating.
- b. Not to use the premises for any other purpose, except as above indicated. Opening and closing ceremonies will be permitted. Any other events or clinics will require written notice one month in advance for approval. The League shall not hold special events which conflict with City sponsored community special events.
- c. Not to permit practice sessions in the southeast quadrant of the field; to provide specific written notice to each coach and, in turn, obtain written confirmation from each coach.
- d. Not to sublet the field.
- e. Not to make any improvements or alterations or mow grass on said premises.
- f. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.

- g. Not to erect any barriers or fences of any kind unless approved by CITY.
- h. Not to use herbicides at the park for any purpose.
- i. Not to disconnect or make changes to existing phone line account
- j. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.
- k. CITY to maintain restroom facilities and CITY to furnish all supplies for each well- maintained restroom. LEAGUE to police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.
- l. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.
- m. To ensure when a barbecue is used (a permit is required to be obtained by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.
- n. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.

- o. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snackbar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.
- p. To be responsible for all costs as a result of lost or stolen keys.
- q. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Department at 625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.
- r. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.
- s. To deposit, with the CITY representative, the sum of Five Hundred Dollars (\$500) as a security deposit, to ensure the proper and prompt payment of any incurred damages to facilities associated with the LEAGUE. In the event all potential damages are paid by the end of this Agreement term, the deposit will be refunded.
- t. To provide the CITY representative with a list of the Board of Directors including names, addresses, and telephone numbers.
- u. To provide CITY with participant rosters, practice and game schedules. Fields will be allocated to the League accordingly. The City reserves the right to allocate any field not in use by the League. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.
- v. To provide CITY with financial statements upon request for audit purposes.
- w. To designate one individual as the LEAGUE's representative to work with the CITY's representative.
- x. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency of which LEAGUE had knowledge.
- y. It is agreed that LEAGUE may use said baseball fields from September 3, 2024, through December 28, 2024, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m.. No games or activities will be conducted past 9:45 p.m.

- z. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept in full force and effect for the mutual benefit of CITY and LEAGUE comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice in writing by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them, or certificate(s) evidencing the insurance.
- aa. INDEMNIFICATION: LEAGUE shall defend, indemnify and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages, to the maximum extent permitted by law.
- bb. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.
- cc. To conduct all operations in compliance with the Americans with Disabilities Act.
- dd. LEAGUE shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for LEAGUE meetings.
- ee. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3'X 5'. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2". The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.

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SECTION 2: CITY hereby agrees as follows:

- a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.
- b. To pay for all water used on premises.
- c. To have full control over watering the entire premises. LEAGUE shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.
- d. To provide emergency call-out telephone numbers for use by LEAGUE. A Contact List containing the emergency telephone numbers is attached.
- e. Upon approval of the Director of Human Services, LEAGUE's cleaning deposit shall rollover any unused monies into the next Agreement.
- f. To designate a CITY representative to work with LEAGUE on all non-maintenance issues relating to the use of CITY facilities.

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities. The CITY may at any time, for any reason, with or without cause, suspend or

terminate this Agreement, or any portion hereof, by serving upon the LEAGUE at least ten (10) days prior written notice.

APPROVED AND ADOPTED this 19th day of August, 2024.

LEAGUE:

CITY:

GOLDEN GIRLS SOFTBALL

CITY OF MONTCLAIR

Name:

President

Javier John Dutrey
Mayor

Name:

Secretary

ATTEST:

Andrea M. Myrick
City Clerk

**CITY OF MONTCLAIR
CONTACT LIST FOR SPORTS LEAGUES
SEPTEMBER 2024**

Reason for Contact	Authority	Contact	Telephone Number
After-Hours/ Emergency	Montclair Police Department	Dispatch	(909) 621-4771 9-1-1 (Emergency)
Sports League Administration	City's Sports League Liaison	Fernando Saltos	(909) 625-9496
Building Maintenance	Pub. Works Facilities/Maint. Asst. Manager	Mathew Paradis	(909) 625-9443 Cell: (909) 721-1860
Grounds Maintenance	Public Works Operations Asst. Manager	Alex Cardona	(909) 625-9467 Cell: (909) 762-1372
Vandalism	Public Works Department		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429



CITY COUNCIL AGENDA REPORT

DATE:	AUGUST 19, 2024	FILE I.D.:	EQS100/TAX425
SECTION:	CONSENT - AGREEMENTS	DEPT.:	ECONOMIC DEV.
ITEM NO.:	8	PREPARER:	M. FUENTES
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 24-71 WITH CHAPLAIN OF THE STREETS FOR THE LEASE OF A CITY-OWNED PROPERTY, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 24-71 with Chaplain of the Streets for the lease of a City-owned property, 9661 Central Avenue, to serve as the professional and administrative offices of Chaplain of the Streets.

A copy of proposed Agreement No. 24-71 is attached for the City Council's review and consideration.

BACKGROUND: In 2023, the Economic Development Agency (Agency) purchased 9661 Central Avenue (Property), as part of the Agency's efforts of acquiring underutilized parcels of land and buildings for future site assemblage. The Agency has acquired several parcels and buildings along Central Avenue as part of the Agencies' efforts in revitalizing the Central Avenue Corridor. These parcels and buildings were acquired either for future site assemblage, or for use by the Montclair Housing Authority's low-moderate income affordable housing program.

Upon acquisition of property, the Agency initiated a small rehabilitation project as the Property was in relatively good condition and severed as a former insurance office. With the recent rehabilitation project completed, the Agency has elected to lease the Property until future plans can be developed as to how the Property and adjacent City owned parcels may be developed.

The City of Montclair owns two parcels that are immediately to the south and east of the Property. The property immediately to the south, 9671 Central Avenue is a former beauty salon and the property to the east, 5326 San Bernardino Street, is the former City Hall building, commonly known as the Hurst property.

It should be noted that the City of Montclair approved Agreement No. 24-60 with Set Free Ministries, for lease of two offices at 9661 Central Avenue to serve as the professional and administrative offices of Set Free Ministries. In effect, 9661 Central Avenue would serve as the City of Montclair's Homeless Outreach Office if Agreement No. 24-71 is approved.

Proposed Lease Agreement No. 24-71

Proposed Agreement No. 24-71 would be a lease agreement between the City of Montclair and Chaplain of the Streets for lease of a City owned property, 9661 Central Avenue, to serve as the professional and administrative offices of Chaplain of the Streets

The key terms of Proposed Agreement No. 24-71 include the following:

- The term of the lease shall be for one year, with the option to extend the lease for four additional successive one year terms under terms that are mutually satisfactory to both the City of Montclair and Chaplain of the Streets.
- Chaplain of the Streets shall pay \$28,800.00 rent per year to the City of Montclair for use of the Property.
- Chaplain of the Streets maybe charged a discounted rent of \$1.00 per year, if Set Chaplain of the Streets elects to provide designated services to the City of Montclair. The discounted rent, if elected, would be applicable for any year, or portion thereof, during which Chaplain of the Streets conducts the designated services for the City of Montclair.
- Designated Services that would allow Chaplain of the Streets to request a rent reduction include accompanying the City's Special Operations Unit on Homeless Outreach Detail a minimum of twenty-five (25) hours per week as well as respond to special requests/calls for service from the Special Operations Unit regarding homeless individuals and/or families in need of assistance.
- The Chaplain of the Streets agrees to use the property only for administrative and professional office space in relation to homeless outreach services which may include, but are not limited to providing resources and services related to housing, employment, healthcare, and mental health services for the at large homeless population.

Chaplain of the Streets

Chaplain of the Streets, is a faith-based organization dedicated to helping those in need within the Inland Empire. Chaplain of the Streets was founded in 2022, by Dianna Delgado, after the passing of her son Danny Delgado.

Chaplain of the Streets visits individuals experiencing homelessness where they are on the streets, at shelters, motels, or at encampments. Chaplain of the Streets helps by providing homeless individuals find financial assistance, housing, and medical care by connecting them with county programs, healthcare providers, and other local service organizations.

In addition, Chaplain of the Streets partners with various businesses to provide non-perishable food items and personal hygiene products to those individuals experiencing homelessness.

FISCAL IMPACT: Adoption of proposed Agreement No. 24-71 would allow for Chaplain of the Streets to lease a City owned property at 9661 Central Avenue.

Chaplain of the Streets would pay a lease payment of \$28,800 annually for lease of the Property unless Chaplain of the Streets elects to apply for a discounted rent which would reduce the lease amount to \$1.00 annually.

The City of Montclair would continue to be responsible for all maintenance of the Property including grounds and utilities costs.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 24-71 with Chaplain of the Streets for the lease of a City-owned property, subject to any revisions deemed necessary by the City Attorney.

CITY OF MONTCLAIR

LEASE AGREEMENT

This City of Montclair Lease Agreement ("Lease"), is made and entered into as of August 19, 2024 (the "Commencement Date"), by and between the City of Montclair, a California Municipal Corporation, with its principal place of business located at 5111 Benito Street, Montclair, California, 91763 ("Landlord" or "City"), and Chaplain of the Streets, a 501(c)(3) non-profit corporation, with its principal place of business located at 12142 Central Ave Suite 200, Chino, California, 91710 ("Tenant"). Landlord and Tenant are each sometimes referred to herein individually as a "Party," and collectively as the "Parties."

RECITALS

This Lease is made with reference to the following facts:

A. Landlord is the owner of that certain real property consisting of an approximately 912 square foot single-story building that is located at 9661 Central Avenue, Montclair, California, 91763 including fixtures and furniture therein, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference ("Property"). Except as expressly provided to the contrary in this Lease, reference to the Property is to the described land, together with all fixtures, furniture and improvements.

B. Landlord desires to lease a portion of the Property to Tenant and Tenant desires to lease the Property from Landlord, as more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference ("Leased Space") on the terms and conditions set forth in this Lease.

C. Landlord's entry into this Lease will benefit the health, safety, and welfare of the City because Tenant's business operations at the Property will provide for a centralized location for those individuals who are homeless to have access to services including but not limited to street outreach, case management, education and life training skills, shelter and housing referrals, employment assistance, legal aid, and advocacy work.

D. Landlord's entry into this Lease will also help the City Council of the City (the "City Council") achieve its goals of systematically addressing homelessness and access to services sought out by individuals who are homeless due to mental illness, substance use disorder, disability, or other barriers. All of these goals are intended to improve the health, safety, and welfare of the community and to help address homelessness in the community.

LEASE

NOW, THEREFORE, in consideration of the above recited facts, the mutual covenants set forth in this Lease and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. INCORPORATION OF RECITALS

The foregoing recited facts are true and correct and are incorporated into this Lease by this reference, as if restated in full.

2. LEASE

For and in consideration of the Rent (as defined below), and the conditions, covenants and agreements set forth in this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Leased Space on the terms and conditions set forth in this Lease.

3. TERM

3.1 **Term of the Lease.** Unless earlier terminated or extended, the term of this Lease ("Term") shall be one (1) year commencing on the Commencement Date and expiring on June 30, 2025 ("Expiration Date"). If Tenant fails to vacate the Leased Space on the Expiration Date, or whatever later date is agreed to upon Tenant's exercise of the Option (defined in Section 3.2 below), or within the required time frame after this Lease is earlier terminated by Tenant, without Landlord's written consent, Tenant's holdover tenancy shall be a month-to-month tenancy, for a rental amount equal to the fair market rent for the Lease Space as determined by an appraiser to be designated by City, on all other terms and conditions of this Lease, until either Party terminates Tenant's holdover tenancy.

3.2 **Option to Extend.** If Tenant is not in default under this Lease at the Expiration Date, and the Lease has not been earlier terminated, Tenant shall have the option to request that Landlord extend this Lease for up to four (4) additional, successive one (1)-year terms under terms that are mutually satisfactory to both Parties ("Option"). If Tenant wishes to exercise this Option, Tenant shall, as to each option to extend by one year, not less than ninety (90) days prior to the Expiration Date of this Lease, provide Landlord with a written 90-day notice of Tenant's interest in negotiating the terms for extension of this Lease. Landlord shall have the right to grant or deny Tenant's request in its sole discretion.

4. RENT

4.1 **Rent.** Tenant and Landlord agree that the market rent for the use of the Property is Twenty Eight Thousand Eight Hundred and One Dollars (\$28,800.00) per year ("Market Rate"). In view of the restricted uses permitted under this Lease and the agreement of Tenant to provide the "Designated Services" (as set forth in Exhibit C hereto), Landlord is prepared to charge a discounted rent of One Dollar (\$1.00) per year ("Discounted Rent"). The Discounted Rent shall be applicable for any year, or portion thereof, during which the Tenant conducts the Designated Services on the Property and otherwise acts in compliance with this Lease; for any periods (including portions of any year) in which Tenant fails to conduct the Designated Services on the Property or during which Tenant is not in compliance with this Lease, Tenant shall be obligated to pay as rent the Market Rent. The applicable rent as determined in conformity with the preceding portion of this Section 4.1 constitutes the "Rent".

4.2 **Dishonored Check.** In the event that any check or other instrument of payment given by Tenant to Landlord is dishonored for any reason, Landlord may charge a fee of twenty-five dollars (\$25.00) for each such check or other instrument that is dishonored.

5. Designated Services

5.1 **Designated Services.** In lieu of a portion of the Rent, Tenant may elect to perform certain services for Landlord ("Designated Services"). The specific services, frequency of services, and corresponding rent reduction are more particularly described in Exhibit "C" attached hereto and incorporated herein by this reference.

5.2 **Designated Services Qualifications.** Tenant must be qualified and possess the necessary skills to perform the Designated Services safely and effectively. Landlord reserves the right to approve or deny Tenant's request to perform Designated Services based on qualifications and experience.

5.3 **Performance of Designated Services.** Tenant agrees to perform the Designated Services in a professional and timely manner, in accordance with the standards outlined in Exhibit "C". Tenant shall be responsible for providing all necessary tools and materials to perform the Designated Services, unless otherwise agreed upon in writing by Landlord. Landlord reserves the right to inspect the work performed by Tenant as part of the Designated Services.

5.4 **Termination of Designated Services.** Landlord may terminate Tenant's ability to perform Designated Services for repeated failure to perform the services satisfactorily or for any breach of this Agreement. Tenant may discontinue performing Designated Services with thirty (30) days written notice to Landlord.

6. USE OF THE PROPERTY

6.1 **Use of the Property.** Tenant shall have the right and Tenant covenants and agrees to use the Property only for professional office and homeless outreach services which may include, but are not limited to providing recourses and services related to housing, employment, healthcare, and mental health services, and for no other purposes, without the express, prior written approval of Landlord. Tenant shall not occupy or use, or permit all or any part of the Property required to be occupied or used, for any unlawful or illegal business, use or purpose, nor for any business, use or purpose that is disreputable or extra-hazardous. Tenant shall immediately upon discovery of any such unlawful, illegal, disreputable or extra-hazardous use, take all necessary steps, legal and equitable, to compel the discontinuance of such use and immediately remove occupants or other persons guilty of such unlawful, illegal, disreputable or extra-hazardous use from the Property.

6.2 **Parking.** Tenant shall be provided with designated parking spots on the Property. The designated parking space shall be deemed to constitute part of the Leased Space for purposes of this Lease.

6.3 **Management of the Property.** The Property shall be managed or caused to be managed by the Landlord, excepting that Tenant shall be responsible for maintenance and the conduct of operations on the Leased Space.

6.4 **Waste and Nuisance.** Tenant shall not commit or allow any waste on or about the Property, nor commit, allow or maintain any public or private nuisance on or about the Property, or impairment of the Property, or any part thereof.

6.5 **Compliance with Laws, Rules, Regulations.** Tenant shall at all times comply with all requirements of local, state and federal laws, rules, orders and regulations now in force or which may be in force and such rules as may be established from time to time by Landlord in relation to the Leased Space ("Regulations") at any time during the Term. As part of complying with the Regulations, Tenant shall obtain, at Tenant's sole cost and expense, all licenses, permits and approvals that the Regulations require for the use or operation of the Property. Tenant shall maintain all required licenses, permits and approvals throughout the Term of this Lease

6.6 **Obligation to Refrain from Discrimination.** Tenant shall not discriminate against any person, or group of persons, on account of sex, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property.

6.7 **Condition of Property.** Tenant acknowledges that it intends to and will occupy the Property on the Effective Date in it's AS-IS condition, as of the Effective Date. Tenant acknowledges and agrees that Landlord has made absolutely no representations, guarantees or warranties regarding the Property, nor has Landlord made representations, guarantees or warranties regarding whether the Property and Improvements (as defined in Section 9.1) comply with applicable covenants and restrictions of record, building codes, ordinances or statutes in effect on the Effective Date.

6.8 **Assumption of Risk, Waiver, and Landlord's Non-liability.** To the maximum extent allowed by law, except for Landlord's willful misconduct or grossly negligent acts, Tenant assumes any and all risk of loss, damage or injury of any kind to any person or property that is on or about the Property. Tenant's assumption of risk shall include, without limitation, loss or damage caused by defects within the Property or any Improvements (as defined in Section 9.1), accident, fire or other casualty on or about the Property. To the maximum extent allowed by law, except for Landlord's willful misconduct or grossly negligent acts, Tenant hereby waives all claims and demands against Landlord, its elected officials, officers, employees, volunteers, consultants and agents for injury to persons, damage to property or any other interest of Tenant sustained by Tenant or any other person claiming through Tenant and resulting from any occurrence on or about the Property.

Tenant has been advised by its legal counsel concerning the content and effect of California Civil Code Section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

In reference to the waivers set forth in this Section, Tenant hereby waives the benefits of Civil Code Section 1542 and all other state or federal statutes, legal principles, or judicial decisions of the same or similar effect. The provisions of this Section shall survive the expiration or termination of this Lease.

6.9 **Hazardous Materials Prohibited.** The use, generation, storage or disposal of "Hazardous Materials" (defined below) on the Property is strictly prohibited, and any such use, generation, storage, or disposal shall result in a default and termination of this Lease. For the purpose of this section, "Hazardous Materials" means substances defined as "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes," "extremely hazardous wastes," or "restricted hazardous wastes," or stated to be known to cause cancer or reproductive toxicity, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. sections 1317, et seq.; sections 25115, 25117, 25122.7, 25140, 25249.5, 25249.8, 25281, 25316 or 25501 of the California Health & Safety Code; or any substance so defined or stated in any of the regulations adopted and publications promulgated pursuant to said laws as they may be amended from time to time.

6.10 **Taxable Possessory Interests.** If the County of San Bernardino determines that this Lease creates a taxable possessory interest pursuant to Revenue Taxation Code Section 107, Tenant shall be solely responsible for the payment of property taxes (with respect to such possessory interest).

6.11 **Quiet Enjoyment.** The Parties hereto mutually covenant and agree that Tenant, by keeping and performing the covenants herein contained, shall at all times during the Term of this Lease peaceably and quietly have, hold and enjoy the Leased Space.

7. RIGHTS OF ACCESS; PUBLIC IMPROVEMENTS AND FACILITIES

Landlord at its sole risk and expense, reserves the right to enter or authorize its agents to enter the Property or any part thereof at all reasonable times and with as little interference as possible, for the purposes of construction, reconstruction, maintenance, repair or service of any public improvements or public facilities located on the Property. Any such entry shall be made only after reasonable notice to Tenant, and Landlord or such other agent shall indemnify, defend and hold Tenant harmless from any claims or liabilities by their respective agents that arise out of Landlord's entrance on the Property and not caused by Tenant's sole willful misconduct or gross negligence. Landlord and such other agent shall make all reasonable efforts to keep any inconvenience, annoyance, disturbance or loss of business to a minimum. Ninety (90) days prior to the end of the Term of this Lease, Landlord shall have the right to show the Property to prospective lessees in its discretion.

8. UTILITIES, LIENS AND OTHER CHARGES

8.1 **Utilities.** Landlord agrees to pay or cause to be paid, as and when they become due and payable, all charges for water, gas, light, heat, telephone, electricity and other utility and communication services rendered or used on or about the Property at all times during the Term of this Lease.

8.2 **Other Liens.** Tenant shall not, directly or indirectly, create or permit to be created or to remain, and will promptly discharge, at its expense, any mortgage, lien, encumbrance or charge on or pledge of the Property or any part thereof, or Tenant's interest therein, or the rent, additional rent or other sums payable by Tenant under this Lease. Tenant shall notify Landlord promptly of any lien or encumbrance which has been created on or attached to the Property, or to Tenant's leasehold estate therein, whether by act of Tenant or otherwise. The existence of any mechanic's, laborer's, materialmen's, supplier's or vendor's lien, or any right in respect thereof, shall not constitute a violation of this Section if payment is not yet due upon the contract or for the goods or services in respect of which any such lien has arisen.

9. OWNERSHIP OF AND RESPONSIBILITY FOR IMPROVEMENTS

9.1 **Ownership during Term and at Termination.** All improvements on the Property, whether existing thereon at the Commencement Date or constructed or installed by Tenant or Landlord as permitted or required by this Lease ("Improvements"), shall, during the Term of this Lease, be and remain the property of Landlord. Tenant shall have no right at any time to waste, destroy, demolish or remove any of the Improvements. Tenant shall not engage in any improvements to or demolition of improvements to the Property. Tenant's rights and powers with respect to the Improvements are subject to the terms and limitations of this Lease. Landlord and Tenant covenant for themselves and all persons claiming under or through them that the improvements are real property.

9.2 **Ownership of Fixtures and Furnishings at Termination.** On the Expiration Date or sooner termination of this Lease, Landlord may, at Landlord's election, demand the removal from the Leased Space or the Property of all of Tenant's fixtures, equipment and furnishings, or of certain fixtures, equipment or furnishings, as specified in the notice provided for below at Tenant's sole cost and expense. A demand to take effect on the Expiration Date shall be effectuated by notice given at least three (3) months before the Expiration Date. A demand to take effect on any other termination date of the Lease shall be effectuated by notice given concurrently with the notice of termination or within a reasonable period after such termination.

Any of Tenant's fixtures, equipment and furnishings not specified by Landlord to be removed, and, at Landlord's election, any fixtures, equipment and furnishings specified for removal by Landlord that are not removed by Tenant within thirty (30) days following the Expiration Date or other termination date shall be deemed abandoned by Tenant and shall, without compensation to Tenant, then become Landlord's property, free and clear of any and all claims to or against them by Tenant or any third person, and may be retained, removed, sold, destroyed or otherwise disposed of by Landlord in Landlord's sole discretion.

Tenant shall defend, indemnify and hold harmless Landlord from and against any and all liability and loss arising from any such claims or from Landlord's exercise of the rights conferred by this Section.

9.3 **Alteration of Improvements.** Tenant shall not make or permit to be made any alteration or addition to the Property, nor demolish all or any part of the Property or Improvements.

9.4 **Damage or Destruction.** Tenant agrees to give notice to Landlord of any fire or other damage that occurs on the Property or the Improvements within five (5) days after such fire or damage. Except as otherwise provided in Section 15.3, if the Improvements shall be damaged or destroyed by any cause which puts the Improvements into a condition which is not decent, safe and sanitary, Tenant agrees to make or cause to be made full repair of said damage and to restore the Improvements to the condition which existed prior to said damage, or Tenant agrees to clear and remove from the Property all debris resulting from said damage and rebuild the Improvements in accordance with plans and specifications previously submitted to Landlord and approved in writing in order to replace in kind and scope the Improvements which existed prior to such damage; provided, however, that Tenant's liability pursuant to this Section shall be limited to the extent of available proceeds from Tenant's insurance coverage maintained pursuant to Section 14.1.

9.5 **Indemnification: Notice of Non-responsibility.** Tenant agrees to hold Landlord, its elected officials, officers, employees, volunteers or agents free and harmless, and indemnify Landlord against all claims, liabilities, costs and expenses, for labor and materials in connection with all construction, repairs or alterations on the Property and the Improvements performed by Tenant, Tenant's agent or at Tenant's direction pursuant to this Section 9 and the cost of defending against such claims, including reasonable attorneys' fees.

Landlord shall have the right to post and maintain on the Property and the Improvements any notice of non-responsibility provided for under applicable law.

10. MAINTENANCE

10.1 **Maintenance and Repair of the Property.** Landlord shall assume full responsibility for the operation and maintenance of the Leased Space and the Improvements throughout the Term of the Lease without expense to Tenant unless otherwise specified herein, and shall keep the Leased Space and Improvements, and perform all maintenance and repairs necessary to maintain and preserve the Leased Space and Improvements, in good and clean condition and repair and in a clean, safe and sanitary manner and in compliance with all applicable laws, rules and regulations. Landlord agrees that Tenant shall not be required to perform any maintenance, repairs, or services or to assume any expense not specifically assumed herein in connection with the Property and the Improvements.

10.2 **Capital Improvements.** Notwithstanding anything contained in this Lease to the contrary, Landlord shall be responsible for all capital replacements and improvements deemed necessary by Landlord to maintain and preserve the Leased Space and Improvements in Landlord's sole discretion, provided, however, this obligation shall not relieve Tenant of the obligation to make such replacements or improvements if they are necessitated by damage caused by Tenant. For the purposes of this Lease, a capital replacement or improvement shall mean a replacement or improvement that has a useful life of longer than ten (10) years. That notwithstanding, Landlord shall have the right, in lieu of making any such capital replacement or improvement, to terminate this Lease on ninety (90) days notice to Tenant.

11. ASSIGNMENT, SUBLETTING, TRANSFER

Tenant shall not assign or attempt to assign this Lease or any right herein, nor make any total or partial conveyance, assignment, sublease or transfer in any other mode or form of the whole or any part of the Leased Space or the Improvements, without prior written approval of Landlord. Such approval may only be given by Landlord if: (a) such conveyance, assignment, sublease or transfer is deemed by Landlord to be in Landlord's best interests; (b) the proposed conveyee, assignee, sublessee or transferee has, in the opinion of Landlord, the financial capability and overall competence to develop and operate the conveyed, assigned, subleased or transferred obligations and premises; and (c) all rent or other consideration that Tenant charges or receives from the proposed conveyee, assignee, sublessee or transferee or as a result of the conveyance, assignment, sublease or transfer of this Lease, that is greater than the Rent paid by Tenant to Landlord under this Lease, shall be immediately remitted to Landlord. Approval by Landlord of any conveyance, assignment, sublease or transfer shall be conditioned upon such conveyee, assignee, sublessee or transferee agreeing in writing to assume the rights and obligations thereby conveyed, assigned, subleased or transferred and to keep and perform all covenants, conditions and provisions of this Lease which are applicable to the rights acquired. In addition to the foregoing, any approval, conditional approval, or disapproval of any assignment, subletting or transfer shall be at the sole and absolute discretion of the Landlord (which may act through its City Manager)

In the absence of specific written agreement by Landlord, no such conveyance, assignment, sublease or transfer of this Lease or the Leased Space or the Improvements (or portion thereof), or approval by Landlord of any such conveyance, assignment, sublease or transfer shall be deemed to relieve Tenant or any other party from any obligations under this Lease.

12. MORTGAGES

Tenant shall have no right to mortgage, pledge, deed in trust or otherwise encumber this Lease, or the interest of Tenant hereunder, and to assign or pledge the same as security for any debt.

13. INDEMNIFICATION

With the exception of any default on behalf of the Landlord under this Lease (including but not limited to a breach of Quiet Enjoyment, willful misconduct or gross negligence), Tenant shall defend, indemnify and hold harmless Landlord, its elected officials, officers, employees, volunteers and agents (each an "Indemnified Party") from and against any and all claims or demands for loss or damage, including, without limitation, property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of the Property by Tenant, officers, officials, agents, contractors, employees, guests or invitees; any willful or negligent act (whether active or passive) or omission of Tenant, officers, officials, agents, contractors, employees, guests or invitees; any accident or fire on the Property; any nuisance made or suffered thereon; and any failure by Tenant to keep the Property in a safe condition; and the breach, default, violation or nonperformance of this Agreement by Tenant. Tenant shall pay, satisfy and discharge any and all money judgments that may be recovered against any Indemnified Party, including attorney's fees and costs of litigation, in connection with the foregoing. Tenant's obligations under this Section shall survive termination of this Lease, and shall not be restricted to insurance proceeds, if any, received by Tenant or any Indemnified Party. Tenant shall not be obligated to defend, indemnify or hold harmless any Indemnified Party to the extent any claim, loss, action, damage, liability, or expense (including attorneys' fees) is ultimately determined to be the result of the gross negligence or willful misconduct of such Indemnified Party.

14. INSURANCE

From the Commencement Date and for the duration of the Term of this Lease and any holding over by Tenant, Tenant shall secure and maintain, at its own expense, insurance against claims for injuries to persons or damages to property that may arise out of or in connection with the possession, use, occupancy, management, operation, repair, maintenance or control of the Leased Space by Tenant and/or its officers, officials, agents, contractors, employees, guests or invitees as follows:

14.1 **Minimum Scope and Limits of Coverage:** (1) "All Risk" property insurance covering the full replacement value of the Property but not less than \$750,000; (2) Comprehensive General Liability insurance using Insurance Services Office Commercial General Liability occurrence form number CG 0001 or exact equivalent in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage including contractual liability and (\$4,000,000) aggregate total bodily injury, personal injury, and property damage; (3) Automobile Liability insurance using Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto) or exact equivalent in an amount not less than one million dollars (\$1,000,000) per accident for bodily injury and property damage; and (4) Workers' Compensation and Employer's Liability as required by the State of California and Employer's Liability Insurance, with workers compensation limits as required by California law and Employers Liability Limits of one million dollars (\$1,000,000) per accident for bodily injury or disease.

14.2 **Insurance Endorsements.** The insurance policies shall contain the following provisions, or Tenant shall provide endorsements on forms supplied or approved by Landlord to add the following provisions to the insurance policies:

14.3 **General and Automobile Liability.** Each general liability and automobile liability policy shall be endorsed to state that: (A) Landlord, its elected officials, officers, employees, volunteers and agents shall be covered as additional insureds with respect to the possession, use, occupancy, management, operation, repair, maintenance or control of the Property by Tenant and its officers, officials, agents, representatives, volunteers, employees, guests or invitees; and (B) the insurance coverage shall be primary insurance with respect to Landlord, its elected officials, officers, employees, volunteers and agents, or if excess, shall stand in an unbroken chain of coverage excess of Tenant's scheduled underlying coverage. Any insurance or self-insurance maintained by Landlord, its elected officials, officers, employees, volunteers and agents shall be excess of Tenant's insurance and shall not be called upon to contribute with it.

14.4 **Workers' Compensation and Employers Liability Coverage.** The insurer shall agree to waive all rights of subrogation against Landlord, its elected officials, officers, employees, volunteers and agents for losses paid under the terms of the insurance policy that arise from work performed by Tenant.

14.5 **All Coverage.** Each insurance policy required by this Lease shall not be canceled or materially changed without first giving thirty (30) days prior written notice to Landlord.

14.6 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating no less than A: VII, licensed and admitted to do business in California, and satisfactory to Landlord.

14.7 **Verification of Coverage.** Tenant shall furnish Landlord with original certificates of insurance and endorsements affecting coverage required by this Lease on forms satisfactory to Landlord. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by Landlord, if requested. All certificates and endorsements must be received and approved by Landlord. Landlord reserves the right to require complete, certified copies of all required insurance policies, at any time.

15. DEFAULTS, REMEDIES AND TERMINATION

15.1 **Defaults – General.** Failure or delay by either Party to perform or comply with any condition or provision of this Lease constitutes a default under this Lease, and grounds for termination. Upon the occurrence of a default, the injured Party shall give written notice of default to the Party in default, specifying the default complained of by the injured Party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. If the default is not commenced to be cured within thirty (30) days after service of the notice of default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement to the non-defaulting Party's

satisfaction, the non–defaulting Party may thereafter terminate this Lease and/or commence an action for damages, specific performance or any other remedy available in law or equity against the defaulting Party with respect to such default, without liability for any reason or under any theory in connection with such termination, and without creating any right to recovery of damages of any kind or nature in the non–defaulting Party.

15.2 **Enforced Delay in Performance for Causes Beyond Control of Party.** Performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God or other deities; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor or supplier; acts of the other Party; acts or failure to act of any public or governmental agency or entity (other than any act or failure to act of Landlord, which shall not excuse performance by Landlord) or any other cause beyond the control or without the fault of the party claiming an extension of the time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause. If, however, notice by the Party claiming such extension is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Lease may also be extended in writing by Tenant and Landlord. Notwithstanding the foregoing, there shall be no extensions by virtue of enforced delay in relation to payment of Rent.

15.3 **Damage or Destruction of Property.** If during the Term of this Lease, any portion of the Property is damaged by fire or other catastrophic cause, so as to render such portion of the Property untenable, the obligations under this Lease may be suspended while such portion of the Property remains untenable. In the event of such damage, Tenant shall give Landlord notice of such untenable condition and the Landlord shall elect in its sole discretion, whether to repair the Property (if damaged by Tenant or an invitee of Tenant) or to cancel this Lease with respect thereto. Landlord shall notify Tenant in writing of its election within thirty (30) days after service of notice by Tenant. In the event that Landlord elects not to repair the Property or portion thereof, this Lease shall be deemed cancelled as of the date the damage occurred with respect to the untenable portion(s) of the Property. If this Lease is cancelled pursuant to this Section, Landlord shall not be liable to Tenant for any reason or under any theory and Tenant shall not be entitled to recover damages of any kind or nature from Landlord.

Additionally, if during the Term, any portion of the Property is damaged by fire or other catastrophic cause, so as to render such portion of the Property untenable, then Tenant can elect in writing to cancel this Lease with respect to the untenable portion(s) of the Property by providing written notice of its election to Landlord within thirty (30) days of the damage.

15.4 **Additional Remedies of Landlord.** In addition to the foregoing, if Tenant defaults with regard to any of the provisions of this Lease, and fails to cure such default to Landlord's satisfaction as provided in Landlord's notice to Tenant, Landlord, at its option, may thereafter (but not before), to the extent permitted by law: correct or cause to be corrected said default and charge the costs therefor to the account of Tenant; and/or correct or cause to be corrected said default and pay the costs thereof from the proceeds of any insurance.

15.5 **Landlord's Re-Possession of Property.** In the event that Landlord terminates this Lease, Landlord shall have the right to re-enter and repossess the Property without process of law, and Tenant, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver the Property peaceably to Landlord immediately upon such termination in good order, condition and repair, except for reasonable wear and tear.

No ejectment, re-entry or other act by or on behalf of Landlord shall constitute a termination unless Landlord gives Tenant notice of termination in writing. Such termination shall not relieve or release Tenant from any obligation incurred pursuant to this Lease prior to the date of such termination.

Termination of the Lease under this Section shall not relieve Tenant from the obligation to pay any sum due to Landlord or from any claim for damages against Tenant.

The right of termination provided by this Section is not exclusive and shall be cumulative to all other rights and remedies possessed by Landlord, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which Landlord may be entitled.

15.6 **Acknowledgment of Adequacy of Relocation Benefits Paid.** If either Party terminates this Lease for any reason contemplated or authorized by this Section 15 or any other Section of the Lease, Tenant hereby expressly, knowingly and voluntarily waives any and all rights, benefits and/or assistance it may be entitled to receive from Landlord due to such termination, including, without limitation, loss of goodwill, inverse condemnation, or relocation assistance as provided for in California Government Code sections 7260, et seq. and 42 U.S.C. section 4601, et seq.

Tenant has been advised by its legal counsel concerning the content and effect of California Civil Code section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

In reference to the waiver set forth in this Section, by its initials below, Tenant waives the benefits of Civil Code Section 1542 and all other state or federal statutes, legal principles, or judicial decisions of similar effect. This provision shall survive the expiration or termination of this Lease.

16. LEGAL ACTIONS

Institution of Legal Actions. In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Lease. Such legal action must be instituted in the Superior Court of the County of San Bernardino, State of California, or in the Federal District Court in the Central District of California.

16.1 **Applicable Law.** The laws of the State of California shall govern the interpretation and enforcement of this Lease.

16.2 **Acceptance of Service of Process.** In the event that any legal action is commenced by Tenant against Landlord, service of process on Landlord shall be made by personal service upon the City Clerk, or in such other manner as may be provided by law.

In the event that any legal action is commenced by Landlord against Tenant, service of process on Tenant shall be made by personal service upon an officer and/or member of Tenant and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

16.3 **Attorneys' Fees and Court Costs.** In the event that either Landlord or Tenant shall bring or commence an action arising out of or in connection with this Lease the prevailing Party shall be entitled to and shall be paid reasonable attorneys' fees and court costs therefor.

17. GENERAL PROVISIONS

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

To Landlord: Mikey Fuentes, Dir. of Economic Development
City of Montclair
5111 Benito Street
Montclair, CA 91763

To Tenant: Dianna Delgado
Chaplain of the Streets
12142 Central Avenue Suite 200
Chino, CA 91710

17.2 **Time of Essence.** Time is of the essence with respect to the performance of each and every provision of this Lease.

17.3 **Conflict of Interests.** No elected official, officer, contractor, agent or employee of Landlord shall have any personal interest, direct or indirect, in this Lease, nor shall any such elected official, officer, contractor, agent or employee participate in any decision relating to the Lease which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested. Tenant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Lease.

17.4 **Non-liability of Landlord Officials and Employees.** No elected official, officer, contractor, agent or employee of Landlord shall be personally liable to Tenant, or any successor in interest, in the event of any default or breach by Landlord or for any amount which may become due to Tenant or successor or on any other obligation under the terms of this Lease.

17.5 **Inspection of Books and Records.** Landlord has the right at all reasonable times to inspect the books and records of Tenant pertaining to its operations on the Property as pertinent to the purposes of this Lease. Tenant also has the right at all reasonable times to inspect the books and records of Landlord pertaining to the Property as pertinent to the purposes of this Lease.

17.6 **Entry and Inspection of Property.** Landlord shall have the right at all reasonable times to enter the Property for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the Property and the Improvements or to inspect the operations conducted thereon. Any such entry shall be made only after reasonable notice to Tenant. In the event that such entry or inspection by Landlord discloses that the Property or the Improvements are not in a decent, safe, and sanitary condition, are damaged, or in disrepair, Landlord shall have the right, after thirty (30) days written notice to Tenant, to have any necessary maintenance or repair work done for and at the expense of Tenant and Tenant hereby agrees to pay promptly any and all costs incurred by Landlord in having such necessary maintenance or repair work done in order to keep the Property and the Improvements in a decent, safe and sanitary condition. The rights reserved in this Section shall not create any obligations on Landlord or increase any obligations imposed on Landlord elsewhere in this Lease.

17.7 **No Partnership.** Neither anything in this Lease contained, nor any acts of Landlord or Tenant shall be deemed or construed by any person to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between Landlord and Tenant.

17.8 **No Third-Party Beneficiaries.** There are no intended third-party beneficiaries of any right or obligation assumed by the Parties under this Lease.

17.9 **Compliance with Law.** Tenant agrees, at its sole cost and expense, to comply and secure compliance with all the requirements now in force, or which may hereafter be in force of all municipal, county, state and federal authorities, pertaining to the Property, as well as operations conducted thereon; and to faithfully observe and secure compliance with, in the use of the Property, all applicable city, county and municipal ordinances, rules and regulations and all state and federal statutes, rules, orders and regulations now in force or which may hereafter be in force, including all

laws prohibiting discrimination or segregation in the use, sale, lease or occupancy of the property. The judgment of any court of competent jurisdiction, or the admission of Tenant or any sublessee or permittee in any action or proceeding against them, or any of them, whether Landlord be a party thereto or not, that Tenant, sublessee or permittee has violated any such law, rule, order or regulation in the use of the Property shall be conclusive of that fact as between Landlord and Tenant.

17.10 **Waiver.** Any failure or delay by either Party in asserting any of its rights and remedies under this Lease shall not operate as a waiver of any default or of any such rights or remedies. Delays by either Party in asserting any of its rights and remedies shall not deprive either Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

17.11 **Rights and Remedies Are Cumulative.** The rights and remedies of the Parties under this Lease are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

17.12 **Severability.** If any provision of this Lease shall be adjudged invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Lease shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

17.13 **Binding Effect.** This Lease, and the Terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns.

17.14 **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the fully executed Lease.

17.15 **Authority to Enter Lease.** Each Party warrants that the individual who has signed this Lease on its behalf has the legal power, right, and authority to make this Lease and bind each respective Party thereto.

17.16 **Entire Agreement: Modifications.** This Lease constitutes the entire agreement between the Parties regarding the subject matter of this Lease, superseding all other agreements or understandings, whether written or oral. This Lease may not be modified or amended except in writing signed by the Parties. This Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, beneficiaries, successors and assigns.

[Signatures on Following Page]

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

LANDLORD

TENANT

By: _____
Javier John Dutrey, Mayor

By: _____
Dianna Delgado, Chaplain of the Streets

Attest:

By: _____
Andrea M. Myrick, City Clerk

Approved as to Form:

By: _____
Diane E. Robbins, City Attorney

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY**

The following described real property, together with all improvements thereon:

TRACT 4503 LOT 18

APN: 1008-611-18-0000

TRACT 4503 LOT 19

APN: 1008-611-19-0000

**EXHIBIT B
LEASE SPACE DESCRIPTION**

Lease Space - one 144 square foot room, located at 9661 Central Avenue, Montclair, California, 91763, and depicted on the schematic immediately following this page. The Leased Space shall be deemed to include one parking space as designated by Landlord; the particular parking space available may be changed from time to time by Landlord with Landlord giving notice of any such changes to Tenant.

**EXHIBIT B
LEASE SPACE DESCRIPTION**

9661 Central Avenue
Property Layout

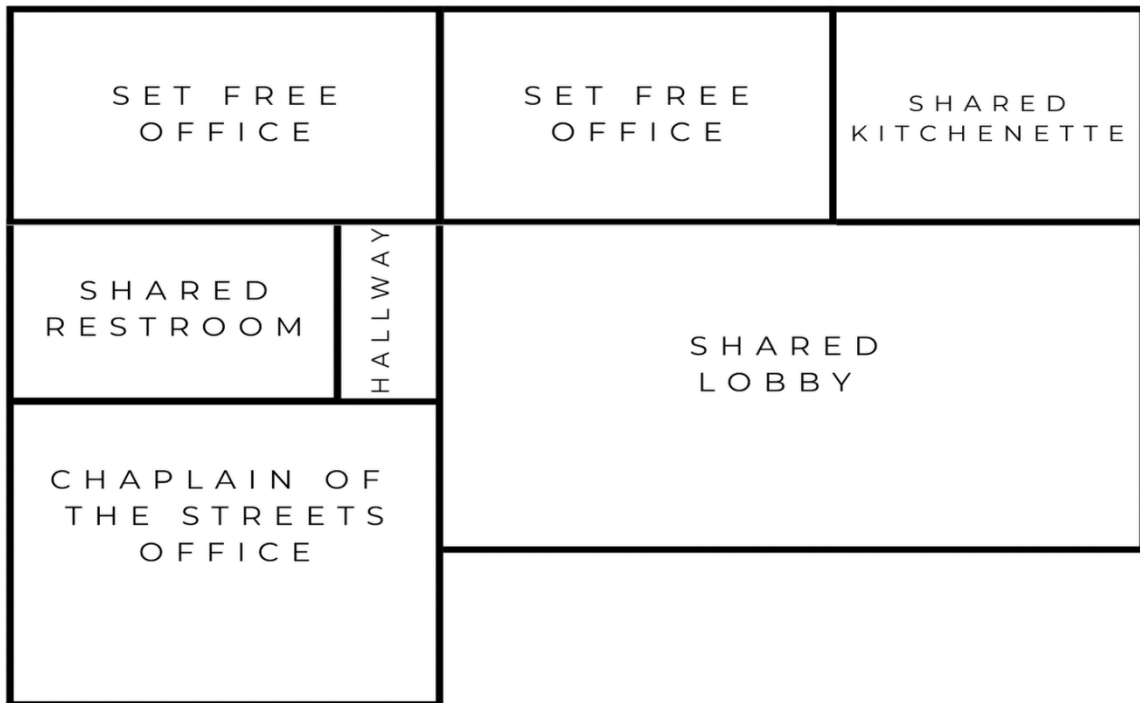


EXHIBIT C
Designated Services

1. **Designated Services.** During the term of this Agreement and in accordance with Section 5, the following activities will constitute Designated Services that would allow the Tenant to request a rent reduction.
 - a. Accompanying the City's Special Operations Unit on Homeless Outreach Detail a minimum of twenty-five (25) hours per week as well as respond to special requests/calls for service from the Special Operations Unit regarding homeless individuals and/or families in need of assistance.

2. **Maintenance of Records.** During the term of this Agreement, Tenant must provide records of supporting documents demonstrating that Designated Services were provided for the month that a reduction in rent is requested. Documentation includes but it not limited to individuals served, actions taken, and services provided. Tenant is also required to meet periodically with the City Manager or his/her designee to review the provision of Designated Services and other compliance by Tenant with this Agreement.



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** MCF150/MCF175
SECTION: CONSENT - AGREEMENTS **DEPT.:** MCF
ITEM NO.: 9 **PREPARER:** A. COLUNGA

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 24-72 WITH KAISER FOUNDATION HOSPITALS TO ACCEPT A GRANT AWARD IN THE AMOUNT OF \$15,000 TO SUPPORT THE MONTCLAIR TO COLLEGE PROGRAM

CONSIDER AUTHORIZING EXECUTIVE DIRECTOR EDWARD C. STARR TO SIGN AGREEMENT NO. 24-72

REASON FOR CONSIDERATION: The City Council serves as the Montclair Community Foundation (MCF) Board of Directors. The MCF Board is requested to consider authorizing Agreement No. 24-72 with Kaiser Foundation Hospitals for acceptance of a grant in the amount of \$15,000 to support the Montclair to College Program (MTC). In addition, consider authorizing the Executive Director Edward C. Starr to sign Agreement No. 24-72.

BACKGROUND: In May 2024, the MCF was invited by Kaiser Permanente Ontario Medical Center Community Health Contributions Program to apply for grant funding under one of their strategic priorities.

The vision of MCF is to work 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.

MTC, previously known as “Online to College,” was established in 1998. MTC is supported by MCF to offer Montclair students the opportunity to attend Chaffey College through a scholarship that includes tuition, books, parking and other necessary fees. The program began at three Montclair Elementary schools and later expanded to include all elementary schools. MTC continued to evolve and in 2015 MTC began at the 9th grade level at Montclair High School (MHS) to allow for more consistency within the program.

MTC operates with the overall goal of increasing economic prosperity in Montclair through increasing college enrollment rates among students at MHS. In addition to offering MHS students college funding, and educational support, MTC also provides students with the opportunity to participate in college workshops, campus tours, and community activities.

MTC will achieve the following objectives with the grant funding:

- Enroll participants in the Montclair to College Program
- Connect MTC program participants with employment resources and community service opportunities
- Increase awareness of the MTC program among MTC students

FISCAL IMPACT: Kaiser Foundation Hospitals has approved a grant award to MCF in the amount of \$15,000 for MTC. There will be no direct fiscal impact on the Montclair Community Foundation as a result of the approval of Agreement No. 24-72. The term of Agreement 24-72 is September 1, 2024, through August 31, 2025.

RECOMMENDATION: Staff recommends that the Board of Directors for Montclair Community Foundation take the following actions:

1. Approve Agreement No. 24-72 with Kaiser Foundation Hospitals to accept a grant award in the amount of \$15,000 to support the Montclair to College Program.
2. Authorize the Executive Director Edward C. Starr to sign Agreement No. 24-72.

UNCONDITIONAL GRANT AGREEMENT

Kaiser Foundation Hospitals (Grantor) makes this grant to **Montclair Community Foundation** (Grantee) for the purpose and with the terms outlined below.

The following terms listed below, and all exhibits, appendices, and other attachments hereto form “the Agreement.”

Grant Title:	Montclair to College: Increasing College Access in Montclair
Grant Number:	168099
Grant Purpose:	The Montclair to College (MTC) program is supported by the Montclair Community Foundation with the overall goal of increasing college access in Montclair by decreasing the barriers to educational attainment. MTC targets Montclair High School Students and their families, providing support through the transition to college process, and offers students a full scholarship to Chaffey College.
Grant Objectives:	Grantee agrees to make reasonable progress towards achieving the objective(s) as stated in the grant application. Reasonable progress will be determined in exercise of Grantor’s sole discretion
Grant Period:	Start Date: 9/1/2024 End Date: 8/31/2025 Term: 12 months
Grant Amount:	\$15,000.00
Project Contact Person:	Alyssa Colunga, Assistant Director of Human Services & Grants Manager acolunga@montclaircf.org 909-625-9495
Grantee Mailing Address:	5111 Benito St. Montclair, California 91763
Kaiser Permanente Grant Lead:	Martha Valencia Martha.R.Valencia@kp.org
Special Conditions	This is an unconditional Grant subject to the terms below.
Payment Schedule	Payment dates are approximate. Initial payment is based on execution of the grant agreement; any subsequent payment dates are estimated. If multiple payments are indicated, the payments will be dispersed after receipt and review of the corresponding reports.

	Payment Amount: \$15,000.00	Due upon execution of the grant agreement
Reporting Schedule	Final Narrative and Expenditure Report Due: 9/30/2025	

I. GRANT TERMS

A. Use of Grant Funds. Grantee will use the grant funds for the intended purpose. Grant funds may not be expended, loaned, pledged, or transferred for reasons other than carrying out the Project without Grantor’s prior written approval. Grantee may not expend any grant funds for any purpose that is not charitable, for any political or impermissible lobbying activity, or for any purpose other than one specified in Section 170(c)(2)(b) of the Internal Revenue Code.

B. Grant Expenditures. Grantee agrees that the grant fund expenditures will be allocated as specifically itemized in the budget submitted in your grant application. Grantee will seek prior written approval from Grantor for any budget re-allocations exceeding 10% of the total grant amount.

Reporting Guidelines. The results of the grant are important and will help shape the future of Kaiser Permanente’s grantmaking. The Grantee is responsible for submitting required reporting using Kaiser Permanente’s online grants management system and if applicable Kaiser Permanente’s identified collection tool for data metrics, in accordance with the reporting schedule above. An email notification will be sent to the submitter identified on the grant application 30 days prior to the report due date. To ensure the submitter’s contact information is up to date, please notify the Kaiser Permanente Grant Lead with any changes. Any questions or concerns regarding specific reporting requirements should be discussed and resolved in consultation with the Kaiser Permanente Grant Lead. Please note, if the grant requires working with an external evaluator or if the grantee is requested to participate in interviews or focus groups, the grantee will be notified of their requested participation in any evaluation activities in advance of the activity. If multiple payments are indicated, the payments will be dispersed upon receipt and approval of the corresponding reports.

C. Public Access. If requested, Grantee will provide Grantor copies of any results, reports, publications, data, and other materials created or developed through the Project, unless such information is propriety or contains information deemed sensitive by the Grantee. If any third-party reports, articles, or other publications regarding the Project funded by this grant are available to the public, Grantee will assist Grantor in obtaining copies if needed.

- D. Non-discrimination.** Grantee agrees that, in carrying out the objectives supported by this grant, it will not unlawfully discriminate in its employment practices, volunteer opportunities, or the delivery of programs or services, based on race, color, religion, gender, gender identity/expression, national origin, ancestry, age, medical condition, disability, veteran status, marital status, sexual orientation, or any other characteristic protected by law.
- E. Nonprofit Status.** Grantee affirms that it is currently in good standing, and shall remain during the period funded, a nonprofit public benefit corporation exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code or a local, state, or federal government agency eligible to receive charitable contributions as described in the grant proposal submitted. Grantee will notify Grantor immediately of any changes in its tax status during the grant term.
- F. Change in Grantee Operations.** Grantee will advise Grantor within thirty (30) business days of the occurrence, or actual knowledge of the imminent occurrence, of any of the following changes in Grantee's status. In the event of any of these occurrences the agreement will be terminated:
1. Grantee no longer retains the services of personnel adequate to enable Grantee to continue to perform its obligations under this Agreement.
 2. Grantee's inability to expend grant funds in accordance with the terms of the grant Agreement, or;
 3. Any development that significantly and adversely affects the operation of the Project or Grantee, including, without limitation, changes to Project scope of grant or timeline.
 4. Any changes to Grantee's financial status that adversely affects the operation of the Project or Grantee.
- G. Conflict of Interest.** Grantee shall, in connection with the grant application submission, have disclosed to Grantor a comprehensive list of Grantee's Directors, Officers, and individuals on its governing body and an assessment of their affiliations, if any, to Kaiser Permanente or any of the Permanente Medical Groups and their subsidiaries, for the purpose of identifying and eliminating any possible conflicts of interest. Grantee will disclose any changes to the list of Directors, Officers, or individuals on its governing body and their affiliations that may generate a potential conflict of interest during the term of this Agreement to ensure compliance with policy.
- H. Future Funding.** Grantee acknowledges that Grantor and its representatives have made no actual or implied promise of future funding except for the amounts specified by this Agreement.

II. PUBLICITY/PROMOTION

- A. Grantee Communications with Media/Use of Logo.** Grantor requires review and comment on all press releases that are directly related to the grant, as applicable. Grantor requests prior approval before the use of its logo in any communications. If

Grantee plans to issue a press release related to this Grant, Grantee will contact Grantor at least 15 days before the desired announcement date. Grantor must be addressed as “Kaiser Permanente” in all communications. Grantor acknowledges that Grantee, if a 501(c)(3) organization is subject to certain limitations regarding public acknowledgment and agrees that any such decisions regarding visibility and donor recognition will be subject to any such limitations.

- B. Communications with Media and Published Materials.** Grantor may periodically publicize Project progress and/or results through public communications (including press releases), reports, websites, and other materials. Grantee agrees that Grantor may use the logo of the organization in such publications.

III. GRANT TERMINATION: RIGHT TO MODIFY

- A.** Grantor may terminate this grant for convenience upon 30 days’ written notice. Grantor or Grantee may terminate this grant immediately for the reasons specified in this Agreement or in willful misconduct or negligence.

IV. INDEMNIFICATION

- A.** To the extent consistent with applicable law, each Party agrees to defend, indemnify, and hold the other Party and its officers, employees, directors, owners, and authorized agents harmless from and against all third-party claims, suits, damages and liabilities, costs and expenses incurred therewith, including reasonable attorneys' fees, to the extent caused by the negligent or willful act or omission of the indemnifying Party, its officers, employees, directors, owners, or authorized agents.

V. COMPLIANCE

- A.** Grantee agrees to comply with all applicable laws in the use of the grant funds and Grantee’s development and operation of the Project. Grantee shall (i) maintain, in full force and effect, all required governmental or professional licenses and credentials for itself, its facilities and its employees and all other persons engaged in work in conjunction with this grant, and (ii) perform its duties and obligations under this Agreement according to industry standards and in compliance with all applicable laws. As an organization with numerous contracts with the federal government, Kaiser Permanente and its affiliates are subject to various federal laws, executive orders, and regulations regarding equal opportunity and affirmative action. This Section constitutes notice that Grantee may be required to comply with the following Federal Acquisition Regulations (each a “FAR”) at 48 CFR Part 52, which are incorporated herein by reference: (a) Equal Opportunity (April 2002) at FAR 52.222-26; (b) Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept. 2006) at FAR 52.222-35; (c) Affirmative Action for Workers with Disabilities (June 1998) at FAR 52.222-36, and (d) Utilization of Small Business Concerns (May 2004) at FAR 52.219-8. To the extent any of the foregoing federal statutes become applicable to Grantee, Kaiser Permanente will advise Grantee. In

addition, Executive Order 13495 concerning the obligations of federal contractors and subcontractors to provide notice to employees about their rights under Federal labor laws, or its successor, shall be incorporated herein by reference.

VI. MISCELLANEOUS

- A.** In the event that any suit or action is instituted concerning the Agreement, the substantially prevailing Party shall recover all costs, including, without limitation, the court costs and reasonable attorney's fees incurred in each such action, suit, or proceeding, including all appeals or petitions therefrom. Grantee may not assign any right, duty, or obligation under this Agreement without prior written approval from Kaiser Permanente. Any change of ownership or control of Grantee shall be deemed an assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective, permitted successors and assigns. This Agreement, including any exhibits and attachments (all of which are incorporated into this Agreement by this reference), is the entire Agreement of the Parties with respect to the subject matter herein, and supersedes all other agreements, promises, negotiations, or representations, whether oral or written. This Agreement, including exhibits and attachments, may not be amended except in a writing signed by each Party. Regarding administration of this grant, the parties understand and agree that each is always acting and performing as an independent contractor. Except as expressly set forth in this Agreement, neither Party, nor any of its employees, shall be construed to be the agent, employee, or representative of the other for any purpose, or liable for any acts or omissions of the other.

SIGNATURE PAGE, Grant #168099

1. Grantee Signature. By signing this Agreement, the Grantee signatory acknowledges that they have read and understood the Agreement, they have the authority to sign this Agreement and bind the Grantee thereto, and that the Grantee hereby accepts and agrees to perform all the terms of this Agreement.

Grantee Organization Signatory

Name: Edward Starr

Title: Executive Director

Organization: Montclair Community Foundation

Signature:

Date Signed:

2. Kaiser Permanente Signature. By signing this Agreement, KP signatory acknowledges that they have read and understood the Agreement, they have the authority to sign this Agreement and bind KP thereto, and that KP hereby accepts and agrees to perform all the terms of this Agreement.

Kaiser Foundation Hospital/Health Plan Signatory

Name: Georgina Garcia

Title: SVP, Area Manager

Organization: Kaiser Foundation Hospitals

Signature:

Date Signed:



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** EDD100/MHA100
SECTION: CONSENT - RESOLUTIONS **DEPT.:** ECONOMIC DEV./MHA
ITEM NO.: 1 **PREPARER:** M. FUENTES

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 24-3439 APPROVING AGREEMENT NO. 24-65, AN AFFORDABLE HOUSING AGREEMENT WITH THE MONTCLAIR HOUSING AUTHORITY AND THE MONTCLAIR HOUSING CORPORATION; AUTHORIZING THE TRANSFER OF 9603 MILLS AVENUE, MONTCLAIR, TO THE MONTCLAIR HOUSING AUTHORITY FOR USE AS AFFORDABLE HOUSING; AND DECLARING SUCH REAL PROPERTY TO BE EXEMPT SURPLUS LAND

CONSIDER AUTHORIZING A \$35,000 APPROPRIATION FROM THE ECONOMIC DEVELOPMENT ASSETS FUND FOR REHABILITATION OF THE PROPERTY LOCATED AT 9603 MILLS AVENUE, MONTCLAIR

CONSIDER ADOPTION OF MHA RESOLUTION NO. 24-02 APPROVING AGREEMENT NO. 24-65, AN AFFORDABLE HOUSING AGREEMENT WITH THE CITY OF MONTCLAIR AND THE MONTCLAIR HOUSING CORPORATION, AND ACCEPTING THE TRANSFER OF CERTAIN REAL PROPERTY FROM THE CITY OF MONTCLAIR

CONSIDER ADOPTION OF MHC RESOLUTION NO. 24-03 APPROVING AGREEMENT NO. 24-65, AN AFFORDABLE HOUSING AGREEMENT WITH THE CITY OF MONTCLAIR AND THE MONTCLAIR HOUSING CORPORATION

REASON FOR CONSIDERATION: Proposed Agreement No. 24-65 is an Affordable Housing Agreement between the City of Montclair (City), the Montclair Housing Authority (MHA), and the Montclair Housing Corporation (MHC) for the conveyance of real property located at 9603 Mills Avenue and the subsequent leasing and operations of said property as an affordable housing unit.

Proposed City Council Resolution No. 24-3439 would approve entering into Agreement No. 24-65, and would authorize the transfer of Property to the MHA.

Proposed MHA Resolution No. 24-02 would approve entering into Agreement No. 24-65, and accept the transfer of property from the City.

Proposed MHC Resolution No. 24-03 would approve entering into Agreement No. 24-65.

A copy of the proposed resolutions and agreement are attached for review and consideration by the City Council, MHA Commissioners, and MHC Board.

BACKGROUND: In June 1987, the former Redevelopment Agency (RDA) Board of Directors adopted the *Central Avenue Single-family Acquisition Policy* (Policy) authorizing staff to make purchase offers on single-family residences along the Central Avenue corridor, subject to the former Redevelopment Agency Board of Directors' approval.

The Policy was later expanded to include areas along Central Avenue, Monte Vista Avenue, Mills Avenue or in locations of high visibility. Pursuant to the Policy, a total of 17 single-family homes were purchased by the former RDA before its dissolution.

With the dissolution of community redevelopment agencies in 2011 (AB 1X 26) and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, the City Council elected to continue the former RDA's policy of acquiring single-family residences along the Central Avenue corridor or in locations of high visibility and further expanded the Policy to include residences along all of the City's major corridors.

The properties formerly owned by the RDA were transferred to the Montclair Housing Authority (MHA), the successor housing entity, and are currently rented to low- to-moderate-income families and are managed by the Montclair Housing Corporation (MHC), a nonprofit public-benefit corporation organized for the purpose of increasing, improving, and preserving affordable housing in the City of Montclair.

The rents and other income from the MHC belong to the MHA; however, they are granted to the MHC for use in covering expenses of operating the various housing units. The amount of rents collected from the renters is established by the State Department of Housing and Community Development and varies based upon income levels.

Agreement No. 24-65 Affordable Housing Agreement

In order to meet the City's Regional Housing Needs Assessment (RHNA), a representation of future housing needs for all income levels in a region, staff recommends the properties be operated as rental units made available to low-to-moderate-income persons. As such, staff has prepared Agreement No. 24-65 an affordable housing agreement by and between the City, MHA, and MHC.

Proposed Agreement No. 24-65 contains language related to the conveyance of the Properties, compliance with applicable laws, use of the properties, remedies, and general provisions. The more salient points of proposed Agreement No. 24-65 relate to the conveyance of fee title of Properties from the City to the MHA and leasing of the properties from the MHA to the MHC for the day-to-day operation of the properties, as well as the rehabilitation and rental of the properties to low-to-moderate-income persons.

9603 Mills Avenue, Montclair

The subject Property is located on a highly visible and desirable portion of Mills Avenue, thereby meeting the criteria established in the City Council's Policy to acquire properties along the City's major corridors and areas of high visibility.

The property was built in 1956 and the lot size is 7,310 square feet. The dwelling unit is 1,144 square feet with three bedrooms and one bathroom.

FISCAL IMPACT: Staff is requesting an appropriation of funds from the Economic Development Agency Assets Fund totaling a maximum of \$35,000 related to costs associated with installation of new flooring, rehabilitation of a restroom, installation of a new fence, and interior paint.

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

1. Adopt Resolution No. 24-3439 approving Agreement No. 24-65, an Affordable Housing Agreement with the Montclair Housing Authority and Montclair Housing Corporation; authorizing transfer of certain real property located at 9603 Mills Avenue, Montclair, to the Montclair Housing Authority for use as affordable housing; and declaring such real property to be exempt surplus land; and
2. Authorize a \$35,000 appropriation from the Economic Development Assets Fund for rehabilitation of the property located at 9603 Mills Avenue, Montclair.

Staff recommends that the Montclair Housing Authority Commissioners adopt Resolution No. 24-02 approving Agreement No. 24-65, an Affordable Housing Agreement with the City of Montclair and Montclair Housing Corporation, and accepting the transfer of certain real property from the City of Montclair to the Montclair Housing Authority.

Staff recommends that the Montclair Housing Corporation Board of Directors adopt Resolution. No. 24-03 approving Agreement No. 24-65, an Affordable Housing Agreement with the City of Montclair and the Montclair Housing Authority.

RESOLUTION NO. 24-3439

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING AGREEMENT NO. 24-65, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR, MONTCLAIR HOUSING AUTHORITY, AND MONTCLAIR HOUSING CORPORATION; AUTHORIZING TRANSFER OF CERTAIN REAL PROPERTY LOCATED AT 9603 MILLS AVENUE, MONTCLAIR, CALIFORNIA, FROM THE CITY OF MONTCLAIR TO THE MONTCLAIR HOUSING AUTHORITY; AND DECLARING SUCH REAL PROPERTIES TO BE EXEMPT SURPLUS LAND

WHEREAS, the City of Montclair (the "City") acquired property located at 9603 Mills Avenue (the "Property") with funds from the City's Economic Development Agency Assets Fund for the purpose of increasing, improving, and preserving the City of Montclair's supply of low-and-moderate income housing available at an affordable cost; and

WHEREAS, the City is the owner of that Property within the corporate limits of the City of Montclair; and

WHEREAS, pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the "Housing Authority Law"]), the City has designated the Montclair Housing Authority (the "Housing Authority") as the successor housing entity for the City of Montclair; and

WHEREAS, pursuant to the Housing Authority Law, the Housing Authority is a housing authority duly established and operating as a local housing authority performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers; and

WHEREAS, the Montclair Housing Corporation (the "Housing Corporation") was formed as a 501(c)(3) to operate and maintain the housing assets including single and multi-family residential units of the Housing Authority; and

WHEREAS, the City desires to convey to the Housing Authority the Property and the Housing Authority desires to acquire the Property from the City; and

WHEREAS, no development of the Property is contemplated; and

WHEREAS, upon acquiring of the Property, the Housing Authority intends to lease the Property to the Housing Corporation for operation of the Property as an affordable rental housing resource for low-to-moderate income households; and

WHEREAS, Agreement No. 24-65, an Affordable Housing Agreement by and between the City, Housing Authority, and Housing Corporation, provides for the transaction contemplated above to occur in accordance with the public purposes and provisions of applicable state and local laws and requirements; and

WHEREAS, Assembly Bill 1486 ("AB 1486") expanded the Surplus Land Act (Government Code section 54220 et seq.) (the "SLA") requirements for local agencies prior to the disposition and disposal of any "surplus land" or "exempt surplus land"; and

WHEREAS, the Property meets the definition of "surplus land," as it is no longer necessary for the City's use and the City seeks to dispose of the Property; and

Whereas, even if the SLA were to apply, the Property would be exempt surplus land, pursuant to section 54221(f)(1)(D) of the SLA, because it is being transferred to the MHA, another government agency, for its use.

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

SECTION 1: The above recitals are true and correct and are a substantive part of this Resolution.

SECTION 2: The City of Montclair hereby finds and determines that the transfer of the Property to the Montclair Housing Authority will ensure the continued preservation and availability of low- and moderate-income housing is available at an affordable cost.

SECTION 3: The City of Montclair is hereby authorized and directed to enter Agreement 24-65, an Affordable Housing Agreement by and among the City of Montclair, Montclair Housing Authority, and Montclair Housing Corporation.

SECTION 4: The City of Montclair agrees to the transfer of the Property to the Montclair Housing Authority. The City Manager, or designee, is authorized to record the grant deeds and further actions that are necessary or appropriate to transfer the Property to the Montclair Housing Authority.

SECTION 5: The City of Montclair hereby finds and declares that the Property is no longer necessary for the City's use and are surplus land, as defined in California Government Code section 54221, based on the true and correct written findings found in this Resolution and incorporated herein by reference. The City is authorized to transfer the Property without regard to the SLA pursuant to Government Code section 54221(f)(1)(D), so long as the transfer is to another government agency, the Montclair Housing Authority, for their use.

SECTION 5: The City Council authorizes City Manager Edward C. Starr to sign Agreement No. 24-65 on behalf of the City of Montclair.

SECTION 6: The City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2024.

Mayor

ATTEST:

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 24-3439 was duly adopted by the Montclair City Council at a regular meeting thereof held on the XX day of XX, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk

RESOLUTION NO. 24-02

A RESOLUTION OF THE MONTCLAIR HOUSING AUTHORITY APPROVING AGREEMENT NO. 24-65, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR, MONTCLAIR HOUSING AUTHORITY, AND MONTCLAIR HOUSING CORPORATION, AND ACCEPTING THE TRANSFER OF CERTAIN REAL PROPERTY LOCATED AT 9603 MILLS AVENUE, MONTCLAIR, CALIFORNIA, FROM THE CITY OF MONTCLAIR

WHEREAS, the City of Montclair (the "City") acquired property located at 9603 Mills Avenue (the "Property") with funds from the City's Economic Development Agency Assets Fund for the purpose of increasing, improving, and preserving the City of Montclair's supply of low-and-moderate income housing available at an affordable cost; and

WHEREAS, the City is the owner of that Property within the corporate limits of the City of Montclair; and

WHEREAS, pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the "Housing Authority Law"]), the City has designated the Montclair Housing Authority (the "Housing Authority") as the successor housing entity for the City of Montclair; and

WHEREAS, pursuant to the Housing Authority Law, the Housing Authority is a housing authority duly established and operating as a local housing authority performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers; and

WHEREAS, the Montclair Housing Corporation (the "Housing Corporation") was formed as a 501(c)(3) to operate and maintain the housing assets including single and multi-family residential units of the Housing Authority; and

WHEREAS, the City desires to convey to the Housing Authority the Property and the Housing Authority desires to acquire the Property from the City; and

WHEREAS, upon acquiring the Property, the Housing Authority intends to lease the Property to the Housing Corporation for operation of the Property as an affordable rental housing resource for low-to-moderate income households; and

WHEREAS, Agreement No. 24-65, an Affordable Housing Agreement by and between the City, Housing Authority, and Housing Corporation, provides for the transaction contemplated above to occur in accordance with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED that the Montclair Housing Authority Board of Directors does hereby find, determine, and order as follows:

SECTION 1: The above recitals are true and correct and are a substantive part of this Resolution.

SECTION 2: The Montclair Housing Authority hereby finds and determines that the transfer of the Property to the Montclair Housing Authority will ensure the continued preservation and availability of low- and moderate-income housing is available at an affordable cost.

SECTION 3: The Montclair Housing Authority is hereby authorized and directed to enter Agreement 24-65, an Affordable Housing Agreement by and among the City of Montclair, Montclair Housing Authority, and Montclair Housing Corporation.

SECTION 4: The Montclair Housing Authority agrees to accept the transfer of Property from the City of Montclair. The Executive Director of the Montclair Housing Authority, or designee, is authorized to record the grant deeds and further actions which are necessary or appropriate to transfer the Property to the Montclair Housing Authority.

SECTION 5: The Montclair Housing Authority Secretary shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2024.

Chairman

ATTEST:

Secretary

I, Andrea M. Myrick, Secretary of the Montclair Housing Authority, DO HEREBY CERTIFY that Resolution No. 24-02 was duly adopted by the Montclair Housing Authority Board of Directors at a regular meeting thereof held on the XX day of XX, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
Secretary

RESOLUTION NO. 24-03

**A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION
APPROVING AGREEMENT NO. 24-03, AN AFFORDABLE HOUSING
AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR,
MONTCLAIR HOUSING AUTHORITY, AND MONTCLAIR HOUSING
CORPORATION**

WHEREAS, the City of Montclair (the "City") acquired property located at 9603 Mills Avenue (the "Property") with funds from the City's Economic Development Agency Assets Fund, for the purpose of increasing, improving, and preserving the City of Montclair's supply of low-and-moderate income housing available at an affordable cost; and

WHEREAS, the City is the owner of that Property within the corporate limits of the City of Montclair; and

WHEREAS, pursuant to the provisions of the California Housing Authority Law (Part 2 of Division 24 of the Health and Safety Code [herein, the "Housing Authority Law"]), the City has designated the Montclair Housing Authority (the "Housing Authority") as the successor housing entity for the City of Montclair; and

WHEREAS, pursuant to the Housing Authority Law, the Housing Authority is a housing authority duly established and operating as a local housing authority performing a public function and may make and execute contracts necessary or convenient to the exercise of its powers; and

WHEREAS, the Montclair Housing Corporation (the "Housing Corporation") was formed as a 501(c)(3) to operate and maintain the housing assets including single and multi-family residential units of the Housing Authority; and

WHEREAS, the City desires to convey to the Housing Authority the Property and the Housing Authority desires to acquire the Property from the City; and

WHEREAS, upon acquiring of the Property, the Housing Authority intends to lease the Property to the Housing Corporation for operation of the Property as an affordable rental housing resources for low-to-moderate income households; and

WHEREAS, Agreement No. 24-65, an Affordable Housing Agreement by and between the City, Housing Authority, and Housing Corporation, provides for the transaction contemplated above to occur in accordance with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED that the Montclair Housing Corporation Board of Directors does hereby find, determine, and order as follows:

SECTION 1: The above recitals are true and correct and are a substantive part of this Resolution.

SECTION 2: The Montclair Housing Corporation hereby finds and determines that the transfer of the Property to the Montclair Housing Authority will ensure the continued preservation and availability of low- and moderate-income housing is available at an affordable cost.

SECTION 3: The Montclair Housing Corporation is hereby authorized and directed to enter Agreement 24-65, an Affordable Housing Agreement by and among the City of Montclair, Montclair Housing Authority, and Montclair Housing Corporation.

SECTION 4: The Montclair Housing Corporation authorizes the Executive Director of the Montclair Housing Corporation to execute Agreement No. 24-65 on behalf of the Montclair Housing Corporation.

SECTION 5: The Montclair Housing Corporation Secretary shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2024.

ATTEST:

Chair

Secretary

I, Andrea M. Myrick, Secretary of the Montclair Housing Corporation, DO HEREBY CERTIFY that Resolution No. 24-03 was duly adopted by the Montclair Housing Corporation Board of Directors at a regular meeting thereof held on the XX day of XX, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
Secretary

AFFORDABLE HOUSING AGREEMENT

by and among the

MONTCLAIR HOUSING AUTHORITY

and the

CITY OF MONTCLAIR

and the

MONTCLAIR HOUSING CORPORATION

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ATTACHMENT NO. 1 – LEGAL DESCRIPTION
 ATTACHMENT NO. 2 – LEASE
 ATTACHMENT NO. 3 – CITY DEED

AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT (the “Agreement”) is hereby entered into as of August 19, 2024 (the “Date of Agreement”), by and among the **CITY OF MONTCLAIR**, a California municipal corporation (the “City”), the **MONTCLAIR HOUSING AUTHORITY**, a public body, corporate and politic (the “Authority”), the and **MONTCLAIR HOUSING CORPORATION**, a California nonprofit public benefit corporation (the “Operator”).

RECITALS

A. Authority is a housing authority duly established and operating as a local housing authority pursuant to the California Housing Authority Law, Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (“Housing Authority Law” or “HAL”).

B. City is the owner of that certain property located within the corporate limits of the City of Montclair, located at 9603 Mills Avenue, Montclair, California (the “Property” or “House”). The Property is further described in the Legal Description which is attached hereto as Attachment No. 1.

C. City desires to convey to Authority the Property and Authority desires to acquire the Property from the City as provided herein.

D. Upon acquiring the Property, Authority intends to lease the Property to the Operator for the operation of the Property as an affordable rental housing resources for households of “Moderate Income” as defined below.

E. The transaction contemplated by this Agreement is in the vital and best interest of the City and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, the parties hereto agree as follows:

1. DEFINITIONS. The following terms shall have the following definitions for the purpose of this Agreement:

“Additional Rent” is defined in Section 2.2 hereof.

“Affordable Rent” is defined in Section 4.2(f) hereof.

“Authority” means the Montclair Housing Authority, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Housing Authority Law of the State of California, and any assignee of or successor to its rights, powers and responsibilities.

“Agreement” means this Affordable Housing Agreement among Authority, City, and Operator.

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

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

“**City Code**” means and refers to the City of Montclair Municipal Code as revised from time to time.

“**City Deed**” means a grant deed substantially in the form of Attachment No. 3.

“**Date of Agreement**” is defined in the first paragraph of this Agreement.

“**Event of Default**” means the failure of a party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 5.1 hereof.

“**House**” means the single family home which is located on and constitutes part of the Property.

“**Housing Authority Law**” or “**HAL**” has the meaning set forth therefor in Recital A.

“**Moderate Income Household**” shall mean a household earning between eighty percent (80%) to one-hundred and twenty percent (120%) of San Bernardino County median income as determined pursuant to Health and Safety Code Section 50079.5.

“**Net Profits**” shall mean all gross income from the Property, including without limitation rents and interest on security deposits, less the sum of the Operating Expenses.

“**Operating Expenses**” shall mean actual, reasonable and customary costs, fees and expenses directly incurred and attributable to the operation, maintenance, and management of the Property. The Operating Expenses shall not include non-cash expenses, including without limitation, depreciation.

“**Operator**” means the Montclair Housing Corporation, a California nonprofit public benefit corporation.

“**Parties**” means, collectively, City, Authority, and Operator.

“**Property**” means the single family house in the City of Montclair located at 9603 Mills Avenue, Montclair, California, and described in the Legal Descriptions.

“**Property Value**” means the amount of Six Hundred and Sixty Five Thousand Dollars (\$665,000). The Property’s Value is mutually believed to be by each of the Parties to represent the fair market value of the Property as of the Date of Agreement.

2. CONVEYANCE OF THE PROPERTY.

2.1 Conveyance of Fee Title. City agrees to convey to Authority the Property by City Deed. The purchase price payable by Authority to City in consideration of the conveyance of the Property shall be One Dollar (\$1.00) (the “Authority Purchase Price”); provided that City may waive receipt of Authority Purchase Price. Upon request therefor by Authority, City will, in connection with the conveyance of the Property, provide to Authority an owner’s standard ALTA policy of title insurance as to the Property by a title insurer mutually acceptable to City and Authority, with the policy to be based upon the Property Value (the “Authority Title Policy”). Any and all documentary transfer

taxes, recording fees, escrow charges, premiums for title insurance, and any costs associated with the conveyance of the Property to Authority shall be borne by City.

2.2 Lease Terms. Subject to the satisfaction of all of the conditions precedent to commencement of the Lease set forth in Section 2.3 hereof, the Authority shall lease the Property to the Operator for a fifteen (15) year term at a base rental amount of One Dollar (\$1.00) per year together with the “Additional Rent” as set forth below. The terms and conditions of such lease shall be set forth in a “Lease” to be executed by the Authority and the Operator in the form of Attachment No. 2 which is attached hereto and incorporated herein.

At the end of each operating year, the Operator shall calculate total gross operating revenue for that year, and shall thereupon pay to the Authority as “Additional Rent” an amount equal to Net Profits, which equals total gross operating revenue less the Operating Expenses for that year. If total gross revenue from the Property for that year is less than the Operating Expenses, no Additional Rent shall be payable and the Operator shall be responsible for such additional costs from its own funds, and shall not be entitled to additional compensation from the Authority or be entitled to reduce the required level of services. The Authority and its authorized representatives shall, at all times, have access for the purpose of audit or inspection to any and all books, documents, papers, records, property, and premises of the Operator which in any manner relate to the expenses and revenues of the Property under this Agreement and the Operator’s obligations hereunder. The Operator’s staff shall cooperate fully with authorized auditors when they conduct audits and examinations of Authority funded programs. Within thirty (30) days of the submittal of such audit report, the Operator shall provide a written response to all conditions or findings reported in such audit report. The response must discuss each condition or finding and set forth a proposed resolution, including a schedule for correcting any deficiency. All conditions or correction actions shall take place within six (6) months after receipt of the audit report unless the Authority Executive Director or designee authorizes an extension of time to submit such corrections.

2.3 Conditions Precedent to Commencement of Lease. Prior to and as conditions to the Authority’s execution of and the commencement of the Lease: (i) City shall have conveyed the titles of the Property to Authority; (ii) if requested by Authority, City shall have caused to be delivered to Authority the Authority Title Policy; (iii) Operator shall have executed the Lease; and (iv) Operator shall have provided proof of insurance (certificates) conforming to Section 3.7 of this Agreement.

3. COMPLIANCE WITH LAWS. Operator shall carry out the operation of the Property in conformity with all applicable laws, including all applicable state labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

4. USE OF THE PROPERTY.

4.1 Use in Conformance with Agreement. The Operator covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof that, during the term of this Agreement, the Operator, such successors and such assignees, shall use,

operate and maintain the Property in conformity with this Agreement and shall devote the Property to the uses specified in this Agreement for the periods of time specified therein.

4.2 Affordable Rental Housing.

(a) Number of Units. Upon the commencement of the Lease, the Operator agrees to make available, restrict occupancy to, and rent the House to Moderate Income Households, at an Affordable Rent.

(b) Lease Requirements. Prior to rental of the House within the Property, the Operator shall submit a standard lease form to the Authority for the Authority's approval. The Authority Executive Director, or designee, shall reasonably approve such lease form upon finding that such lease form is consistent with this Agreement. The Operator shall enter into a lease, in the form approved by the Authority, with each tenant of the House.

(c) Duration of Affordability Requirements. The House shall be subject to the requirements of this Section 4.2 for a period coextensive with the term of the Lease. The duration of this requirement shall be known as the "Affordability Period." All tenants residing in the House during the last two (2) years of the Affordability Period shall be given notice at least once every six (6) months of the expiration date of this requirement, and that the rent payable on the House may be raised to a market rate rent at the end of the Affordability Period.

(d) Selection of Tenants. The House shall be leased to tenants selected by the Operator who meet all of the requirements provided herein. The Authority may, from time to time, assist in the leasing of the House by providing to the Operator names of persons who have expressed interest in renting the House. The Operator shall adopt a tenant selection system, which shall be approved by the Authority Executive Director, or designee. The tenant selection system shall include, without limitation, a method for investigation of the credit history of proposed tenants through obtaining a credit report on the proposed tenant. Highest priority in the selection of tenants shall be given to those applicants who have been displaced by Authority projects, if any.

(e) Income of Tenants. Prior to the rental or lease of the House to tenants, and annually thereafter, the Operator shall obtain an income certification from each tenant of the Property. The Operator shall verify the income certification of the tenant in one or more of the following methods:

- (1) obtain two (2) paycheck stubs from the tenant's two (2) most recent pay periods, if any.
- (2) obtain a true copy of an income tax return from the tenant for the most recent tax year in which a return was filed.
- (3) obtain an income verification certification from the employer of the tenant.
- (4) obtain an income verification certification from the Social Security Administration and/or the California Department of Social Services if the tenant receives assistance from such agencies.

- (5) obtain a credit report from a commercial credit reporting agency.
- (6) obtain an alternate form of income verification reasonably requested by the Operator, if none of the above forms of verification is available to the Operator.

A person or family who at the time of income certification qualified as a Moderate Income Household shall continue to be deemed so qualified until such time as the person or family's income is redetermined and the person or family is determined by the Operator to no longer be so qualified, even if such person or family's income has subsequently increased to an amount above the applicable income level. Upon the Operator's determination that the tenant is no longer qualified as a Moderate Income Household, such tenant shall no longer be eligible to rent such House and shall be given a written notice which requires such tenant to vacate the House within sixty (60) days, and the Operator shall provide assistance to such tenants in finding another appropriate rental unit in the vicinity. The tenant lease shall contain the above provisions. In addition, the Operator shall annually submit to the Authority a certification that the House are actually occupied by a Moderate Income Household in the form which is provided by the Authority.

(f) Determination of Affordable Rent for the Property. The House shall be rented at an "Affordable Rent" to be established by the Authority as provided herein. The maximum monthly rental amount for the House shall be established at not greater than the lesser of (a) fair market rent, as reasonably determined by the Operator, or (b) thirty percent (30%) of sixty percent (60%) of San Bernardino County median income for a household size appropriate for the House or, if greater, the amount determined pursuant to Health and Safety Code section 50053(b)(3). For purposes of this Section 4.2, "rent" means the total of monthly payments for (a) use and occupancy of the House and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the Operator which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Operator. The Authority may in its discretion base the utilities allowance on a utilities allowance adopted in connection with the Section 8 program administered by the United States Department of Housing and Urban Development. Household size appropriate to the unit shall mean two persons for a one bedroom House, three persons for a two bedroom House, four persons for a three bedroom House, and five persons for a four bedroom House. Upon the approval of the Authority or the Authority Executive Director, rents may be established at amounts which are lower than the maximum monthly rental amounts set forth above.

4.3 Occupancy Standards. Occupancy of the House shall be limited to five (5) persons.

4.4 Management and Maintenance. The Operator shall manage and maintain the Property in conformity with the City Code. The following standards shall be complied with by Operator and its maintenance staff, contractors or subcontractors:

- (a) Operator shall maintain the Property in a safe and sanitary fashion and in first class condition for single family houses of their age and type.

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

(c) Clean-up maintenance shall include, but not be limited to: maintenance of all private paths, parking areas, driveways and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

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

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

(f) Operator shall make such capital repairs to the Property as are necessary, including the following: carpet and drape replacement; appliance replacement; exterior painting, hot water heater replacement; plumbing fixtures replacement, including tubs and showers, toilets, lavatories, sinks, faucets; air conditioning and heating replacement; asphalt repair and replacement, and seal coating; roofing repair and replacement; landscape tree replacement and irrigation pipe and controls replacement; gas line pipe replacement; and lighting fixture replacement.

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

4.5 Rights of Access. The Authority, for itself and for the City and other public agencies, at their sole risk and expense, shall have the right to inspect the Properties. Any such inspection shall be made only after reasonable notice to Operator. Upon receipt of such notice, the Operator agrees to cooperate with the Authority in making the Property available for inspection by the Authority and/or City. Operator acknowledges and agrees that in the event that if for any reason the Operator fails to consent to such entry or inspection, the Authority may obtain an administrative inspection warrant or take such other legal actions as may be necessary to gain entry to and inspect the Properties. Authority shall indemnify and hold Operator harmless from any costs, claims, damages or liabilities pertaining to any entry.

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

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

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

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

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

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

The covenants established in this Agreement and the Lease for the Property shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Authority, its successors and assigns, the City and any successor in interest to the Properties. The covenants against discrimination shall remain in effect in perpetuity. However, nothing in this Section 4.6 shall give the Operator any additional rights to convey a fee or leasehold interest in the Property except as otherwise authorized by this Agreement.

4.7 Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding upon and for the benefit and in favor of the Operator and the Authority, their respective successors and assigns, as to those covenants which are for their benefit. The covenants contained in this Agreement shall remain in effect until the expiration of the Affordability Period. The covenants against discrimination shall remain in perpetuity. The Authority is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement and the covenants shall run in favor of the Authority, without regard to whether the Authority has been, remains or is an owner of any land or interest therein in the Properties. The Authority shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

5. REMEDIES.

5.1 Events of Default. An “Event of Default” shall occur under this Agreement when there shall be a material breach of any condition, covenant, warranty, promise or representation contained in this Agreement and such breach shall continue for a period of thirty (30) days after written notice thereof to the defaulting party without the defaulting party curing such breach, or if such breach cannot reasonably be cured within such thirty (30) day period, commencing the cure of such breach within such thirty (30) day period and thereafter diligently proceeding to cure such breach; provided, however, that if a different period or notice requirement is specified for any particular breach under any other paragraph of this Agreement, the specific provision shall control.

5.2 Remedies. The occurrence of any Event of Default shall give the nondefaulting party the right to proceed with any and all remedies set forth in this Agreement, including an action for damages, an action or proceeding at law or in equity to require the defaulting party to perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions of this Agreement, and the right to terminate this Agreement.

5.3 Force Majeure. Subject to the party’s compliance with the notice requirements as set forth below, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, assaults, acts of God, acts of the public enemy, epidemics, pandemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, acts or omissions of the other party, acts or failures to act of any public or governmental entity (except that the Authority’s acts or failure to act shall not excuse performance of the Authority hereunder), or any other causes beyond the control and

without the fault of the party claiming an extension of time to perform. An extension of the time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause.

In addition to the foregoing, following the acquisition of the Property by Authority, the Authority Executive Director shall have the authority to extend times for performance by up to one hundred eighty (180) days in the aggregate without necessity of further action by the governing board of the Authority.

5.4 Attorneys' Fees. In addition to any other remedies provided hereunder or available pursuant to law, if either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing party shall be entitled to recover from the other party its costs of suit, including without limitation expert witness fees, and reasonable attorneys' fees.

5.5 Remedies Cumulative. No right, power, or remedy given to the Authority by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the Authority by the terms of any such instrument, or by any statute or otherwise against Operator and any other person.

5.6 Waiver of Terms and Conditions. The Authority may, in its sole discretion, waive in writing any of the terms and conditions of this Agreement. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

5.7 Non-Liability of Authority Officials and Employees. No member, official, employee or agent of the City or Authority shall be personally liable to Operator, or any successor in interest, in the event of any default or breach by the Authority or for any amount which may become due to Operator or its successors, or on any obligations under the terms of this Agreement.

6. GENERAL PROVISIONS.

6.1 Time. Time is of the essence in this Agreement.

6.2 Notices. Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, or by personal delivery, addressed to the appropriate party at the following addresses:

Authority: Montclair Housing Authority
5111 Benito Street
Montclair, California 91763
Attention: Executive Director

Lessee: Montclair Housing Corporation
5111 Benito Street
Montclair, California 91763
Attention: Executive Director

City: City of Montclair
5111 Benito Street
Montclair, California 91763
Attention: City Manager

6.3 Representations and Warranties of Operator. Operator hereby represents and warrants to the Authority as follows:

(a) Organization. Operator is a duly organized, validly existing nonprofit corporation in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Operator. Operator has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Valid Binding Agreement. This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Operator enforceable against it in accordance with their respective terms.

(d) Pending Proceedings. Operator is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Operator, threatened against or affecting Operator, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Operator, materially affect Operator's ability to perform its obligations hereunder.

6.4 Limitation Upon Change in Ownership, Management and Control of Operator.

(a) Prohibition. The identity and qualifications of Operator are of particular concern to the Authority. It is because of this identity and these qualifications that the Authority has entered into this Agreement with Operator. No voluntary or involuntary successor in interest of Operator shall acquire any rights or powers under this Agreement by assignment or otherwise, nor shall Operator make any total or partial sale, transfer, conveyance, encumbrance to secure financing, assignment or lease of the whole or any part of the Property without the prior written approval of the Authority, which approval may be granted, conditionally granted, or denied at the sole and absolute discretion of the Authority Executive Director; provided that the rental of the Property by Operator to a Moderate Income household at Affordable Rent in conformity with the Lease shall not require the specific approval by the Authority Executive Director.

(b) Successors and Assigns. This Agreement shall run with the land, and all of the terms, covenants and conditions of this Agreement shall be binding upon Operator and the permitted successors and assigns of Operator. Whenever the term "Operator" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

6.5 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and benefit of the Authority, its successors and assigns, City, successors and assigns, and Operator, its permitted successors and assigns, and no other person or persons shall have any right of action hereon.

6.6 Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

6.7 Governing Law. This Agreement and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto.

6.8 Amendment. This Agreement may not be changed orally, but only by agreement in writing signed by Operator and the Authority.

6.9 Approvals. Where an approval or submission is required under this Agreement, such approval or submission shall be valid for purposes of this Agreement only if made in writing. Where this Agreement requires an approval or consent of the Authority, such approval may be given on behalf of the Authority by the Authority Executive Director or his or her designee. The Authority Executive Director or his or her designee is hereby authorized to take such actions as may be necessary or appropriate to implement this Agreement, including without limitation the execution of such documents or agreements as may be contemplated by this Agreement. The Authority Executive Director is authorized to execute amendments of this Agreement so long as such amendments do not materially increase the costs to be incurred by the Authority hereunder or materially decrease the revenues to be received by the Authority hereunder.

IN WITNESS WHEREOF, the Authority, City, and the Operator have executed this Agreement as of the date set forth above.

MONTCLAIR HOUSING AUTHORITY,
a public body corporate and politic

By: _____
Edward C. Starr
Authority Executive Director

CITY OF MONTCLAIR,
a municipal corporation

By: _____
Edward C. Starr
City Manager

MONTCLAIR HOUSING CORPORATION,
a California nonprofit public benefit corporation

By: _____
Edward C. Starr
Executive Director

ATTACHMENT NO. 1
LEGAL DESCRIPTION

That certain real property located in the State of California, County of San Bernardino, City of Montclair, and described as follows:

APN:
1009-191-01-0000

POMONA LAND AND WATER CO SUB COM AT INTERSECTION ELY LI OF MILLS AVE
AND S LI LOT 2 BLK 8 TH N 20 DEG 05 MIN 35 SECONDS E 85.96 FT TH E 105 FT TH S 20
DEG 05 MIN 35 SECONDS W 85.96 FT TO S LI SD LOT TH W TO PT BEG EX ST .18 AC M/L

ATTACHMENT NO. 2

LEASE

By and Between

THE MONTCLAIR HOUSING AUTHORITY

and

MONTCLAIR HOUSING CORPORATION

LEASE

THIS LEASE (the “Lease”) is made as of August 19, 2024, by and between the **MONTCLAIR HOUSING AUTHORITY**, a public body, corporate and politic (the “Authority” or “Lessor”), and **MONTCLAIR HOUSING CORPORATION**, a California nonprofit public benefit corporation (the “Operator” or “Lessee”).

SECTION 1. SUBJECT OF LEASE.

1.1 Purpose of the Lease. The purpose of this Lease is to effectuate the Affordable Housing Agreement by and among the Authority, the City of Montclair, a municipal corporation (the “City”), and the Operator dated August 19, 2024 (the “Agreement”), by providing for the lease of the “Properties” (as hereinafter defined) within the City of Montclair to Lessee and the sublease of the Property to Moderate Income Persons. The Agreement, which is available in the offices of the Authority as a public record, is incorporated herein by reference and made a part hereof as though fully set forth herein.

SECTION 2. LEASE OF THE PROPERTIES.

The Authority, for and in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Lessee to be paid, kept, performed and observed by Lessee, hereby leases to Lessee, and Lessee hereby leases from Authority, that certain real property consisting of single family house in the City of Montclair (the “City”) located at 9603 Mills Avenue (the “House”), and having the legal description in the “Legal Description” attached hereto as Exhibit A and incorporated herein by this reference. Except as expressly provided to the contrary in this Lease, reference to the Property is to the described land, inclusive of any improvements now or hereafter located on the land.

SECTION 3. LEASE TERM.

Lessee shall lease the Property from Authority and Authority shall lease the Property to Lessee for a term commencing on August 19, 2024 (the “Commencement Date”) and continuing until [August 19, 2039] (the “Term”), unless sooner terminated as provided for herein. The term “Lease Year” shall mean a period commencing on the Commencement Date or an anniversary thereof and continuing for one full calendar year thereafter.

SECTION 4. USE OF THE PROPERTIES.

4.1 Use of the Properties. Lessee covenants and agrees for itself, its successors and assigns, that during the Term, the Property shall be devoted to those uses as set forth in the Agreement.

4.2 Management. Lessee shall manage or cause the Property to be managed in a prudent and business-like manner, consistent with first-class single family rental housing in San Bernardino County, California.

Lessee may contract with a management company or manager to operate and maintain the Property in accordance with the terms of this Lease; provided, however, that the selection and hiring of such management company shall be subject to approval by Authority, or its Executive Director.

Lessee may act as manager. Approval of a management company or manager by Authority shall not be unreasonably withheld. If, at any time, the management company is not performing to the reasonable satisfaction of the Authority, or its Executive Director or the City Manager of the City, and said condition is not corrected after expiration of ninety (90) days from the date of written notice from the Authority, the Authority may direct the Lessee to, and the Lessee shall, terminate immediately the management contract. Notwithstanding the above, Lessee shall use its best efforts to correct any defects in management at the earliest feasible time and, if necessary, to replace the management company prior to the elapsing of such time period.

4.3 Only Lawful Uses Permitted. Lessee shall not use the Property for any purpose that is in violation of any law, ordinance or regulation of any federal, state, county or local governmental agency, body or entity. Furthermore, Lessee shall not maintain or commit any nuisance, as now or hereafter defined by any applicable statutory or decisional law, on the Properties, or any part thereof.

SECTION 5. RENT.

5.1 Net Lease. It is the intent of the parties hereto that the rent provided herein shall be absolutely net to Authority and that Lessee shall pay all costs, charges and expenses of every kind and nature against the Property which may arise or become due during the Term and which, except for execution hereof, would or could have been payable by Authority.

5.2 Rent.

(A) During the Term of this Lease, Lessee agrees to pay in advance, on the Commencement Date and thereafter on the first day of each "Lease Year" (as hereinafter defined), rent in the amount of One Dollar (\$1.00) per house. The parties understand and acknowledge that the primary consideration for this Lease is the performance of the covenants set forth in this Lease and the Agreement, particularly (without limitation, however) the covenants to rent the units to moderate income tenants at an affordable rent pursuant to Section 6 hereof and Section 4.2 of the Agreement. As used herein, a "Lease Year" shall consist of twelve (12) consecutive calendar months ending on the anniversary (the "Anniversary Date") of the day immediately preceding the Commencement Date.

(B) During the Term of this Lease, Lessee agrees to pay at the end of each Lease Year the "Additional Rent," as herein defined. At the end of each Operating Year, the Lessee shall calculate total gross operating revenue for that year, and shall thereupon pay to the Authority as "Additional Rent" an amount equal to total gross operating revenue less the operating costs for that year. If total gross operating revenue for that year is less than operating costs, no Additional Rent shall be payable and the Lessee and the Authority shall negotiate in good faith for the Authority to provide additional compensation to cover such deficit. The Authority and its authorized representatives shall, at all times, have access for the purpose of audit or inspection to any and all books, documents, papers, records, property, and premises of the Lessee which in any manner relate to the expenses and revenues of the Property under this Lease and the Lessee's obligations hereunder. The Lessee's staff shall cooperate fully with authorized auditors when they conduct audits and examinations of Authority funded programs. Within thirty (30) days of the submittal of such audit report, the Lessee shall provide a written response to all conditions or findings reported in such audit report. The response must discuss each condition or finding and set forth a proposed resolution, including a schedule for correcting any deficiency. All conditions or correction actions shall take place within six (6) months after receipt of the audit report unless the Authority Executive Director or designee authorizes an extension of time to submit such corrections.

5.3 Payment of Rent. All rent that becomes due and payable pursuant to this Lease shall be paid to the Authority at the address of the Authority listed in Section 26.7 or such other place as the Authority may from time to time designate by written notice to the Lessee without notice or demand, and without setoff, counterclaim, abatement, deferment, suspension or deduction. Except as expressly provided herein, under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall the Authority be expected or required to make any payment of any kind whatsoever or to perform any act or obligation whatsoever or be under any obligation or liability hereunder or with respect to the Properties.

SECTION 6. AFFORDABLE HOUSING REQUIREMENTS

6.1 Affordable Unit. The Lessee agrees to make available, restrict occupancy to, and rent the House to “Moderate Income Households” at the rents established pursuant to Section 6.6 hereof. “Moderate Income Household” shall mean a household earning between eighty percent (80%) to one-hundred and twenty percent (120%) of San Bernardino County median income as determined pursuant to Health and Safety Code Section 50079.5.

6.2 Lease Requirements. Prior to rental of the Properties, Lessee shall submit a standard lease form to the Authority for Authority’s approval. The Authority shall approve such lease form upon finding that such lease form is consistent with this Lease and the Agreement. The Lessee shall enter into a lease, in the form approved by the Authority, with each tenant of the House.

6.3 Duration of Affordability Requirements. The Property shall be subject to the requirements of this Section 6 for a period coextensive with the term of this Lease beginning on the Commencement Date. The duration of this requirement shall be known as the “Affordability Period.” All tenants residing in the House during the last two (2) years of the Affordability Period shall be given notice by the Lessee at least once every six (6) months of the expiration date of this requirement, and that the rent payable on the Property may be raised to a market rate rent at the end of the Affordability Period.

6.4 Selection of Tenants. The Property shall be leased to tenants selected by the Lessee who meet all of the requirements provided herein. The Authority may, from time to time, assist in the leasing of the House by providing to the Lessee names of persons who have expressed interest in renting the House. Lessee shall adopt a tenant selection system, which shall be approved by the Authority. The tenant selection system shall include, without limitation, a method for investigation of the credit history of proposed tenants through obtaining a credit report on the proposed tenant. Highest priority in the selection of tenants shall be given to those applicants who have been displaced by Authority projects, if any.

6.5 Income of Tenants. Prior to the rental or lease of each of the House to a tenant, and annually thereafter, the Lessee shall obtain an income certification from the tenant of the Properties. The Lessee shall verify the income certification of the tenant in one or more of the following methods:

(A) obtain two (2) paycheck stubs from the tenant’s two (2) most recent pay periods, if any.

(B) obtain a true copy of an income tax return from the tenant for the most recent tax year in which a return was filed.

- (C) obtain an income verification certification from the employer of the tenant.
- (D) obtain an income verification certification from the Social Security Administration and/or the California Department of Social Services if the tenant receives assistance from such agencies.
- (E) obtain a credit report from a commercial credit reporting agency.
- (F) obtain an alternate form of income verification reasonably requested by the Lessee, if none of the above forms of verification is available to the Lessee.

A person or family who at the time of income certification qualified as a Moderate Income Household shall continue to be deemed so qualified, until such time as the person or family's income is redetermined and the person or family is determined by the Lessee to no longer be so qualified, even if such person or family's income has subsequently increased to an amount above the applicable income level. Upon the Lessee's determination that the tenant is no longer qualified as a Moderate Income Household, such tenant shall no longer be eligible to rent the Property and shall be given a written notice which requires such tenant to vacate the Property within sixty (60) days, and the Lessee shall provide assistance to such tenants in finding another appropriate rental unit in the vicinity. The tenant lease shall contain the above provisions. In addition, the Lessee shall annually submit to the Authority a certification that the House is actually occupied by Low-Income Households in such form as may be provided by the Authority.

6.6 Determination of Affordable Rent for the Property. The House shall be rented at an "Affordable Rent" to be established by the Authority as provided herein. The maximum monthly rental amount for the Property shall be established at the lesser of (a) fair market rent, as reasonably determined by the Operator, or (b) thirty percent (30%) of sixty percent (60%) of San Bernardino County median income for a household size appropriate for the unit or, if greater, the amount determined pursuant to Health and Safety Code section 50053(b)(3). Household size appropriate to the unit shall mean two persons for a one bedroom House, three persons for a two bedroom House, four persons for a three bedroom House, and five persons for a four bedroom House. The rents of the Property may be increased once per year, regardless of when particular tenants commenced occupancy of the House. The maximum monthly rental amount for the House shall include a reasonable utilities allowance to be determined by the Authority, which utilities allowance shall be set at an amount which will cover the projected charge for all utilities (whether paid for by Lessee or paid directly by the individual tenant), including gas and electrical service, water, sewer and garbage collection, but excluding telephone service and cable television. The Authority may in its discretion base the utilities allowance on a utilities allowance adopted in connection with the Section 8 program administered by the United States Department of Housing and Urban Development. Upon the approval of the Authority or Authority Executive Director, rents may be established at amounts which are lower than the maximum monthly rental amounts set forth above.

SECTION 7. UTILITIES AND TAXES.

7.1 Utilities. Lessee shall pay or cause to be paid by the tenants all charges for gas, electricity, water, sewer, garbage collection, cable television, and other utilities furnished to the House.

7.2 Real Estate Taxes.

(A) As used herein, the term “real estate taxes” shall mean all real estate taxes, assessments for improvements to the House, municipal or county water and sewer rates and charges which shall be levied against the House, or any interest therein, and which become a lien thereon and accrues during the Term.

(B) The Property shall be assessed and taxed in the same manner as privately owned property, provided, however, that Lessee may apply for and obtain a full or partial exemption from property taxes. The Authority shall provide notice to the San Bernardino County Assessor within thirty (30) days of the commencement of this Lease as required by Health and Safety Code Section 33673.1. Lessee shall pay or cause to be paid, before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all real estate taxes levied against any and all interests in the Property during the Term, and not merely the assessed value of the leasehold interest in the Property.

(C) Any real estate taxes which are payable by Lessee hereunder shall be prorated between Authority and Lessee as of the Commencement Date and then again at the expiration or earlier termination of the Term.

(D) Lessee shall have the right to apply for the “welfare exemption” and any other applicable exemption from real property taxes, and shall further have the right to contest the amount or validity of any real estate taxes, in whole or in part, by appropriate administrative and legal proceedings, without any costs or expense to Authority. Lessee may postpone payment of any such contested real estate taxes pending the prosecution of such proceedings and any appeals so long as such proceedings shall operate to prevent the collection of such real estate taxes and the sale of the Property to satisfy any lien arising out of the nonpayment of the same, and Lessee furnishes a bond to Authority securing the payment of the same in the event a decision in such contest shall be adverse to Lessee.

7.3 Personal Property Taxes. Lessee covenants and agrees to pay before delinquency all personal property taxes, assessments and liens of every kind and nature upon all personalities as may be from time to time situated within the Property.

SECTION 8. OWNERSHIP OF IMPROVEMENTS, FIXTURES AND FURNISHINGS.

The Property shall, during the Term, be and remain the property of the Authority. Upon termination of this Lease, whether by expiration of the Term or otherwise, all fixtures and furnishings within the Property shall, without compensation to Lessee, be Authority’s property, free and clear of all claims to or against them by Lessee or any third person, firm or entity.

SECTION 9. INDEMNIFICATION: FAITHFUL PERFORMANCE.

Lessee shall not suffer or permit any liens to be enforced against the fee simple estate as to the Property, nor against Lessee’s leasehold interest therein by reason of work, labor, services or materials supplied or claimed to have been supplied to Lessee or anyone holding the Property, or any part thereof, through or under Lessee, and Lessee agrees to defend, indemnify and hold Authority harmless against such liens. If any such lien shall at any time be filed against the Property, Lessee shall, within thirty (30) days after notice to Lessee of the filing thereof, cause the same to be discharged of record; provided, however, that Lessee shall have the right to contest the amount or validity, in whole or in

part, of any such lien by appropriate proceedings but in such event, Lessee shall notify Authority and promptly bond such lien in the manner authorized by law with a responsible surety company qualified to do business in the State of California or provide other security acceptable to Authority. Lessee shall prosecute such proceedings with due diligence. Nothing in this Lease shall be deemed to be, nor shall be construed in any way to constitute, the consent or request of Authority, express or implied, by inference or otherwise, to any person, firm or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration or repair of or to the Property or any part thereof. Prior to commencement of any repair or alteration to the Property, Lessee shall give Authority not less than thirty (30) days advance notice in writing of intention to begin said activity in order that nonresponsibility notices may be posted and recorded as provided by State and local laws; provided that a shorter notice may be given in cases of emergency.

SECTION 10. MAINTENANCE AND REPAIR.

Lessee agrees to assume full responsibility for the management, operation and maintenance of the Property throughout the Term without expense to Authority, and to perform all repairs and replacements necessary to maintain and preserve the Property in a clean and safe condition reasonably satisfactory to Authority and in compliance with all applicable laws. Lessee agrees that Authority shall not be required to perform any maintenance, repairs or services or to assume any expense in connection with the Property. Lessee hereby waives all rights to make repairs or to cause any work to be performed at the expense of Authority as provided for in Section 1941 and 1942 of the California Civil Code. The Lessee shall manage and maintain the Property in conformity with the Montclair Municipal Code.

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

(A) Lessee shall maintain the Property in a safe and sanitary fashion in a first class condition.

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

(C) Clean-up maintenance shall include, but not be limited to: maintenance of all private paths, parking areas, driveways and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

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

(E) Any and all chemicals, unhealthful substances, and pesticides used in and during maintenance shall be applied only by persons possessing valid California applicators licenses,

and in strict accordance with all governing regulations. Precautionary measures shall be employed recognizing that all areas are open to public access.

(F) Lessee shall make such capital repairs to the Property as are necessary, including the following: carpet and drape replacement; appliance replacement; exterior painting, hot water heater replacement; plumbing fixtures replacement, including tubs and showers, toilets, lavatories, sinks, faucets; air conditioning and heating replacement; asphalt repair and replacement, and seal coating; roofing repair and replacement; landscape tree replacement and irrigation pipe and controls replacement; gas line pipe replacement; and lighting fixture replacement.

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

SECTION 11. ENVIRONMENTAL MATTERS.

11.1 Definitions. For the purposes of this Lease, unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified:

(A) The term “Hazardous Materials” shall mean (i) any “hazardous substance” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, *et seq.*), as amended from time to time, and regulations promulgated thereunder; (ii) any “hazardous substance” as defined by the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Sections 25300, *et seq.*), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) petroleum, oil, gasoline (refined and unrefined) and their respective by products and constituents; and (vi) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any “Governmental Requirements” (as defined in Subparagraph c of this Section 11.1) either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to the environment.

(B) The term “Hazardous Materials Contamination” shall mean the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Property by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the Date of Lease) emanating from the Property.

(C) The term “Governmental Requirements” shall mean all past, present and future laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Property are located, and any other state, county city, political subdivision, agency, instrumentality or other entity exercising jurisdiction over Authority, Lessee or the Property.

11.2 Responsibility for Contamination. Lessee assumes any and all responsibility and Liabilities (as defined in Section 11.4 of this Lease) for all Hazardous Materials Contamination, which occurs during the Term of this Lease.

11.3 Indemnification. Lessee shall save, protect, defend, indemnify and hold harmless Authority and its officers, directors, shareholders, employees and agents from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, reasonable attorneys' fees and remedial and response costs) (the foregoing are hereinafter collectively referred to as "Liabilities") which may now or in the future be incurred or suffered by Authority and its officers, directors, shareholders, employees or agents by reason of, resulting from, in connection with, or arising in any manner whatsoever as a direct or indirect result of (1) the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials or Hazardous Materials Contamination after the commencement of this Lease, including any Liabilities incurred under any Governmental Requirements relating to such Hazardous Materials or Hazardous Materials Contamination, (2) the performance by Lessee of any acts, including, but not limited to, the performance of any act required by this Lease, and (3) the performance by the Authority of any act required to be performed by the Lessee under this Lease. Lessee's obligations under this Section 11.3 shall survive the expiration of this Lease.

Authority shall save, protect, defend, indemnify and hold harmless Lessee and its officers, directors, shareholders, employees and agents from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, reasonable attorneys' fees and remedial and response costs) (the foregoing are hereinafter collectively referred to as "Liabilities") which may now or in the future be incurred or suffered by Lessees and its officers, directors, shareholders, employees or agents by reason of, resulting from, in connection with, or arising in any manner whatsoever as a direct or indirect result of (1) the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from the Authority of any Hazardous Materials or Hazardous Materials Contamination prior to the commencement of this Lease, including any Liabilities incurred under any Governmental Requirements relating to such Hazardous Materials or Hazardous Materials Contamination, (2) the performance by Authority of any acts, including, but not limited to, the performance of any act required by this Lease, and (3) the performance by the Lessee of any act required to be performed by the Authority under this Lease. Authority's obligations under this Section 11.3 shall survive the expiration of this Lease.

11.4 Duty to Prevent Hazardous Material Contamination. Lessee shall take all necessary precautions to prevent the release of any Hazardous Materials into the environment. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Lessee shall install and utilize such equipment and implement and adhere to such procedures as are consistent with the highest standards generally applied by residential developments as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

11.5 Obligation of Tenant to Remediate Premises. Notwithstanding the obligation of Lessee to indemnify Authority pursuant to Section 11.3 of this Lease, Lessee shall, at its sole cost and expense, promptly take (i) all actions required by any federal, state or local governmental agency or political subdivision or any Governmental Requirements and (ii) all actions necessary to make full

economic use of the Property for the purposes contemplated by this Lease and the Agreement, which requirements or necessity arise from the presence upon, about or beneath the Property of any Hazardous Materials or Hazardous Materials Contamination no matter when occurring. Such actions shall include, but not be limited to, the investigation of the environmental condition of the Property, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal or restoration work. Lessee shall take all actions necessary to promptly restore the Property to an environmentally sound condition for the uses contemplated by this Lease and the Agreement notwithstanding any lesser standard of remediation allowable under applicable Governmental Requirements. Lessee shall nevertheless obtain the Authority's written approval prior to undertaking any activities required by this Section 11.5 during the Term of this Lease, which approval shall not be unreasonably withheld so long as such actions would not adversely affect the Property or be harmful to any other person or property. The Authority's obligations under this Section 11.5 shall survive the expiration of this Lease.

11.6 Right of Entry. Notwithstanding any other term or provision of this Lease, Lessee shall permit the Authority or its agents or employees to enter the Property at any time during normal business hours (except in the event of an emergency), without prior notice in the event of an emergency, and with not less than forty-eight hours advance notice if no emergency is involved, to inspect, monitor and/or take emergency or long-term remedial action with respect to Hazardous Materials and Hazardous Materials Contamination on or affecting the Property, or to discharge Lessee's obligations hereunder with respect to such Hazardous Materials and Hazardous Materials Contamination when Lessee has failed to do so. All costs and expenses incurred by the Authority in connection with performing Lessee's obligations hereunder shall be reimbursed by Lessee to the Authority within ten (10) days of Lessee's receipt of written request therefor.

11.7 Storage or Handling of Hazardous Materials. Lessee, at its sole cost and expense, shall comply with all Governmental Requirements for the storage, use, transportation, handling and disposal of Hazardous Materials. In the event Lessee does store, use, transport, handle or dispose of any Hazardous Materials, Lessee shall notify Authority in writing at least ten (10) days prior to their first appearance on the Property and Lessee's failure to do so shall constitute a material default under this Lease. Lessee shall conduct all monitoring activities required or prescribed by applicable Governmental Requirements, and shall, at its sole cost and expense, comply with all posting requirements of Proposition 65 or any other similarly enacted Governmental Requirements. In addition, in the event of any complaint or governmental inquiry, or if otherwise deemed necessary by the Authority in its reasonable judgment, the Authority may require Lessee, at Lessee's sole cost and expense, to conduct specific monitoring or testing activities with respect to Hazardous Materials on the Property. Lessee's monitoring programs shall be in compliance with applicable Governmental Requirements, and any program related to the specific monitoring of or testing for Hazardous Materials on the Property, shall be satisfactory to Authority, in Authority's reasonable discretion. Lessee shall further be solely responsible, and shall reimburse Authority, for all costs and expenses incurred by Authority arising out of or connected with the removal, clean-up and/or restoration work and materials necessary to return the Property and any property adjacent to the Property affected by Hazardous Materials emanating from the Property to their condition existing at the time of the Commencement Date. Lessee's obligations hereunder shall survive the termination of this Lease.

11.8 Environmental Inquiries. Lessee shall notify Authority, and provide to Authority a copy or copies, of the following environmental permits, disclosures, applications, entitlements or inquiries relating to the Property: Notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and

reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks, and Lessee shall report to the Authority, as soon as possible after each incident, any unusual, potentially important incidents, including but not limited to, the following:

- (A) All required reports of releases of Hazardous Materials, including notices of any release of Hazardous Materials as required by any Governmental Requirement;
- (B) All fires;
- (C) All instances where asbestos has been or may be disturbed by repair work, tenant improvements or other activities in buildings containing asbestos;
- (D) All notices of suspension of any permits;
- (E) All notices of violation from Federal, State or local environmental authorities;
- (F) All orders under the State Hazardous Waste Control Act and the State Hazardous Substance Account Act and corresponding federal statutes, concerning investigation, compliance schedules, clean up, or other remedial actions;
- (G) All orders under the Porter-Cologne Act, including corrective action orders, cease and desist orders, and clean-up and abatement orders;
- (H) Any notices of violation from OSHA or Cal-OSHA concerning employees' exposure to Hazardous Materials;
- (I) All complaints and other pleadings filed against Lessee and/or Authority relating to Lessee's storage, use, transportation, handling or disposal of Hazardous Materials on the Property.

In the event of a release of any Hazardous Materials into the environment, Lessee shall, as soon as possible after the release, furnish to the Authority a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request of the Authority, Lessee shall furnish to the Authority a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Property including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

SECTION 12. ALTERATION OF IMPROVEMENTS.

Lessee shall not make or permit to be made any structural alteration of, addition to or change in the Property, nor demolish all or any part of the Property without the prior written consent of Authority; provided, however, that the foregoing shall not prohibit or restrict the repair and/or replacement of the Property by Lessee. In requesting such consent Lessee shall submit to Authority detailed plans and specifications of the proposed work and an explanation of the need and reasons therefor. This provision shall not limit or set aside any obligation of Lessee under this Lease to maintain the Property in a clean and safe condition, including structural repair and restoration of damaged Property. Authority shall not be obligated by this Lease to make any improvements to the Property or to assume any expense therefor. Lessee shall not commit or suffer to be committed any

waste or impairment of the Property, or any part thereof, except as otherwise permitted pursuant to this Lease.

SECTION 13. DAMAGE OR DESTRUCTION.

Lessee agrees to give notice to Authority of any fire or other damage (collectively “casualty”) that may occur on the Property within ten (10) days of such fire or damage. In the event of such casualty Lessee agrees, to the extent of any insurance proceeds available therefor, to make or cause to be made full repair of such casualty, or Lessee agrees, to the extent of any insurance proceeds available therefor, to clear and remove from the Property all debris resulting from such casualty and rebuild the Property in accordance with plans and specifications previously submitted to Authority and approved in writing in order to replace in kind and scope the Property which existed prior to such damage. In the event of a casualty in which the Property are not required to be repaired, restored or rebuilt by Lessee pursuant to the terms of this Section 13, and provided Lessee does not nevertheless elect to repair, restore or rebuild the Property although Lessee has no obligations to do so, Authority may terminate this Lease.

SECTION 14. SALE, ASSIGNMENT, SUBLEASE OR OTHER TRANSFER.

Except for (a) the lease of the Property to a tenant, and (b) transfers made pursuant to Section 6.4 of the Agreement, Lessee shall not sell, assign, sublease or otherwise transfer this Lease or any right therein, nor make any total or partial sale, assignment, sublease or transfer in any other mode or form of the whole or any part of the Property (each of which events is referred to in this Lease as an “Assignment”), without prior written approval of Authority, which approval shall not be unreasonably withheld as more particularly set forth below in this Section 14.2. Notwithstanding anything else herein contained, the term “Assignment” shall not be deemed to include the obtaining of any “Capital Improvement Loan(s)” (all as hereinafter defined), but shall be deemed to include all refinancing thereof and any other loans approved by Authority. Any purported assignment without the prior written consent of Authority shall render this Lease absolutely null and void and shall confer no rights whatsoever upon any purported assignee or transferee. The approval of Authority to any Assignment shall not be unreasonably withheld if the proposed purchaser, assignee, sublessee or transferee has reasonably demonstrated to the Authority, at least sixty (60) days prior to the effective date of such Assignment, such proposed purchaser’s, assignee’s, sublessee’s or transferee’s financial capability and overall competence and experience to construct and operate the Property. Review of experience in operating similar projects shall not be required with respect to institutional lenders providing financing pursuant to Section 15 hereof so long as the original Lessee (or a successor that has been expressly approved in writing by the Authority) remains responsible for operating the Property and performing as Lessee pursuant to this Lease. Approval by Authority of any sale, assignment, sublease or transfer shall be conditioned upon such purchaser, assignee, sublessee or transferee agreeing in writing to assume the rights and obligations thereby sold, assigned, subleased or transferred, and to keep and perform all covenants, conditions and provisions of this Lease which are applicable to the rights acquired. In the absence of specific written agreement by Authority, no such sale, assignment, sublease or transfer of this Lease or the Property (or any portion thereof), or approval by Authority of any such sale, assignment, sublease or transfer shall be deemed to relieve Lessee or any other party from any obligation under this Lease.

Notwithstanding anything else contained in this Section 14, this Lease may be assigned, without the consent of Authority, to the purchaser at any foreclosure sale, whether judicial or non-judicial, or to the beneficiary or mortgagee under any Permitted Encumbrance (as defined in

Section 15), pursuant to foreclosure or similar proceedings, or pursuant to an assignment or other transfer of this Lease to such beneficiary or mortgagee in lieu thereof, and may thereafter be assigned by such beneficiary or mortgagee without Authority's consent, and any such purchaser, beneficiary, mortgagee or assignee shall be liable to perform the obligations herein imposed on Lessee, other than as set forth in Sections 15 of this Lease, only for and during the period that such purchaser, beneficiary, mortgagee or assignee is in possession or ownership of the leasehold estate created hereby.

SECTION 15. FINANCING.

Lessee may, at any time and from time to time during the Term, upon prior written notice to the Authority and subject to the requirements of Sections 5.3 and 14 hereof, request that the Authority authorize Lessee to mortgage, pledge, hypothecate or otherwise encumber to a federally or state chartered bank or savings and loan, a life insurance company, a mortgage company, a pension fund, investment trust or similar institutional lender (herein called "Lender") by deed of trust or mortgage or other security instrument all or any portion of Lessee's right, title and interest pursuant to this Lease and the leasehold estate hereby, following thirty (30) days prior written notice to Authority (which notice shall include an itemization of and budget for the capital improvements to be financed), to secure financing of capital improvements to the Property ("Capital Improvement Loan(s)"). The Authority shall consider such request in good faith, and may approve, disapprove or conditionally approve in Authority's reasonable discretion. The encumbrances securing the Capital Improvement Loan(s), together with refinancing of the Capital Improvement Loan(s) approved by the Authority pursuant to Section 14, and any other loan or encumbrance approved by the Authority pursuant to this Lease shall be deemed to be "Permitted Encumbrances."

The proceeds of any Capital Improvement Loan(s) shall be used solely to pay (i) the costs of construction of capital improvements to the Property, and (ii) the costs of obtaining the Capital Improvement Loan(s).

Authority and Lessee acknowledge and agree that neither Authority's interest or fee ownership of the Property nor Authority's right to receive Rent hereunder shall be subordinate to any Permitted Encumbrance or any other lien, mortgage, deed of trust, pledge or other encumbrance of Lessee's leasehold interest hereunder.

SECTION 16. INDEMNITY.

During the Term, Lessee agrees that Authority and City, their agents, officers, representatives and employees, shall not be liable for any claims, liabilities, penalties, fines or for any damage to the goods, Property or effects of Lessee, its sublessees or representatives, agents, employees, guests, licensees, invitees, patrons or clientele or of any other person whomsoever, nor for personal injuries to, or deaths of any persons, whether caused by or resulting from any act or omission of Lessee or its sublessees or any other person on or about the Property, or in connection with the operation thereof, or from any defect in the Property. Lessee agrees to indemnify and save free and harmless Authority and City and their authorized agents, officers, representatives and employees against any of the foregoing liabilities and any costs and expenses incurred by Authority or City on account of any claim or claims therefor. Lessee shall not be responsible for (and such indemnity shall not apply to) any acts, errors or omissions of Authority, City, or their respective agents, officers, representatives or employees.

SECTION 17. INSURANCE.

17.1 Insurance to be Provided by Lessee. During the Term, Lessee, at its sole cost and expense, shall:

(A) Maintain or cause to be maintained a policy or policies of insurance against loss or damage to the Property of all property of an insurable nature located upon the Property, resulting from fire, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage fire insurance policies. Such policy or policies shall be required to provide coverage against loss or damage resulting from flood and/or earthquake only to the extent such coverage is available at commercially reasonable rates and is required by any lender making a loan to Lessee which is secured by the Property. Such insurance policy shall name Authority as an additional insured and shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the Property, as defined herein in this Section 17.

(B) Maintain or cause to be maintained public liability insurance issued by a company with a Best's rating of not less than A, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Lessee or its sublessees, or any person acting for Lessee, or under their respective control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the Property, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Lessee or its sublessees, or any person acting for Lessee, or under their respective control or direction. Such property damage and personal injury insurance shall also provide for and protect against incurring any legal cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in full force and effect during the entire term of this Lease in the amount of at least One Million Dollars (\$1,000,000) combined single limit, naming Authority and City as additional insured. If the operation under this Lease results in an increased or decreased risk in the reasonable determination of Authority, then Lessee agrees that the minimum limit hereinabove designated shall be changed accordingly upon request by Authority. Lessee agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from Lessee's activities, activities of its sublessees or the activities of any other person or persons for which Lessee is otherwise responsible. Pollution liability insurance provided in compliance with the indemnification provision required by Section 11.3 hereof shall be required only to the extent such coverage is available at commercially reasonable rates.

(C) Maintain or cause to be maintained worker's compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Lessee in connection with the Property and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for on behalf of any person incurring or suffering injury or death in connection with the Property or the operation thereof by Lessee.

17.2 Definition of "Full Insurable Value". The term "full insurable value" as used in this Section 17 shall mean the actual replacement cost (excluding the cost of excavation, foundation and

footings below the lowest floor and without deduction for depreciation) of the Property, including the cost of construction of the Property, architectural and engineering fees, and inspection and supervision. To ascertain the amount of coverage required, Lessee shall cause the full insurable value to be determined from time to time by appraisal by the insurer or, if no such appraisal is available, by an appraiser mutually acceptable to Authority and Lessee, not less often than once every three (3) years.

17.3 General Insurance Provisions. All liability policies of insurance provided for in this Section 17 shall name Lessee as the insured and Authority as an additional insured, as their respective interests may appear. All property casualty insurance policies shall include the interest of any Lessee's Mortgagee, and may provide that any loss is payable jointly to Lessee and Lessee's Mortgagee in which event such policies shall contain standard mortgage loss payable clauses. Lessee agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance.

Lessee agrees to submit policies of all insurance required by this Section 17 of this Lease, or certificates evidencing the existence thereof, to Authority on or before the effective date of this Lease, indicating full coverage of the contractual liability imposed by this Lease. At least thirty (30) days prior to expiration of any such policy, copies of renewal policies, or certificates evidencing the existence thereof, shall be submitted to Authority.

All insurance provided for under this Section 17 shall be effected under policies issued by insurers of recognized responsibility, licensed or permitted to do business in the State of California, approved by Authority.

All policies or certificates of insurance shall: (i) provide that such policies shall not be cancelled or limited in any manner without at least thirty (30) days prior written notice to Authority; (ii) provide that such coverage is primary and not contributing with any insurance as may be obtained by the Authority and shall contain a waiver of subrogation for the benefit of the City and the Authority; and (iii) name the City, Authority, and their respective officers, agents, and employees as additional insured under such policies.

17.4 Failure to Maintain Insurance. If Lessee fails or refuses to procure or maintain insurance as required by this Lease, Authority shall have the right, at Authority's election, and upon ten (10) days prior notice to Lessee, to procure and maintain such insurance. The premiums paid by Authority shall be treated as added rent due from Lessee, to be paid on the first day of the month following the date on which the premiums were paid. Authority shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

17.5 Insurance Proceeds Resulting from Loss or Damage to Property. All proceeds of insurance with respect to loss or damage to the Property during the term of this Lease shall be payable, under the provisions of the policy of insurance, to Lessee, and said proceeds shall constitute a trust fund to be used for the restoration, repair and rebuilding of the Property in accordance with plans and specifications approved in writing by Authority. To the extent that such proceeds exceed the cost of such restoration, repair or rebuilding, then such additional proceeds shall be distributed to the Authority. Notwithstanding the foregoing, within the period during which there is an outstanding mortgage upon the Property, such proceeds shall be payable in accordance with Section 17.3 of this Lease.

In the event this Lease is terminated by mutual agreement of Authority and Lessee and said Property are not restored, repaired or rebuilt, the insurance proceeds shall be jointly retained by the Authority and Lessee and shall be applied first to any payments due under this Lease from Lessee to Authority, second to restore the Property to its original condition and to a neat and clean condition, and finally any excess shall be apportioned between Lessee and Authority as their interests may appear; provided, however, that within any period when there is an outstanding mortgage upon the Property, such proceeds shall be applied first to discharge the debt secured by the mortgage and then for the purposes and in the order set forth above in this paragraph. The value of each interest for the purpose of apportioning excess proceeds under this Section 17.5 shall be the fair market value of such interests immediately prior to the occurrence of the damage or destruction.

SECTION 18. EMINENT DOMAIN.

In the event that the Property or any part thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, then, as between Authority and Lessee (or mortgagee, if a mortgage is then in effect), the interests of Authority and Lessee (or mortgagee) in the award and the effect of the taking upon this Lease shall be as follows:

(A) In the event of such taking of only a part of the Property, leaving the remainder of the Property in such location and in such form, shape and size as to be used effectively and practicably for the conduct thereon of the uses permitted hereunder, this Lease shall terminate and end as to the portion of the Property so taken as of the date title to such portion vests in the condemning authority, but shall continue in full force and effect as to the portion of the Property not so taken.

(B) In the event of taking of only a part of the Property, leaving the remainder of the Property in such location, or in such form, shape or reduced size as to render the same not effectively and practicably usable, for the conduct thereon of the uses permitted hereunder, this Lease and all right, title and interest thereunder shall cease on the date title to the Property or the portion thereof so taken vests in the condemning authority.

(C) In the event the Property is so taken, this Lease and all of the right, title and interest thereunder, shall cease on the date title to the Property vests in the condemning authority.

(D) Promptly after a partial taking, at Lessee's expense and in the manner specified in provisions of this Lease related to maintenance, repairs, alterations, Lessee shall restore the Property, to the extent of condemnation proceeds received by Lessee, so as to place them in a condition suitable for the uses and purposes for which the Property was leased.

(E) In the event of any taking under subparagraphs (a), (b) or (c) hereinabove, that portion of any award of compensation attributable to the fair market value of the Property or portion thereof taken, valued as subject to this Lease, shall belong to Authority. That portion of any award attributable to the fair market value of Lessee's leasehold interest in the Property pursuant to this Lease shall belong to Lessee. That portion of any award attributable to the fair market value of the Property or portion thereof taken shall belong to Authority and Lessee, as their interests may appear, except that in the event of a partial taking, where the Lease remains in effect and Lessee is obligated to restore or repair the Property, then Lessee shall be entitled to any portion of the award attributable to severance damages to the remaining Property. Said award shall be used for the restoration, repair or rebuilding of the Property in accordance with plans and specifications approved in writing by Authority. To the extent that said award for severance damages exceeds the cost of such restoration, repair or rebuilding,

then such award shall be apportioned between Lessee and Authority as their interests may appear. The value of each interest for the purpose of apportionment under this Section shall be the fair market value of such interests at the time of the taking.

(F) Provided, however, that within the period during which there is an outstanding mortgage on the Property, the mortgagee shall be entitled to any portion of the award attributable to the Property, to the extent of its interest therein. The mortgagee may at its option apply said portions of the award to restoration of the Property or to reduction of the mortgage. Any excess portion of the award attributable to the condemnation of the Property shall be apportioned between Lessee and Authority as their interests may appear.

(G) Notwithstanding the foregoing provisions of this Section, Authority may, in its discretion and without affecting the validity and existence of this Lease, transfer Authority's interests in the Property in lieu of condemnation to any authority entitled to exercise the power of eminent domain. In the event of such transfer by Authority, Lessee (or mortgagee if a mortgage is then in effect) and Authority shall retain whatever rights they may have to recover from said authority the fair market value of their respective interests in the Property taken by the authority.

(H) All valuations to be made pursuant to this Section 18 shall be made by mutual agreement of Authority and Lessee.

SECTION 19. OBLIGATION TO REFRAIN FROM DISCRIMINATION.

There shall be no discrimination against or segregation of any person or group of persons, on account of sex, marital status, race, color, creed, religion, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Property, and Lessee itself or any person claiming under or through it shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees thereof or any portion thereof, or in the providing of goods, services, facilities, privileges, advantages and accommodation.

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

(A) In Leases: "The lessee herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of sex, marital status, race, color, creed, religion, disability, familial status, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(B) In Contracts:

“There shall be no discrimination against or segregation of, any person or group of persons on account of sex, marital status, race, color, creed, religion, disability, familial status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises.”

SECTION 20. NONDISCRIMINATION IN EMPLOYMENT.

Lessee, for itself and its successors and assigns, agrees that during the operation of the Property provided for in this Lease, and during any work of repair or replacement, Lessee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, physical or mental disability, sexual orientation, ancestry or national origin.

SECTION 21. LABOR STANDARDS.

Lessee shall comply, and require all contractors and subcontractors employed pursuant to this Lease to comply with all applicable labor standards provisions of the California Labor Code and federal law, including payment of prevailing wages for off-site work. Lessee shall comply with all bidding requirements applicable pursuant to the California Public Contracts Code or other applicable law.

SECTION 22. COMPLIANCE WITH LAW.

Lessee agrees, at its sole cost and expense, to comply and secure compliance with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the Property, as well as operations conducted thereon, and to faithfully observe and secure compliance with, in the use of the Property, all applicable county and municipal ordinances and state and federal statutes now in force or which may hereafter be in force, and to pay before delinquency all taxes, assessments, and fees, if any, assessor levied upon Lessee or the Property, including the land and any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Lessee or by reason of the business or other activities of Lessee upon or in connection with the Property. The judgment of any court of competent jurisdiction, or the admission of Lessee or any sublessee or permittee in any action or proceeding against them, or any of them, whether Authority be a party thereto or not, that Lessee, sublessee or permittee has violated any such ordinance or statute in the use of the Property shall be conclusive of that fact as between Authority and Lessee, or such sublessee or permittee.

SECTION 23. ENTRY AND INSPECTION.

Authority reserves and shall have the right during reasonable business hours (except in cases of emergency), upon forty-eight (48) hours prior notice (except in cases of emergency) to Lessee by the Executive Director of Authority, to enter the Property for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the Property or to inspect the operations conducted thereon.

SECTION 24. RIGHT TO MAINTAIN.

In the event that the entry or inspection by Authority pursuant to Section 23 hereof discloses that the Property are not in a decent, safe, and sanitary condition, Authority shall have the right, after thirty (30) days written notice to Lessee (except in case of emergency, in which event no notice shall be necessary), to have any necessary maintenance work done for and at the expense of Lessee and Lessee hereby agrees to pay promptly any and all costs incurred by Authority in having such necessary maintenance work done in order to keep the Property in a decent, safe and sanitary condition. The rights reserved in this Section shall not create any obligations or Authority or increase obligations elsewhere in this Lease imposed on Authority.

SECTION 25. EVENTS OF DEFAULT AND REMEDIES.

25.1 Events of Default by Lessee.

- (A) Lessee shall abandon or surrender the Property; or
- (B) Lessee shall fail or refuse to pay, within ten (10) days of notice from Authority that the same is due, any installment of rent or any other sum required by this Lease to be paid by Lessee; or
- (C) Lessee shall fail to perform any covenant or condition of the Agreement and/or this Lease other than as set forth in subparagraphs (a) or (b) above, and any such failure shall not be cured within thirty (30) days following the service on Lessee of a written notice from Authority specifying the failure complained of, or if it is not practicable to cure or remedy such failure within such thirty (30) day period, within such longer period as shall be reasonable under the circumstances; or
- (D) Lessee shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law and the same shall not be dismissed within sixty (60) days thereafter; or
- (E) Lessee shall be adjudicated a bankrupt; or
- (F) Lessee shall make a general assignment for the benefit of creditors in violation of the terms of this Lease; then such event shall constitute an event of default under this Lease.

25.2 Remedies of Authority. In the event of any such default as described in Section 25.1, Authority may, at its option:

- (1) Correct or cause to be corrected said default and charge the costs thereof (including costs incurred by Authority in enforcing this provision) to the account of Lessee, which charge shall be due and payable within fifteen (15) days after presentation by Authority of a statement of all or part of said costs;
- (2) Correct or cause to be corrected said default and pay the costs thereof (including costs incurred by Authority in enforcing this provision) from the proceeds of any insurance; or in the event that Lessee has obtained a faithful performance bond indemnifying Authority, Authority

may call upon the bonding agent to correct said default or to pay the costs of such correction performed by or at the direction of Authority;

(3) Exercise its right to maintain any and all actions at law or suits in equity to compel Lessee to correct or cause to be corrected said default;

(4) Have a receiver appointed to take possession of Lessee's interest in the Property, with power in said receiver to administer Lessee's interest in the Property, to collect all funds available to Lessee in connection with its operation and maintenance of the Property; and to perform all other consistent with Lessee's obligation under this Lease as the court deems proper;

(5) Maintain and operate the Property, without terminating this Lease;

(6) With respect to a monetary default or material non-monetary default, terminate this Lease by written notice to Lessee of its intention to do so.

25.3 Right of Authority in the Event of Termination of Lease. Upon termination of this Lease pursuant to Section 25.2, it shall be lawful for Authority to re-enter and repossess the Property and Lessee, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver the Property peaceably to Authority immediately upon such termination in good order, condition and repair, except for reasonable wear and tear. Lessee agrees that upon such termination, title to all the Property on the Property shall vest in Authority. Even though Lessee has breached the Lease and abandoned the Property, this Lease shall continue in effect for so long as Authority does not terminate Lessee's right to possession, and Authority may enforce all of its right and remedies under this Lease, including, but not limited to, the right to recover the rent as it becomes due under this Lease. No ejectment, re-entry or other act by or on behalf of Authority shall constitute a termination unless Authority gives Lessee notice of termination in writing. Termination of this Lease shall not relieve or release Lessee from any obligation incurred pursuant to this Lease prior to the date of such termination. Termination of this Lease shall not relieve Lessee from the obligation to pay any sum due to Authority or from any claim for damages against Lessee.

25.4 Damages. Damages which Authority recovers in the event of default under this Lease shall be those which are then available under applicable California case and statutory law to lessors for leases in the State of California including, but not limited to, any accrued but unpaid rent and the worth at the time of award of the amount by which the unpaid rent for the balance of the term of this Lease after the date of award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided.

25.5 Rights and Remedies are Cumulative. The remedies provided by this Section 25 are not exclusive and shall be cumulative to all other rights and remedies possessed by Authority. The exercise by Authority of one or more such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by Lessee.

25.6 Limitation of Lessee's Liability. Notwithstanding anything to the contrary herein contained, following completion of the construction of the Property, (i) the liability of Lessee shall be limited to its interest in the Property, and any rents, issues and profits arising from any subleases of the Property which are misapplied, or which have accrued but are not yet due and payable, at the time of any default hereunder and which are misapplied by Lessee when collected, and, in addition, with

respect to any obligation to hold and apply insurance proceeds, proceeds of condemnation or other monies hereunder, any such monies received by it to the extent not so applied; (ii) no other assets of Lessee shall be affected by or subject to being applied to the satisfaction of any liability which Lessee may have to Authority or to another person by reason of this Lease; and (iii) any judgment, order, decree or other award in favor of Authority shall be collectible only out of, or enforceable in accordance with, the terms of this Lease by termination or other extinguishment of Lessee's interest in the Property. As a condition to protection under the provisions of this Section 25.6, Lessee covenants not to collect more than one (1) month's rent in advance, exclusive of reasonable security deposits, under the terms of any subleases of the Property that Lessee may enter into.

Notwithstanding the foregoing, it is expressly understood and agreed that the aforesaid limitation on liability shall in no way restrict or abridge Lessee's continued personal liability for:

- (1) fraud or willful or grossly negligent misrepresentation made by Lessee in connection with this Lease;
- (2) misapplication of (i) proceeds of insurance and condemnation or (ii) rentals received by Lessee under subleases subsequent to the date Authority is entitled to re-enter the Property by reason of Lessee's default pursuant to the terms hereof and applicable law;
- (3) the retention by Lessee of all advance rentals and security deposits of sublessees not refunded to or forfeited by such sublessees;
- (4) the indemnification undertakings of Lessee under Section 16; and
- (5) Material waste by Lessee with respect to the Property.

25.7 Events of Default by Authority. If the Authority shall fail to perform any covenant or condition of the Agreement and/or this Lease, and any such failure shall not be cured within thirty (30) days following the service on Authority of a written notice from Lessee specifying the failure complained of, or if it is not practicable to cure or remedy such failure within such thirty (30) day period, within such longer period as shall be reasonable under the circumstances, the such event shall constitute an event of default under this Lease.

25.8 Remedies of Lessee. In the event of any such default as described in Section 25.6, Authority may, at its option:

- (1) Correct or cause to be corrected said default and charge the costs thereof (including costs incurred by Lessee in enforcing this provision) as an operating expense for the current year;
- (2) Correct or cause to be corrected said default and pay the costs thereof (including costs incurred by Lessee in enforcing this provision) from the proceeds of any insurance; or in the event that Authority has obtained a faithful performance bond indemnifying Lessee, Lessee may call upon the bonding agent to correct said default or to pay the costs of such correction performed by or at the direction of Lessee;
- (3) Exercise its right to maintain any and all actions at law or suits in equity compel Authority to correct or cause to be corrected said default;

(4) Maintain and operate the Property, without terminating this Lease;

(5) With respect to a monetary default or material non-monetary default, terminate this Lease by written notice to Authority of its intention to do so.

SECTION 26. MISCELLANEOUS.

26.1 Governing Law. The laws of the State of California shall govern the interpretation and enforcement of this Lease.

26.2 Legal Actions. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Lease. Such legal actions must be instituted in the Superior Court of San Bernardino County, State of California, in any other appropriate court in that County, or in the Federal District Court in the Central District of California.

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

In the event that any legal action is commenced by Authority against Lessee, service of process on Lessee shall be made by personal service upon any officer of Lessee or in such other manner as may be provided by law, whether made within or without the State of California.

26.4 Attorneys' Fees And Court Costs. In the event that either Authority or Lessee shall bring or commence an action to enforce the terms and conditions of this Lease or to obtain damages against the other party arising from any default under or violation of this Lease, then the prevailing party shall be entitled to and shall be paid reasonable attorneys' fees and court costs therefor.

26.5 Inspection of Books And Records. Authority has the right (at Lessee's office, upon not less than forty-eight (48) hours' notice, and during normal business hours) to inspect the books and records of Lessee pertaining to the Property as pertinent to the purposes of this Lease. Lessee also has the right (at Authority's office, upon not less than forty-eight (48) hours' notice, and at all reasonable times) to inspect the books and records of Authority pertaining to the Property as pertinent to the purposes of this Lease.

26.6 Interest. Any amount due Authority that is not paid when due shall bear interest from the date such amount becomes due until it is paid. Interest shall be at a rate equal to the lesser of the discount rate established by the San Francisco office of the Federal Reserve Bank, plus two percent (2%), on the first day of the month such amount becomes due, and the maximum rate permitted by applicable law.

26.7 Notices. All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments or designations hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party, upon personal delivery or five (5) days after deposit within California in the United States mail, certified or registered mail, return receipt requested, postage prepaid and addressed as follows:

Authority: Montclair Housing Authority
5111 Benito Street
Montclair, California 91763
Attention: Executive Director

Lessee: Montclair Housing Corporation
5111 Benito Street
Montclair, California 91763
Attention: Executive Director

or to such other address as either party shall later designate for such purposes by written notice to the other party.

26.8 Time is of the Essence. Time is of the essence in the performance of the terms and conditions of this Lease.

26.9 Non-Merger of Fee And Leasehold Estates. If both Authority's and Lessee's estates in the Property or both become vested in the same owner, this Lease shall nevertheless not be destroyed by application of the doctrine of merger except at the express election of Authority and Lessee's Mortgagee. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not work as a merger and shall, at the option of Authority, terminate all or any existing sublease or subtenancies or may, at the option of Authority, operate as an assignment to Authority of any or all such existing subleases or subtenancies.

26.10 Holding Over. The occupancy of the Property after the expiration of the Term of this Lease shall be construed to be a tenancy from month to month, and all other terms and conditions of this Lease shall continue in full force and effect.

26.11 Conflict of Interest. No member, official or employee of Authority shall have any personal interest, direct or indirect, in this Lease nor shall any such member, official or employee participate in any decision relating to the Lease which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

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

26.12 Non-Liability of Authority Officials And Employees. No member, official or employee of Authority shall be personally liable to Lessee, or any successor in interest, in the event of any default or breach by Authority or for any amount which may become due to Lessee or successor or on any obligations under the terms of this Lease.

26.13 Relationship. The relationship between the parties hereto shall at all times be deemed to be that of landlord and tenant. The parties do not intend nor shall this Lease be deemed to create a partnership or joint venture.

26.14 Transactions with Affiliates. Lessee shall have the right to enter into transactions with subsidiaries, affiliates and other related entities for the purpose of leasing space, providing cleaning, maintenance and repair services, insurance policies and other purposes related to the use and development of the Property, provided that all such costs, charges and rents are competitive with the

costs, charges, rent and other sums which would be paid by or to, as the case may be, an unrelated third party.

26.15 Waivers And Amendments. All waivers of the provisions of this Lease must be in writing and signed by the appropriate authorities of Authority or Lessee.

The waiver by Authority of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Authority shall not be deemed to be a waiver of any preceding breach of Lessee of any term, covenant or condition of this Lease, regardless of Authority's knowledge of such preceding breach at the time of acceptance of such rent. Failure on the part of Authority to require or exact full and complete compliance with any of the covenants or conditions of this Lease shall not be construed as in any manner changing the terms hereof and shall not prevent Authority from enforcing any provision hereof. All amendments hereto must be in writing and signed by the appropriate authorities of Authority and Lessee. The Lessee's Mortgagee permitted by this Lease shall not be bound by any waiver or amendment to this Lease without Lessee's Mortgagee giving its prior written consent.

26.16 Non-Merger With Agreement. None of the terms, covenants or conditions agreed upon in writing in the Agreement and other instruments between the parties to this Lease with respect to obligations to be performed, kept or observed by Lessee or Authority in respect to the Property or any part thereof, shall be deemed to be merged with this Lease.

26.17 Duplicate Originals. This Lease is executed in three (3) duplicate originals, each of which is deemed to be an original.

26.18 Severability. If any provision of this Lease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforceable to the greatest extent permitted by law.

26.19 Terminology. All personal pronouns used in this Lease, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of sections are for convenience only, and neither limit nor amplify the provisions of the Lease itself. Except for terms expressly defined in this Lease, all terms shall have the same meaning as set forth in the Agreement.

26.20 Binding Effect. This Lease, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

26.21 Estoppel Certificate. Each of the parties shall at any time and from time to time upon not less than twenty (20) days' prior notice by the other, execute, acknowledge and deliver to such other party a statement in writing certifying that this Lease is unmodified and is in full force and effect (or if there shall have been modifications that this Lease is in full force and effect as modified and stating the modifications), and the dates to which the rent has been paid, and stating whether or not to the best knowledge of the signer of such certificate such other party is in default in performing or observing any provision of this Lease, and, if in default, specifying each such default of which the signer may have knowledge, and such other matters as such other party may reasonably request, it

being intended that any such statement delivered by Lessee may be relied upon by Authority or any successor in interest to Authority or any prospective mortgagee or encumbrancer thereof, and it being further intended that any such statement delivered by Authority may be relied upon by any prospective assignee of Lessee's interest in this Lease or any prospective mortgagee or encumbrancer thereof. Reliance on any such certificate may not extend to any default as to which the signer of the certificate shall have had no actual knowledge.

26.22 Force Majeure. The time within which Authority or Lessee is obligated herein to perform any obligation hereunder, other than an obligation that may be performed by the payment of money, shall be extended and the performance excused when the delay is caused by fire, earthquake or other acts of God, strike, lockout, acts of public enemy, riot, insurrection or other cause beyond the control of the applicable party.

26.23 Quiet Enjoyment. Landlord does hereby covenant, promise and agree to and with Tenant that Tenant, for so long as it is not in default hereof, shall and may at all times peaceable and quietly have, hold, use, occupy and possess the Property throughout the Term.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their lawfully authorized officers.

AUTHORITY:

MONTCLAIR HOUSING AUTHORITY, a public body corporate and politic

By: _____
Edward C. Starr
Authority Executive Director

LESSEE:

MONTCLAIR HOUSING CORPORATION, a California nonprofit public benefit corporation

By: _____
Edward C. Starr
Executive Director

EXHIBIT A TO ATTACHMENT NO. 2

LEGAL DESCRIPTION

That certain real property located in the State of California, County of San Bernardino, City of Montclair, and described as follows:

APN:

1009-191-01-0000

POMONA LAND AND WATER CO SUB COM AT INTERSECTION ELY LI OF MILLS AVE
AND S LI LOT 2 BLK 8 TH N 20 DEG 05 MIN 35 SECONDS E 85.96 FT TH E 105 FT TH S 20
DEG 05 MIN 35 SECONDS W 85.96 FT TO S LI SD LOT TH W TO PT BEG EX ST .18 AC M/

ATTACHMENT NO. 3

CITY DEED

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

Montclair Housing Authority
5111 Benito Street
Montclair, California 91763
Attn: Executive Director

APN: 1009-191-01-0000

[Space above for recorder.]

Exempt from recording fee and documentary transfer tax pursuant to Government Code Section 27383 and Revenue and Taxation Code Section 11928.

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the CITY OF MONTCLAIR, a municipal corporation (“Grantor”), hereby grants to the MONTCLAIR HOUSING AUTHORITY, a public body, corporate and politic, that certain real property located in the County of San Bernardino, State of California, more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

CITY OF MONTCLAIR,
a municipal corporation

By: _____

Edward C. Starr
City Manager

EXHIBIT A TO ATTACHMENT NO. 3

LEGAL DESCRIPTION

That certain real property located in the State of California, County of San Bernardino, City of Montclair, and described as follows:

APN:

1009-191-01-0000

POMONA LAND AND WATER CO SUB COM AT INTERSECTION ELY LI OF MILLS AVE
AND S LI LOT 2 BLK 8 TH N 20 DEG 05 MIN 35 SECONDS E 85.96 FT TH E 105 FT TH S 20
DEG 05 MIN 35 SECONDS W 85.96 FT TO S LI SD LOT TH W TO PT BEG EX ST .18 AC M

CERTIFICATE OF ACCEPTANCE

This is to certify that the fee interest in real property conveyed under the foregoing Grant Deed by the City of Montclair, a municipal corporation, as to the following property:

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

APN:
1009-191-01-0000

POMONA LAND AND WATER CO SUB COM AT INTERSECTION ELY LI OF MILLS AVE AND S LI LOT 2
BLK 8 TH N 20 DEG 05 MIN 35 SECONDS E 85.96 FT TH E 105 FT TH S 20 DEG 05 MIN 35 SECONDS W
85.96 FT TO S LI SD LOT TH W TO PT BEG EX ST .18 AC M

Is hereby accepted by the Executive Director of the Montclair Housing Authority (“Authority” and “Grantee”) on behalf of the governing board of the Authority pursuant to authority conferred by action of the governing board of the Authority on _____, _____, and the Grantee consents to recordation thereof by its duly authorized officer.

MONTCLAIR HOUSING AUTHORITY,
a public body, corporate and politic

By: _____
Edward C. Starr
Authority Executive Director

RESOLUTION NO. 24-3450

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

WHEREAS, Chapter 1.12 of the Montclair Municipal Code authorizes various methods by which delinquent civil debts may be collected including, but not limited to, the placement of assessments on the properties on which the debts were generated; and

WHEREAS, City Council has recently placed 566 property liens on properties on which there are delinquent civil debts for unpaid sewer and trash charges; and

WHEREAS, the lien amount was paid on 110 of these liens; and

WHEREAS, it is appropriate to also place assessments on these properties where the 390 liens remain outstanding as identified on Exhibit A of this Resolution to further encourage the payment of these charges owed to the City; and

WHEREAS, the owners of these properties have received notification of proposed actions against their properties including the date and time when such action would be considered by the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby approve the placement of assessments on the properties and in the amounts specified in Exhibit A, entitled "August 2024 - Property Assessments."

BE IT FURTHER RESOLVED that the City Clerk is authorized to provide the San Bernardino County Assessor's Office with the documents required to cause such assessments to be placed.

APPROVED AND ADOPTED this XX day of XX, 2024.

Mayor

ATTEST:

City Clerk

I, Andrea M. Myrick City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 24-3450 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, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk

**Exhibit A to Resolution No. 24-3450
August 2024 - Property Assessments**

Street No.	Account Type	Street	Lien 1	Lien 2	Lien 3	Total Assessment Amount
11141	Residential	Ada Avenue	372.15	390.66		762.81
11225	Residential	Ada Avenue	382.70	401.59	405.14	1,189.43
5366	Senior	Alamitos Street	391.42			391.42
5389	Senior	Alamitos Street	337.04			337.04
9757	Residential	Amherst Avenue	392.84	404.17		797.01
9910	Residential	Amherst Avenue	392.84	404.17		797.01
9960	Residential	Amherst Avenue	393.46	404.25		797.71
10065	Residential	Amherst Avenue	285.48	405.57		691.05
11141	Residential	Amherst Avenue	392.20	401.59	405.14	1,198.93
4238	Residential	Appaloosa Way	573.87			573.87
10532	Residential	Arabian Place	384.30			384.30
5105	Residential	Aspen Drive	535.11			535.11
4624	Multifamily	Bandera Street	670.56			670.56
4860	Multifamily	Bandera Street	354.44			354.44
5207	Residential	Bandera Street	442.38			442.38
5211	Residential	Bandera Street	419.55			419.55
5215	Residential	Bandera Street	369.55			369.55
5633	Residential	Bandera Street	449.78			449.78
5663	Residential	Bandera Street	358.88			358.88
9909	Residential	Bel Air Avenue	393.00	404.19		797.19
9910	Residential	Bel Air Avenue	303.74	394.37		698.11
10045	Residential	Bel Air Avenue	393.77	404.28		798.05
10145	Residential	Bel Air Avenue	392.20	401.59	405.14	1,198.93
10545	Residential	Belgian Place	403.98			403.98
10551	Residential	Belgian Place	307.76			307.76
5218	Residential	Belvedere Way	303.48			303.48
5219	Residential	Belvedere Way	426.33			426.33
4460	Residential	Benito Street	539.24	420.27		959.51
4553	Residential	Benito Street	368.66			368.66
4814	Senior	Benito Street	369.49	369.98		739.47
4824	Residential	Benito Street	789.12	447.76		1,236.88
5206	Commercial	Benito Street	398.38	421.33		819.71
5429	Residential	Benito Street	392.84	404.17		797.01
5598	Residential	Benito Street	423.70	435.12		858.82
4594	Residential	Benson Avenue	397.28	439.33		836.61
9590	Senior	Benson Avenue	512.81	413.30		926.11
4843	Residential	Berkeley Street	392.84	404.17		797.01
5353	Residential	Berkeley Street	421.03	452.34		873.37
5392	Residential	Berkeley Street	343.68	398.77		742.45
5011	Residential	Birch Street	382.76			382.76
4532	Residential	Bodega Court	486.25			486.25
9543	Residential	Bolton Avenue	525.33	418.75		944.08
9598	Residential	Bolton Avenue	392.84	404.17		797.01
4541	Residential	Bonnie Brae Street	392.84	404.17		797.01
4576	Residential	Bonnie Brae Street	346.27	399.06		745.33
5450	Residential	Bonnie Brae Street	396.21			396.21
5369	Commercial	Brooks Street	439.08			439.08
11339	Residential	Brunswick Lane	402.54	421.87		824.41
11419	Residential	Brunswick Lane	409.69			409.69
9851	Residential	Camarena Avenue	392.84	404.17		797.01
10401	Residential	Camarena Avenue	400.02			400.02
4443	Residential	Cambridge Street	392.88	404.18		797.06
5448	Residential	Cambridge Street	490.35	383.28		873.63
5470	Residential	Cambridge Street	392.84	404.17		797.01
5471	Residential	Cambridge Street	392.84	404.17		797.01
5561	Residential	Cambridge Street	415.42	406.66		822.08

**Exhibit A to Resolution No. 24-3450
August 2024 - Property Assessments**

Street No.	Account Type	Street	Lien 1	Lien 2	Lien 3	Total Assessment Amount
5645	Residential	Cambridge Street	626.72			626.72
9243	Residential	Camulos Avenue	392.84	404.17		797.01
9426	Residential	Camulos Avenue	423.70	435.12		858.82
9433	Residential	Camulos Avenue	343.83	398.78		742.61
9511	Residential	Camulos Avenue	423.70	435.12		858.82
9540	Residential	Camulos Avenue	423.87	435.14	436.38	1,295.39
9877	Residential	Camulos Avenue	423.70	435.12		858.82
10060	Residential	Camulos Avenue	389.25			389.25
10234	Residential	Camulos Avenue	392.21	401.59	405.14	1,198.94
10259	Residential	Camulos Avenue	414.04	421.50	424.84	1,260.38
11409	Residential	Cannery Row	410.26			410.26
4912	Residential	Canoga Street	291.53			291.53
4924	Residential	Canoga Street	392.20	401.59	405.14	1,198.93
5666	Residential	Caroline Street	392.84	404.17		797.01
11178	Residential	Carrillo Avenue	392.20	401.59	405.14	1,198.93
9845	Residential	Central Avenue	545.59			545.59
4337	Residential	Clair Street	425.49	432.80	436.12	1,294.41
4241	Residential	Clydesdale Way	331.02	398.25		729.27
4303	Residential	Clydesdale Way	443.83	409.78		853.61
9795	Residential	Coalinga Avenue	392.84	404.17		797.01
9824	Senior	Coalinga Avenue	367.31	380.22		747.53
10164	Residential	Coalinga Avenue	392.20	401.59	405.14	1,198.93
10231	Residential	Coalinga Avenue	385.84	400.88	405.06	1,191.78
11148	Residential	Coalinga Avenue	392.20	401.59	405.14	1,198.93
11465	Residential	Cobblestone Lane	408.52			408.52
11207	Residential	College Avenue	359.05			359.05
11362	Residential	Cumberland Lane	400.64	421.62		822.26
11373	Residential	Cumberland Lane	402.88	421.93		824.81
11438	Residential	Cumberland Lane	452.33			452.33
11469	Residential	Cumberland Lane	402.56	421.88		824.44
11333	Residential	Dartmouth Lane	400.64	421.62		822.26
10190	Residential	Del Mar Avenue	392.20	401.59	405.14	1,198.93
10236	Residential	Del Mar Avenue	392.14	401.57	405.14	1,198.85
4405	Residential	Denver Street	423.70	435.12		858.82
5427	Residential	Denver Street	525.33	418.75		944.08
5616	Residential	Denver Street	392.84	404.17		797.01
5626	Residential	Denver Street	423.70	435.12		858.82
4512	Residential	Donner Court	311.61	368.66		680.27
5168	Residential	El Morado Street	430.66			430.66
5429	Residential	El Morado Street	392.84	404.17		797.01
11159	Residential	Essex Avenue	392.20	401.59	405.14	1,198.93
4705	Residential	Ewart Street	392.25	401.60	405.14	1,198.99
9463	Residential	Exeter Avenue	320.15	396.18		716.33
4114	Residential	Faircove Court	410.80			410.80
4219	Residential	Fauna Street	392.18	401.59	405.14	1,198.91
4256	Residential	Fauna Street	411.89	406.27		818.16
4267	Residential	Fauna Street	379.63	400.20		779.83
4291	Residential	Fauna Street	392.20	401.59	405.14	1,198.93
4703	Residential	Fauna Street	392.20	401.59	405.14	1,198.93
4774	Senior	Fauna Street	490.90			490.90
4852	Residential	Fauna Street	392.20	401.59	405.14	1,198.93
5420	Residential	Fauna Street	358.88	397.92	404.73	1,161.53
8936	Residential	Felipe Avenue	410.75			410.75
9367	Residential	Felipe Avenue	394.27	404.34		798.61
9378	Residential	Felipe Avenue	535.11			535.11
10260	Residential	Felipe Avenue	380.58	400.31	405.00	1,185.89

**Exhibit A to Resolution No. 24-3450
August 2024 - Property Assessments**

Street No.	Account Type	Street	Lien 1	Lien 2	Lien 3	Total Assessment Amount
8919-21	Multifamily	Felipe Avenue	714.39	733.17	740.28	2,187.84
8947-49	Multifamily	Felipe Avenue	354.44			354.44
4639	Senior	Flora Street	426.03			426.03
4660	Senior	Flora Street	392.20	604.89		997.09
4704	Residential	Flora Street	332.16	444.54		776.70
5370	Residential	Flora Street	540.75			540.75
5382	Residential	Flora Street	364.61			364.61
9020	Senior	Fremont Avenue	388.51	399.62		788.13
9729	Residential	Fremont Avenue	358.88			358.88
9823	Residential	Fremont Avenue	392.84	404.17		797.01
10253	Residential	Fremont Avenue	392.20	401.59	405.14	1,198.93
10287	Residential	Fremont Avenue	423.01	432.53	436.09	1,291.63
11049	Residential	Fremont Avenue	406.56			406.56
9771	Residential	Galena Avenue	589.62			589.62
9985	Residential	Geneva Avenue	392.84	404.17		797.01
4328	Residential	Granada Street	392.84	404.17		797.01
4155	Residential	Grand Avenue	397.00	311.15		708.15
3792	Residential	Hampton Drive	402.54	421.87		824.41
11335	Residential	Hartford Lane	271.33			271.33
4376	Senior	Harvard Street	392.84	404.17		797.01
4418	Residential	Harvard Street	392.84	404.17		797.01
4430	Residential	Harvard Street	402.16	405.20		807.36
4883	Residential	Harvard Street	390.77			390.77
5430	Residential	Harvard Street	540.43	420.41		960.84
5141-43	Multifamily	Harvard Street	715.69	738.35		1,454.04
4522	Residential	Hawthorne Street	358.88			358.88
5584	Residential	Hawthorne Street	535.11			535.11
9045	Residential	Helena Avenue	372.87			372.87
5064	Commercial	Holt Blvd.	594.76			594.76
4103	Residential	Howard Street	392.20	401.59	405.14	1,198.93
4341	Residential	Howard Street	406.65	403.18	405.31	1,215.14
4705	Residential	Howard Street	402.54	421.87		824.41
5190	Multifamily	Howard Street A & B	784.36	807.23		1,591.59
4585	Residential	James Street	423.70	435.12		858.82
9877	Residential	Kimberly Avenue	418.92	430.84		849.76
10209	Residential	Kimberly Avenue	389.76			389.76
10244	Residential	Kimberly Avenue	403.79	405.38		809.17
11065	Residential	Kimberly Avenue	392.20	401.59		793.79
11175	Residential	Kimberly Avenue	685.89	436.41		1,122.30
4671	Multifamily	Kingsley Street	354.44			354.44
5476	Residential	Kingsley Street	483.39	452.02		935.41
5141-43	Multifamily	Kingsley Street	689.27	354.44		1,043.91
5400	Residential	La Deney Street	357.39	368.65		726.04
5015	Residential	Laurel Street	415.72	420.80	423.88	1,260.40
10360-62	Multifamily	Lehigh Avenue	714.39	733.17	740.28	2,187.84
9958	Residential	Lindero Avenue	501.41	416.12		917.53
10042	Residential	Lindero Avenue	393.00	404.19		797.19
4414	Residential	Mane Street	435.24			435.24
4428	Residential	Mane Street	333.40	397.64		731.04
4595	Residential	Mane Street	392.15	401.59	405.14	1,198.88
4839	Residential	Mane Street	405.14			405.14
9527	Residential	Marion Avenue	392.84	404.17		797.01
9528	Residential	Marion Avenue	278.23			278.23
11336	Residential	Marquette Lane	408.26			408.26
11442	Residential	Marquette Lane	410.39			410.39
4444	Residential	Merle Street	519.07			519.07

**Exhibit A to Resolution No. 24-3450
August 2024 - Property Assessments**

Street No.	Account Type	Street	Lien 1	Lien 2	Lien 3	Total Assessment Amount
9121	Residential	Mills Avenue	368.66	401.52		770.18
9595	Residential	Mills Avenue	435.12			435.12
9745	Residential	Mills Avenue	840.67	453.44		1,294.11
9857	Residential	Mills Avenue	368.66			368.66
10189	Residential	Mills Avenue	521.47			521.47
10231	Residential	Mills Avenue	392.20	401.59	405.14	1,198.93
3796	Residential	Millstone Lane	377.63			377.63
11458	Residential	Millstone Lane	410.14			410.14
5239	Residential	Monte Verde Street	392.15	401.59	405.14	1,198.88
9721	Residential	Monte Vista Avenue	323.82	271.58		595.40
5616	Residential	Moreno Street	514.23			514.23
5136	Commercial	N Plaza Lane	868.65			868.65
10163	Senior	Oak Glen Avenue	357.14	366.10	369.61	1,092.85
4595	Residential	Oakdale Street	392.16	401.59	405.14	1,198.89
4644	Residential	Olive Street	369.06	428.07		797.13
5032	Residential	Orchard Street	423.71	435.12		858.83
5171	Senior	Orchard Street	385.97	369.28	369.96	1,125.21
5422	Residential	Orchard Street	392.20	401.59	405.14	1,198.93
5471	Residential	Orchard Street	390.12	271.55		661.67
5640	Residential	Orchard Street	1,048.88			1,048.88
5690	Residential	Orchard Street	392.84	404.17		797.01
4838	Residential	Phillips Blvd.	403.78			403.78
4996	Residential	Phillips Blvd.	314.61			314.61
9925	Residential	Poulsen Avenue	392.84	404.17		797.01
9991	Residential	Poulsen Avenue	401.49			401.49
9375	Multifamily	Pradera Avenue	1,439.28	670.56		2,109.84
10074	Residential	Pradera Avenue	438.17	436.72		874.89
10206	Residential	Pradera Avenue	392.20	401.59	405.14	1,198.93
4426	Residential	Princeton Street	392.87	404.18		797.05
9109	Residential	Ramona Avenue	369.03			369.03
9587	Residential	Ramona Avenue	392.84	404.17		797.01
10080	Residential	Ramona Avenue	400.44	358.88		759.32
10654-60	Commercial	Ramona Avenue	355.97			355.97
4668	Residential	Rawhide Street	532.60	419.55		952.15
8981	Commercial	Rose Avenue	291.57			291.57
9413	Residential	Rose Avenue	454.55	466.07		920.62
9434	Residential	Rose Avenue	392.84	404.17		797.01
9866	Senior	Rose Avenue	357.65	368.68		726.33
4683	Residential	Rosewood Street	392.84	404.17		797.01
11076	Residential	Roswell Avenue	402.72			402.72
5432	Residential	Rudisill Street	410.32			410.32
4711	Residential	San Bernardino Street	392.84	404.17		797.01
4749	Residential	San Bernardino Street	408.74	405.92		814.66
4834	Residential	San Bernardino Street	368.66			368.66
4843	Residential	San Bernardino Street	520.62			520.62
5216	Residential	San Bernardino Street	392.84	404.17		797.01
5489	Residential	San Bernardino Street	429.69	442.00		871.69
5528	Residential	San Bernardino Street	426.23			426.23
5412	Residential	San Jose Street	368.66			368.66
5422	Residential	San Jose Street	423.70	435.12		858.82
5593	Residential	San Jose Street	330.43			330.43
4424	Residential	San Jose Street #14	449.56			449.56
4424	Residential	San Jose Street #18	394.21	404.32		798.53
4424	Residential	San Jose Street #34	479.63			479.63
4622	Residential	San Jose Street O	402.83			402.83

**Exhibit A to Resolution No. 24-3450
August 2024 - Property Assessments**

Street No.	Account Type	Street	Lien 1	Lien 2	Lien 3	Total Assessment Amount
4622	Residential	San Jose Street R	443.09			443.09
11020	Residential	San Pasqual Avenue	392.20	401.59	405.14	1,198.93
10016	Residential	Santa Anita Avenue	394.84	668.74		1,063.58
10183	Residential	Santa Anita Avenue	424.59	432.70	436.11	1,293.40
10221	Residential	Santa Anita Avenue	394.04	401.78	405.16	1,200.98
9825	Residential	Saratoga Avenue	368.66			368.66
9830	Residential	Saratoga Avenue	568.75			568.75
5538	Residential	Shirley Lane	532.60	419.55		952.15
11011	Residential	Stallion Avenue	396.43	402.05	405.19	1,203.67
5131	Residential	Sundance Drive	285.94			285.94
5134	Residential	Sundance Drive	276.49			276.49
9617	Residential	Surrey Avenue	392.84	404.17		797.01
9554	Senior	Tudor Avenue	499.01	388.83		887.84
9773	Residential	Tudor Avenue	386.43	431.02		817.45
10289	Residential	Tudor Avenue	392.20	401.59	405.14	1,198.93
10427	Senior	Tudor Avenue	356.92			356.92
9784	Residential	Vernon Avenue	358.88	400.44		759.32
10115	Residential	Vernon Avenue	392.35			392.35
10236	Residential	Vernon Avenue	392.35	401.61	405.14	1,199.10
10438	Residential	Via Palma	304.28	394.44		698.72
11053	Residential	Wesley Avenue	392.20	401.59	405.14	1,198.93
10995	Senior	Whitewater Avenue	576.02			576.02
11178	Residential	Whitewater Avenue	392.20	401.59	405.14	1,198.93
11263	Residential	Whitewater Avenue	358.88			358.88
5013	Residential	Willow Street	568.49			568.49
5405	Residential	Yale Street	392.87	404.18		797.05
4515	Residential	Yosemite Drive	424.30	405.12	405.52	1,234.94
10472	Residential	Yosemite Drive	370.00			370.00
					TOTAL:	\$193,000.64



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** TRN510
SECTION: CONSENT - RESOLUTIONS **DEPT.:** PUBLIC WORKS
ITEM NO.: 3 **PREPARER:** M. HEREDIA
SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 24-3451 ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS FOR FISCAL YEARS 2025-26 THROUGH 2029-30

CONSIDER ADOPTION OF RESOLUTION NO. 24-3452 ADOPTING THE MEASURE I FIVE-YEAR LOCAL STREET CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEARS 2025-26 THROUGH 2029-30

REASON FOR CONSIDERATION: The San Bernardino County Transportation Authority (SBCTA) requires each local jurisdiction to annually update its Five-Year Capital Project Needs Analysis (CPNA) and Local Street Capital Improvement Program (CIP).

Copies of proposed Resolution Nos. 24-3451 and 24-3452 adopting the five-year CPNA and five-year CIP, respectively, are attached for City Council review and consideration.

BACKGROUND: Measure I, the 2010-2040 countywide transportation sales tax program, requires that each local jurisdiction applying for funds from the Valley Major Street and Valley Freeway Interchange Programs annually adopt and update Five-Year CPNAs and CIPs. The CPNA differs from the Measure I CIP in that the CPNA contains only projects that are included in SBCTA's Nexus Study Program. Projects in the CPNA typically include freeway interchange projects, arterial widening projects, and grade separation projects. Project funding also includes contributions from developers through the regional Development Impact Fee Program. The CPNA projects in the City of Montclair that make use of the Valley Major Street and Freeway Interchange Program funds include the reconstruction of the Monte Vista Avenue/I-10 Freeway Interchange Project and the Monte Vista/Union Pacific Grade Separation Project. The CIP list identifies the projects which will be funded by the local pass-through program.

FISCAL IMPACT: There is no immediate fiscal impact to the City with the adoption of Resolution Nos. 24-3451 and 24-3452. The CPNA, as its name implies, is a needs analysis allowing SBCTA to prioritize transportation improvement needs throughout the County. Having projects listed in the CPNA is not a guarantee that funds would be made available when needed, but failure to have a project listed would further delay funding until the project is listed. Measure I Local Pass-Through Program funds are received monthly and fund the projects listed on the Local Street Program. The City has been successful expediting construction of major infrastructure and utilized the available loan program from SBCTA to accelerate construction of improvements needed along Monte Vista Avenue. Future revenues from the SBCTA program will be used to pay the loan.

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

1. Adopt Resolution No. 24-3451 adopting the Measure I Five-Year Capital Project Needs Analysis for Fiscal Years 2025-26 through 2029-30; and
2. Adopt Resolution No. 24-3452 adopting the Measure I Five-Year Local Street Capital Improvement Program for Fiscal Years 2025-26 through 2029-30.

RESOLUTION NO. 24-3451

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECTS NEEDS ANALYSIS FOR FISCAL YEARS 2025/2026 THROUGH 2029/2030

WHEREAS, San Bernardino County voters approved passage of Measure I in November 2004, authorizing the San Bernardino County Transportation Authority to impose a one-half of one percent retail transactions and use tax applicable in the incorporated and unincorporated territory of the County of San Bernardino; and

WHEREAS, revenue from the tax can only be used for transportation improvement and traffic management programs authorized in the Expenditure Plans set forth in Ordinance No. 04-1 of the Authority; and

WHEREAS, the Strategic Plan requires each local jurisdiction applying for revenue from certain Measure I Programs to annually adopt and update a Five-Year Capital Project Needs Analysis; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby adopts the Measure I Five-Year Capital Project Needs Analysis for Fiscal Years 2025/2026 through 2029/2030, a copy of which is attached to this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2024.

ATTEST:

Mayor

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 24-3451 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, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk

Capital Project Needs Analysis									
City of Montclair									
Valley Arterial Sub-Program									
Project Information									
Nexus Project Cost \$	32,219,539								
Dev. Loan?	Yes								
5-Year Advance?	No								
Public Share:	81.1%								
Dev. Share:	18.90%								
Phase	Funding	PRIOR*	FY 25/26	FY 26/27	FY 27/28	FY 28/29	FY 29/30	FUTURE	
PA&E									
Total Cost:	\$883,600.00								
Fund	MSI Arterial \$								
	MI VFI \$	670,652.00							
	DEV FEE \$	212,948.00							
	- Select Fund -								
	Other:								
P&S&E									
Total Cost:	\$1,431,689.00								
Fund	MSI Arterial \$								
	MI VFI \$	985,813.00							
	DEV FEE \$	256,588.00							
	OTHER \$	189,288.00							
	Other:								
ROW									
Total Cost:	\$2,940,367.00								
Fund	MSI Arterial \$								
	MI VFI \$	2,231,739.00							
	DEV FEE \$	708,628.00							
	- Select Fund -								
	Other:								
CONST									
Total Cost:	\$26,963,882.84								
Fund	MSI Arterial \$								
	MI VFI \$	20,003,202.00							
	DEV FEE \$	2,982,821.04							
	DEV LOAN \$	80,193.80							
	- Select Fund -								
	- Select Fund -								
	Other:								

*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including anticipated FY 2023/2024 expense(s).

RESOLUTION NO. 24-3452

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADOPTING THE MEASURE I FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM AND EXPENDITURE STRATEGY FOR FISCAL YEAR 2025-26 TO FISCAL YEAR 2029-30

WHEREAS, San Bernardino County voters approved passage of Measure I in November 2004, authorizing the San Bernardino County Transportation Authority (SBCTA) to impose a one-half of one percent retail transactions and use tax applicable in the incorporated and unincorporated territory of the County of San Bernardino; and

WHEREAS, revenue from the tax can only be used for transportation improvement and traffic management programs authorized in the Expenditure Plans set forth in Ordinance 04-01 of the Authority, and

WHEREAS, the SBCTA's Measure I Strategic Plan requires each local jurisdiction applying for revenue from the Local Streets Program to annually adopt and update a Five-Year Capital Improvement Plan; and

WHEREAS, California Public Utilities Code 190300 and Ordinance No. 04-1 require each local jurisdiction to maintain General Fund expenditures for transportation-related construction and maintenance activities at the required Maintenance of Effort base year level in each fiscal year of the adopted Five-Year Capital Improvement Plan, which for the City of Montclair is \$894,728.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Montclair hereby adopts the Measure I Five-Year Capital Improvement Program and Expenditure Strategy for Fiscal Year 2025-26 to Fiscal Year 2029-30 attached to this resolution.

APPROVED AND ADOPTED this XX day of XX, 2024.

Mayor

ATTEST:

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 24-3452 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, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk

CITY OF MONTCLAIR

MEASURE I CAPITAL IMPROVEMENT PLAN

EXPENDITURE STRATEGY

Fiscal Year 2025/2026 to Fiscal Year 2029/2030

The City of Montclair plans on using Measure I as matching funds for federal funds associated with the design and construction of the Central Avenue Bridge at the Union Pacific Railroad tracks. The funds will also be utilized to service the I-10/Monte Vista Interchange Term Loan Agreements in place. The City also intends to expend Measure I funds on maintenance of City streets to the extent permissible under SBCTA policies.

Resolution Number:	24-2454
Resolution Approval Date:	8/19/2024
Contact Person/Title:	Monica Heredia, Public Works Director
Phone:	909-825-9441
Email:	mheredia@cityofmontclair.org

Measure I Local Pass-through Program
FIVE YEAR CAPITAL IMPROVEMENT PLAN
 Fiscal Years 2024/2025 thru 2028/2029

Jurisdiction:
Montclair

Projects:	Is Project in City's Non-motorized Transportation Plan? (Yes/No)	Does Project Rise in A/T/P Component? (Yes/No)	Is the Project on the City's News Study List? (Public/Not Public)	Estimated Total Project Cost	FY2024/25 Est. Revenue		FY2025/26 Est. Revenue		FY2026/27 Est. Revenue		FY2027/28 Est. Revenue		FY2028/29 Est. Revenue		Total Est. Rev.
					Current Estimate	Estimate	Current Estimate	Estimate	Current Estimate	Estimate	Current Estimate	Estimate	Current Estimate	Estimate	
Central Avenue Bridge - Consultant Services	No	No	0.0%	\$33,552,355	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$1,250,000
Central Avenue Bridge - Local Match	No	No	0.0%	\$2,000,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$500,000
I-10/Monte Vista Interchange Term Loan Agreement	No	No	0.0%	\$32,219,539	\$279,748	\$351,509	\$380,067	\$408,107	\$984,276	\$984,276	\$984,276	\$984,276	\$984,276	\$984,276	\$2,413,007
Street Rehabilitation Projects			0.0%	\$0	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$3,500,000
			0.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
			0.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
			0.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
			0.0%	\$0	\$1,329,748	\$1,401,609	\$1,430,067	\$1,458,107	\$2,044,276	\$2,044,276	\$2,044,276	\$2,044,276	\$2,044,276	\$2,044,276	\$7,663,007
Projects Total:					\$1,329,748	\$1,401,609	\$1,430,067	\$1,458,107	\$2,044,276	\$2,044,276	\$2,044,276	\$2,044,276	\$2,044,276	\$2,044,276	\$7,663,007
Total Programming is currently					148%		Total Estimated Programming:		Total Estimated Programming:		Total Estimated Programming:		Total Estimated Programming:		\$7,663,007
					<i>(Must not exceed 150% of Carryover Balance + Total Estimated Revenue)</i>										



CITY COUNCIL AGENDA REPORT

DATE: AUGUST 19, 2024 **FILE I.D.:** STG250/FIN250-A
SECTION: CONSENT - RESOLUTIONS **DEPT.:** FINANCE
ITEM NO.: 4 **PREPARER:** J. KULBECK

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 24-3454 DESIGNATING AUTHORIZED AGENTS OF THE CITY OF MONTCLAIR FOR CALIFORNIA OFFICE OF EMERGENCY SERVICES (CAL OES) PUBLIC ASSISTANCE GRANTS

CONSIDER APPPROVING FOR SUBMITTAL THE CAL OES FORM 130 UPDATING THE CITY'S AUTHORIZED AGENTS

REASON FOR CONSIDERATION: On March 16, 2020, the City Council approved Resolution No. 20-3263 declaring that a local public health emergency exists in the City of Montclair, and by that Resolution the City Council started the processes required to receive state and federal funding assistance for expenses related to the COVID-19 pandemic. On April 20, 2020 the City Council approved Resolution No. 20-3264 designating authorized agents for California Governor's Office of Emergency Services (CAL OES) Public Assistance Grants. Resolutions designating authorized agents should be renewed every three years and/or if there is a change in the authorized agents.

BACKGROUND: The Cal OES Designation of Applicant's Agent Resolution (Cal OES Form 130) designates the agents authorized to submit applications for the purpose of obtaining federal financial assistance, under (1) the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, as administered by the Federal Emergency Management Agency (FEMA); and/or (2) state financial assistance made available under the California Disaster Assistance Act, as administered by the Governor's Office of Emergency Service (Cal OES). A Cal OES Form 130 is required of all applicants to be eligible to receive funding. Staff recommends that the form designate agents by title, instead of specific names, and be effective for all open and future disasters declared by the state or federal government for up to three years following the date of approval by City Council to expedite the process in the future. It is recommended that the following change be made to the authorized agents: remove Finance Manager and add Director of Finance.

FISCAL IMPACT: Adoption of the resolution will permit the City to obtain financial assistance for all open and future disasters declared by the state or federal government up to three (3) years following the date of approval.

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

1. Adopt Resolution No. 24-3454 designating authorized agents of the City of Montclair for California Office of Emergency Services (Cal OES) Public Assistance Grants
2. Approve for submittal the Cal OES Form 130 updating the City's authorized agents.

RESOLUTION NO. 24-3454

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR DESIGNATING AUTHORIZED AGENTS FOR CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES (CAL OES) PUBLIC ASSISTANCE GRANTS

WHEREAS, in the event of an emergency declaration by the President of the United States or the Governor of the State of California; and

WHEREAS, federal financial assistance is made available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 and administered by the Federal Emergency Management Agency (FEMA), and state financial assistance is made available under the California Disaster Assistance Act and administered by the Governor's Office of Emergency Service (Cal OES); and

WHEREAS, in order to be eligible for public assistance, the City of Montclair must designate the appropriate application agents, titles only, to engage with FEMA or Cal OES by resolution and file Cal OES Form 130 with the Governor's Office of Emergency Services,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair designate the following agents, titles only, to engage with the Federal Emergency Management Agency and the Governor's Office of Emergency Services as follows:

- 1. City Manager
- 2. Police Chief
- 3. Director of Finance

This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval. The City Clerk is authorized to complete any forms and undertake any other actions required to implement this resolution.

APPROVED AND ADOPTED this XX day of XX, 2024.

ATTEST:

Mayor

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 24-3454 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, 2024, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk

**DESIGNATION OF APPLICANT'S AGENT RESOLUTION
FOR NON-STATE AGENCIES**

BE IT RESOLVED BY THE City Council OF THE City of Montclair
(Governing Body) (Name of Applicant)

THAT City Manager, OR
(Title of Authorized Agent)

Police Chief, OR
(Title of Authorized Agent)

Director of Finance
(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the City of Montclair, a public entity
(Name of Applicant)

established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the City of Montclair, a public entity established under the laws of the State of California,
(Name of Applicant)

hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

- This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval below.
- This is a disaster specific resolution and is effective for only disaster number(s) _____

Passed and approved this 19th day of August, 2024

Javier John Dutrey, Mayor
(Name and Title of Governing Body Representative)

Tenice Johnson, Mayor Pro Tem
(Name and Title of Governing Body Representative)

William Ruh, Council Member
(Name and Title of Governing Body Representative)

CERTIFICATION

I, Andrea M. Myrick, duly appointed and City Clerk of
(Name) (Title)

City of Montclair, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the City Council of the City of Montclair
(Governing Body) (Name of Applicant)

on the 19th day of August, 2024.

(Signature)

City Clerk
(Title)

Cal OES Form 130 Instructions

A Designation of Applicant's Agent Resolution for Non-State Agencies is required of all Applicants to be eligible to receive funding. A new resolution must be submitted if a previously submitted Resolution is older than three (3) years from the last date of approval, is invalid or has not been submitted.

When completing the Cal OES Form 130, Applicants should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the group responsible for appointing and approving the Authorized Agents.
Examples include: Board of Directors, City Council, Board of Supervisors, Board of Education, etc.

Name of Applicant: The public entity established under the laws of the State of California. Examples include: School District, Office of Education, City, County or Non-profit agency that has applied for the grant, such as: City of San Diego, Sacramento County, Burbank Unified School District, Napa County Office of Education, University Southern California.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the Governor's Office of Emergency Services regarding grants applied for by the Applicant. There are two ways of completing this section:

1. **Titles Only:** If the Governing Body so chooses, the titles of the Authorized Agents would be entered here, not their names. This allows the document to remain valid (for 3 years) if an Authorized Agent leaves the position and is replaced by another individual in the same title. If "Titles Only" is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency and does not require the Governing Body's signature.
2. **Names and Titles:** If the Governing Body so chooses, the names **and** titles of the Authorized Agents would be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving Board Members.
Examples include: Chairman of the Board, Director, Superintendent, etc. The names and titles **cannot** be one of the designated Authorized Agents, and a minimum of two or more approving board members need to be listed.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval.
Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person **cannot** be one of the designated Authorized Agents or Approving Board Member (if a person holds two positions such as City Manager and Secretary to the Board and the City Manager is to be listed as an Authorized Agent, then the same person holding the Secretary position would sign the document as Secretary to the Board (not City Manager) to eliminate "Self Certification.")

MINUTES OF THE REGULAR MEETING OF THE PUBLIC WORKS COMMITTEE HELD ON THURSDAY, APRIL 18, 2024, AT 4 P.M. IN THE THEATER CONFERENCE ROOM, 9955 FREMONT AVENUE, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Chair Johnson called the meeting to order at 4:01 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Johnson (Chair); Council Member Martinez (Committee Member); Director of Public Works/City Engineer Heredia; Executive Director of Engineering/Major Projects Manager Hoerning; Director of Community Development Diaz; Project Manager Ortega; Police Chief Reed; Associate Engineer Stevenson

Absent: City Manager Starr arrived at 4:25 p.m. due to a prolonged meeting.
Director of Economic Development Agency Fuentes arrived at 4:39 p.m. due to a prolonged meeting.

III. APPROVAL OF MINUTES

The Committee approved the minutes for the meeting held on January 18, 2024.

IV. PUBLIC COMMENT — None

V. PUBLIC WORKS DEPARTMENT UPDATES/ITEMS

A. OPERATIONS

1. MAINTENANCE ACTIVITIES

An Operations Activities Report for January, February, and March 2024 was included with the agenda. There were no issues with the reports.

2. ADDITIONAL ITEMS — None

B. FACILITIES

1. MAINTENANCE ACTIVITIES

A Facilities Activities Report for January, February, and March 2024 was included with the agenda. There were no questions or issues with the report.

2. ADDITIONAL ITEMS — None

C. ENGINEERING DIVISION

1. TKE Engineering, Inc. On-Call Services

Executive Director of Engineering/Major Projects Manager Hoerning stated that there is about \$12M invested into capital projects around the City and expressed gratitude toward the City Council for recently approving the On-Call Inspection Services agreement which will help the department's lone inspector continue to inspect those projects throughout the next fiscal year.

2. Tree Planting Events

The City partnered with Sustainable Claremont and hosted three separate tree planting events at Saratoga Park, the Pacific Electric Trail, and Reeder Ranch in February and March. Two more events are planned over the coming weeks. Sustainable Claremont is interested in partnering again next year to plant and donate more trees to the City.

3. Arbor Day

One of the aforementioned tree planting events will take place on April 26th which is National Arbor Day at Sunset Park.

4. Library & Fire Station Remodels

Both projects are currently in the design phase.

The remodel of the library restrooms includes making the existing restrooms ADA compliant and adding two new restrooms. The design is complete and under review. Staff expects to bring the plans before the City Council within the next 1-2 months.

Fire Station #1 and #2 remodel will revamp the dormitory rooms, kitchen, locker rooms, and restrooms. There will be separate male and female locker rooms.

VI. POLICE DEPARTMENT UPDATE/ITEMS — None

VII. COMMUNITY DEVELOPMENT DEPARTMENT PROJECT UPDATES/ITEMS

Director of Community Development Diaz announced that Code Enforcement has hired an Administrative Specialist, a newly created position, which will help relieve some of the workload from the current Community Development Administrative Specialist.

A new Code Enforcement officer was also recently hired and is currently going through background check.

Interviews for the open Plan Checker position were completed and the applicant has accepted the position. Interviews for a Building Official are scheduled for next week.

A major cleanup was done at the San Antonio Creek Trail. The bridge on Holt Boulevard was reinforced with temporary fencing to prevent tunneling.

Director of Community Development Diaz gave status updates on various smaller development projects around the city and reported that everything is going according to schedule.

VIII. CAPITAL PROJECT UPDATES

A. LOCAL PROJECTS

1. Reeder Ranch Park

Project Manager Ortega reports that the project is about 60% complete. Installation of the playground will begin next week, followed by landscaping and irrigation installation. The murals were covered with an anti-graffiti coat of paint to preserve the artwork.

2. Reeder Ranch House Painting

Since lead was found on the exterior surfaces of the house, Associate Engineer Stevenson is now consulting with experts to find a cost-efficient solution. Project Manager Ortega intends to time the project completion date so that the grand opening of the Reeder Ranch House and the Reeder Ranch Park can occur simultaneously.

3. Sunset Park Beautification

Executive Director of Engineering/Major Projects Manager Hoerning reiterated that the tree planting event at Sunset Park will be on Friday, April 26th and warns the public that it is still an active construction zone and to take caution. She gave updates on various features around the park despite poor weather conditions adding challenges to the project's completion schedule. Caltrans granted the City a six-month extension past the June 30th deadline.

4. Retroreflective Signal Backplate Installation

Associate Engineer Stevenson reported that the City received an updated traffic control plan for installation and certificate of liability. Once the contractor submits their encroachment and construction applications, the City can issue permits so work can commence. The intersections that will be affected are as follows: Palo Verde & Fremont, Richton & Transcenter, Monte Vista & Brooke, Mission & Fremont, State Street & Greenwood, and San Bernardino & Fremont.

5. Alleyway Improvements

Associate Engineer Stevenson is collaborating with the contractor to coordinate the sequencing of construction in the alleyways to minimize the impact it will have on residents. Construction work is anticipated to begin in approximately six weeks.

6. Arrow/Fremont Intersection Improvements

Executive Director of Engineering/Major Projects Manager Hoerning reports that Gentry Brothers has completed most of the underground improvements and are now working on traffic signal improvements. Village Partners requested Gentry Brothers to temporarily move away from the project site

before sidewalk and gutters are constructed so that they can complete underground infrastructure needed to support Village Partner's development. Both contractors and City staff have agreed to grant the request. The work is expected to take four to six weeks.

7. Roadway Striping

Director of Public Works/City Engineer Heredia reported that the work was completed on several major streets around the City. The contractor will next cover all of Ramona Avenue.

8. Ramona/Howard Roundabout

Associate Engineer Stevenson announced that bid opening for the project is on Monday, April 22nd.

B. REGIONAL PROJECTS

1. I-10 Freeway Construction

City Manager Starr reported that the project at Monte Vista Avenue and the I-10 Freeway was delayed due to a financial dispute between the contractors and the San Bernardino County Transportation Authority (SBCTA). The issue has been resolved and workers have returned to the site. Operational capabilities are not expected to be completed until sometime mid-summer.

IX. COMMITTEE AND CITY MANAGER ITEMS

A. Gold Line Extension to Montclair

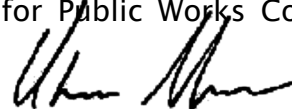
City Manager Starr indicated that the state could announce that it will release state funding from their climate action bills. The State publicized that it will be released over the course of several years. SBCTA announced that if the **Foothill Gold Line** is not completed by next year (April 2025), then they are going to return the unused project funds to the State.

X. ADJOURNMENT

At 4:49 p.m., Chair Johnson adjourned the meeting of the Public Works Committee.

The next meeting of the Public Works Committee scheduled to be held at 4:00 p.m. on Thursday, May 16, 2024 will be canceled due to lack of quorum. The Committee anticipates meeting again on June 20th, 2024 at 4:00 p.m.

Submitted for Public Works Committee approval,



Uhura Mckenzie
Transcribing Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
JULY 15, 2024, AT 6:00 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem Johnson called the meeting to order at 6:00 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Johnson, Council Member Ruh, City Manager Starr, and Assistant City Manager/Director of Human Services Richter

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of July 1, 2024.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Johnson, and carried unanimously to approve the minutes of the Personnel Committee meeting on July 1, 2024.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION


At 6:01 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 6:20 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Johnson stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 6:20 p.m., Mayor Pro Tem Johnson adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL, SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS, MONTCLAIR HOUSING AUTHORITY COMMISSION, AND MONTCLAIR COMMUNITY FOUNDATION BOARD HELD ON MONDAY, JULY 15, 2024 AT 7:01 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chair Dutrey called the meeting to order at 7:01 p.m.

II. INVOCATION

Council Member/Director Ruh gave the invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem/Vice Chair Johnson led meeting participants in the Pledge.

IV. ROLL CALL

Present: Mayor/Chair Dutrey; Mayor Pro Tem/Vice Chair Johnson; Council Members/Directors Ruh, Martinez, and Lopez

City Manager/Executive Director Starr; Assistant City Manager/Director of Human Services Richter; Director of Finance Kulbeck; Director of Public Works/City Engineer Heredia; Fire Chief Pohl; Director of Economic Development Agency Fuentes; City Attorney Robbins; City Clerk Myrick

V. PRESENTATIONS

A. Recognition of Outgoing Community Activities Commissioner Alex Hernandez

Mayor Dutrey presented a Certificate of Recognition and an award commemorating his service to the City of Montclair to outgoing Community Activities Commissioner **Alex Hernandez** for his 8 years of dedicated service on the Community Activities Commission (CAC).

Mr. Hernandez expressed gratitude to the City Council, his fellow commissioners, staff, and the community for the experience during his term.

B. Community Activities Commission Presentation of 2024 Home Beautification

CAC Vice Chair Ferraro led a visual presentation of the winning homes of the 2024 Home Beautification Contest.

Mayor Dutrey presented awards to the following winners:

Traditional Home of the Year

4641 Highland Street — **Alejandro and Sonia Rieger**

Drought Tolerant Home of the Year

9553 Helena Avenue — **Jean Beer**

VI. PUBLIC COMMENT

- **Sousan Elias**, resident, expressed frustration with the lack of action from Code Enforcement and the Police Department regarding her neighbor at 9775 Coalinga Avenue despite several complaints and calls for service related to illegal parking, littering, overweight vehicles, unattached trailers, and livestock.

VII. PUBLIC HEARINGS — None

VIII. CONSENT CALENDAR

ACTION - Consent Calendar	
ACTING:	City Council Successor Agency Board Montclair Housing Corporation Board Montclair Housing Authority Commissioners Montclair Community Foundation Board
DISCUSSION:	Item C-4
MOTION:	Pull item C-3 and approve the remainder of the Consent Calendar as presented.
MADE BY: SECOND BY:	Council Member/Director Ruh Mayor Pro Tem/Vice Chair Johnson
AYES: NOES: ABSTAIN: ABSENT:	Lopez, Martinez, Ruh, Johnson, Dutrey None None None
RESULT:	Motion carried 5-0.

A. Approval of Minutes

1. Regular Joint Meeting — July 1, 2024

ACTION - Consent Calendar - Item A-1	
ACTING:	City Council Successor Agency Board Montclair Housing Corporation Board Montclair Housing Authority Commissioners Montclair Community Foundation Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

B. Administrative Reports

1. Consider Receiving and Filing City Treasurer's Report — June 2024

ACTION - Consent Calendar - Item B-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

2. Consider Approval of Warrant Register and Payroll Documentation

ACTION - Consent Calendar - Item B-2	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

3. Consider Receiving and Filing SA Treasurer's Report — June 2024

ACTION - Consent Calendar - Item B-3	
ACTING:	Successor Agency Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

4. Consider Approval of SA Warrant Register — June 2024

ACTION – Consent Calendar – Item B-4	
ACTING:	Successor Agency Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

5. Consider Receiving and Filing MHC Treasurer's Report June 2024

ACTION – Consent Calendar – Item B-5	
ACTING:	Montclair Housing Corporation Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

6. Consider Approval of MHC Warrant Register — June 2024

ACTION – Consent Calendar – Item B-6	
ACTING:	Montclair Housing Corporation Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

7. Consider Receiving and Filing of MHA Treasurer's Report — June 2024

ACTION – Consent Calendar – Item B-7	
ACTING:	Montclair Housing Authority Commissioners
RESULT:	Approved on Consent Calendar; motion carried 5-0.

8. Consider Approval of MHA Warrant Register — June 2024

ACTION – Consent Calendar – Item B-8	
ACTING:	Montclair Housing Authority Commissioners
RESULT:	Approved on Consent Calendar; motion carried 5-0.

9. Consider Authorizing the Purchase of a 2024 Ford F-150 4x4 Supercrew Vehicle for the Fire Department from Ken Grody Ford of Redlands in the Total Amount of \$60,000

ACTION – Consent Calendar – Item B-9	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

C. Agreements

1. Consider Approval of Amendment No. 1 to Agreement No. 23-44 with Colts Landscape, Inc. for Additional Landscape Maintenance Services

ACTION – Consent Calendar – Item C-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

2. **Consider Approval of Agreement No. 24-55 with Cintas Corporation for Supply and Maintenance of Public Works Department Employee Uniforms**

ACTION - Consent Calendar - Item C-2	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

4. **Consider Approval of Agreement No. 24-60 with Set Free Church Pomona Valley for the Lease of a City Owned Property, Subject to Any Revisions Deemed Necessary by the City Attorney**

Council Member Ruh received clarification that the building will be used by the church for Administrative purposes only.

Council Member Lopez asked how flexible the City would be on the amount of time the church must assist the Code Enforcement Special Operations Unit with homelessness cases.

City Manager Star clarified the Church has a minimum requirement of 25 hours of services they will need to fulfill within a span of 4 days in a week, which can be distributed as needed between the days.

ACTION - Consent Calendar - Item C-4	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

5. **Consider Approval of Agreement No. 24-61 with Loma Linda University Children’s Hospital, a Memorandum of Understanding for the Montclair Police Department’s use of the Children’s Assessment Center [CC]**

Consider Authorizing Chief of Police Jason Reed to Sign Agreement No. 24-61

ACTION - Consent Calendar - Item C-5	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

D. Resolutions

1. **Consider Adoption of Resolution No. 24-3437 Adopting a Records and Information Management Program Policy and Record Retention Schedules Together as the City of Montclair’s Official Records Management Program**

ACTION - Consent Calendar - Item D-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

2. **Consider Adoption of Resolution No. 24-3446 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges**

ACTION - Consent Calendar - Item D-2	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

3. Consider Approval of Agreement No. 24-59 with Blais & Associates, Inc. for Grant Writing Services

Council Member Lopez recused himself due to holding a position with a competitor of Blais & Associates, Inc.

ACTION – Consent Calendar – Item C-3	
ACTING:	City Council
MOTION:	Approve Agreement No. 24-59 with Blais & Associates, Inc. for grant writing services.
MADE BY: SECOND BY:	Council Member/Director Ruh Mayor Pro Tem/Vice Chair Johnson
AYES: NOES: ABSTAIN: ABSENT:	Martinez, Ruh, Johnson, Dutrey None Lopez None
RESULT:	Motion carried 4-0-1 (Lopez abstained).

X. COMMUNICATIONS

A. Department Reports

1. Police Department — National Night Out

Police Chief Reed announced National Night Out is on August 6th, where the community can meet Montclair Police officers, see law enforcement equipment up close, and learn more about the Police Department at Alma Hofman Park from 6:30 to 10:00 p.m. The event will also have food vendors, face painting, and the movie "Top Gun Maverick" will begin at 7:45 p.m. The Splash Pad is open until 8:00 p.m., and the American Red Cross will be at the Senior Center for blood donations from 2:00 to 8:00 p.m.

2. Human Services Department — Upcoming Events

Assistant City Manager/Director of Human Services Richter invited the community to the upcoming Vendor Fair and Concert in the Park tomorrow evening at Alma Hofman Park and reviewed the upcoming schedule of concerts and movies to take place each following Tuesday this summer through July 30. She also announced upcoming food distribution and pantry events, and registration information for Montclair After-School Program summer and school sessions and the Youth Volleyball Program.

B. City Attorney — No comments

C. City Manager/Executive Director — No comments

D. Mayor/Chair

1. Mayor/Chair Dutrey advised he would not be at the August 5th meeting because he will be on a family trip. He reported his attendance at a **Metro** Gold Line foothill extension tour; announced that **Omnitrans**, in partnership with **San Bernardino County Transportation Authority (SBCTA)**, has acquired the first four 40-foot CNG fuel buses for the West Valley Connector project and **SBCTA** has acquired its first zero-emission high speed train; reported that last week he attended a summit to discuss regional homelessness with mayors and city managers of surrounding cities; and condemned the assassination attempt on former President Trump last week.

E. Council Members/Directors

1. Council Member/Director Ruh reported his attendance at the **Gold Line** foothill extension tour noting several other elected representatives in attendance, and **Panera's** grand opening event held on July 17th from 10:00 a.m. -12:00 p.m. He wished everyone peace during the 2024 Election season.
2. Council Member/Director Lopez wished a happy belated anniversary to Mayor Dutrey and his wife, Anne, expressed his hope for respect between all political parties during the election, and received an update on the Monte Vista Avenue construction from Director of Public Works/City Engineer Heredia.
3. Council Member/Director Martinez commended her colleagues and staff for the hard work and dedication over the years to bring the Gold Line to Montclair, and acknowledged the 5th anniversary of the **Pomona Valley Pride Center**.

F. Committee Meeting Minutes

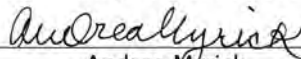
The following committee minutes were received and filed for informational purposes:

1. Personnel Committee — July 1, 2024

XI. ADJOURNMENT

At 8:00 p.m., the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board were adjourned

Submitted for City Council/Successor Agency Board/Montclair Housing Corporation Board/Montclair Housing Authority Commission/Montclair Community Foundation Board approval,



Andrea Myrick,
City Clerk

**CITY OF MONTCLAIR
TREASURER'S REPORT
FOR THE MONTH ENDING**

July 31, 2024

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STATEMENT OF CASH AND INVESTMENT ACCOUNTS

GRAPH

CASH AND INVESTMENTS BY TYPE

**CITY OF MONTCLAIR
STATEMENTS OF COMPLIANCE WITH THE INVESTMENT POLICY
AND INVESTMENT STRATEGY**

July 31, 2024

COMPLIANCE STATEMENT

The City has the following amount invested in various financial instruments. This conforms with the investment policy approved by the City Council.

Total Investments \$ 50,517,770

During the current month the City was in compliance with the internal control procedures set forth in the Investment Policy.

INVESTMENT STRATEGY FOR THE UPCOMING MONTH

During the upcoming month, surplus moneys will be invested in the Local Agency Investment Fund and other investments authorized in the Investment Policy. The City has sufficient monies available to meet expenditures during the next six month period.

CITY OF MONTCLAIR
STATEMENT OF CASH AND INVESTMENTS BY FUND
AS OF July 31, 2024

Fund	Beginning Balance	Receipts	Disbursements	Interfund Transfers	Ending Balance
General Fund	\$ (2,822,300.78)	\$ 3,165,792.96	\$ 4,069,970.01	\$ -	\$ (3,726,477.83) (1)
Gas Tax Fund	(72,103.50)	90,284.62	35,043.84	-	(16,862.72) (2)
Road Maintenance - Section 2032	2,682,204.50	79,232.17	3,539.25	-	2,757,897.42
Measure I Fund	6,660,186.29	-	-	-	6,660,186.29
Traffic Safety	168,453.30	4,397.87	278.00	-	172,573.17
Disability Access Fund - Bus. License	62,065.10	908.00	-	-	62,973.10
Park Maintenance	(13,898.31)	6,664.62	840.69	-	(8,074.38)
Park Development	1,543,307.06	-	-	-	1,543,307.06
CDBG	(66,182.53)	-	4,895.01	-	(63,077.54) (2)
SB2 Planning Grant	-	-	-	-	-
Air Quality Improvement Trust	52,262.69	-	-	-	52,262.69
Senior Nutrition Program	(22,668.21)	39,152.83	17,606.17	-	(1,121.55) (2)
American Rescue Plan	-	-	-	-	-
Forfeiture Fund - State	102,654.70	2,915.42	-	-	105,570.12
Proposition 30/SB 109	51,237.46	-	-	-	51,237.46
SB 509 Public Safety	(116,981.42)	59,843.43	17,552.14	-	(74,690.13)
Forfeiture Fund-Federal/DOJ	381,517.57	14,847.93	17,307.68	-	379,057.82
Asset Seizure Fund	4.53	0.18	-	-	4.71
Section 11489 Subfund	29,277.10	514.49	1,350.00	-	28,441.59
Fed Asset Forfeiture-Treasury	133,408.39	-	-	-	133,408.39
School District Grant Fund	71,496.00	-	-	-	71,496.00
State Supplemental Law Enforcement	93,777.40	35,076.00	-	-	128,853.40
Local Law Enforcement Block Gr	18.67	18,962.00	-	-	18,980.67
Recycling Grant Fund	2,536.18	21.72	-	-	2,557.90
PC 1202.5 Crime Prevention	217,295.64	-	15,093.02	-	202,202.62
Homeless Housing Assist Preven	1,462,098.68	-	5,675.00	-	1,462,098.68
LEAP Grant	(432.50)	-	768.19	-	(36,321.69) (2)
Department of Cannabis Control	120,000.00	-	-	-	120,000.00
After School Program Fund	(316,910.23)	224,911.00	179,376.00	-	(271,375.23) (2)
City of Hope	1,290.78	-	5.19	-	1,285.59
Safety Dept. Grants	(24,743.80)	-	-	-	(24,743.80) (2)
OSMD Immunization Grant	1,370.50	-	-	-	1,370.50
Kaiser Permanente Grant	1,700.03	-	259.99	-	1,440.04
Resource Center Grant - OMSD	17,737.88	-	208.81	-	17,529.07
Title IIIB Sr Support Services	(13,554.99)	5,633.22	4,539.51	-	(12,461.28) (2)
Healthy Community Strategic Plan	6,798.78	-	1,745.85	-	5,052.93
ASES Supplemental Grant	48,439.00	-	-	-	48,439.00
E.M.S. - Paramedic Fund	(1,866.43)	6,550.19	14,729.24	-	(10,045.48) (3)
Economic Development	5,750,214.02	-	689,532.05	-	5,060,681.97
City Contributions/Donations Fund	1,200.00	-	-	-	1,200.00
Sewer Operating Fund	2,204,631.36	454,744.60	416,612.89	-	2,242,763.07
Sewer Replacement Fund	2,675,540.73	-	4,848.56	-	2,675,540.73
CFD 2011-1 (Paseos)	199,350.22	-	-	-	199,350.22
CFD 2011-2 (Arrow Station)	124,862.94	474.81	-	-	125,337.75
Inland Empire Utility Agency	5,184,350.81	-	-	-	5,184,350.81
Sewer Expansion Fee Fund	1,004,838.10	-	-	-	1,004,838.10
Developer Impact Fees - Local	1,572,397.99	-	-	-	1,572,397.99
Developer Impact Fees - Regional	933,198.77	-	-	-	933,198.77
Burtec Pavement Impact Fees	320,203.07	27,012.68	-	-	347,215.75
PUC Reimbursement Fund-MVGS	219,720.15	-	-	-	219,720.15
Utility Underground In-Lieu	383,396.52	-	-	-	383,396.52
General Plan Update Fee	114,656.79	344.92	-	-	115,001.71
Housing Fund	879,108.20	-	-	-	879,108.20
Public Education/Govt. PEG Fee Fund	151,285.59	-	379,971.69	-	151,285.59
Infrastructure Fund	(5,747,290.65)	-	-	-	(6,127,262.34) (4)
COVID-19	-	-	-	-	-
Successor Agency Bonds-Taxable	5,066,786.31	57,168.40	-	-	5,123,954.71
Successor Agency Bonds-Tax Exempt	8,188,918.66	93,033.13	16,638.00	-	8,265,313.79
2021 Lease Revenue Bond Proceeds	(3,401,721.16)	2,825.00	175,290.17	-	(3,574,186.33)
2014 Lease Revenue Bond Debt Svc	(353,913.23)	216,884.22	-	-	(137,029.01) (5)
2021 Lease Revenue Bond Debt Svc	(51.64)	-	-	-	(51.64)
Pension Obligation Bond Debt Svc	5,997.39	-	-	-	5,997.39
Contingency Fund	0.96	-	-	-	0.96
Assigned General Fund Reserves	36,391,514.77	23,076.93	1,082,852.74	-	35,331,738.96
TOTALS	\$ 72,286,045.51	\$ 4,631,273.34	\$ 7,156,529.69	\$ -	\$ 69,760,789.16

Negative Cash Notes follow this presentation.

Notes on Negative Cash Balances

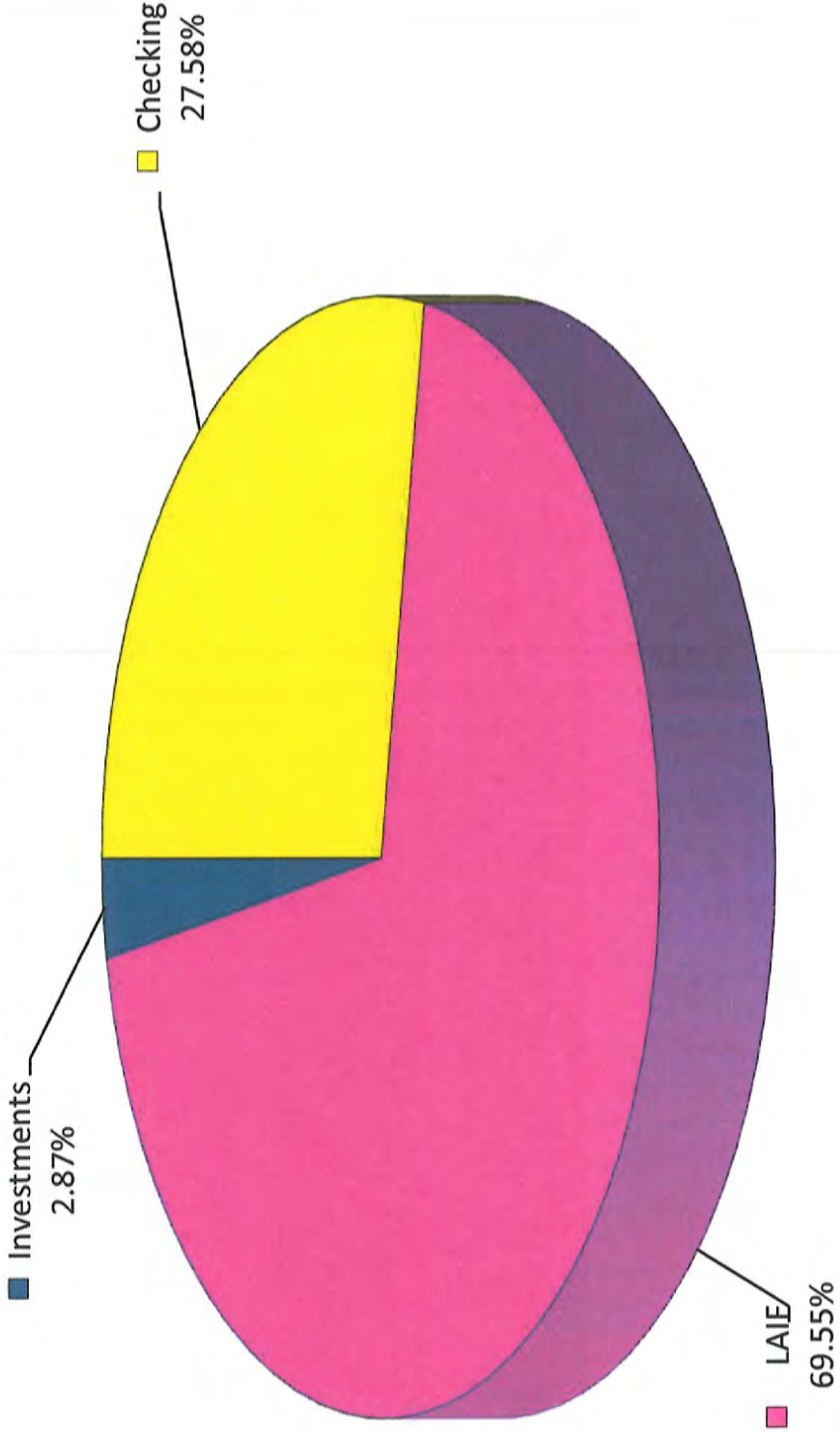
- (1) The General Operating Fund may have a negative cash for the majority of the fiscal year awaiting property and sales tax collections. This is covered by the Contingency Fund and other General Fund Reserve Funds until those collections are received. As Contingency and General Reserves exceed this negative, the City is not utilizing restricted resources.
- (2) These are reimbursable grant funds that utilize general pool monies initially to cover expenditures pending reimbursement from the granting agencies. Therefore, it is not uncommon for these to be negative until that reimbursement is received.
- (3) This fund has operational deficits annually. At the end of the fiscal year it is restored by a General Fund Transfer.
- (4) The Infrastructure Fund receives transfers from other funds to accomplish infrastructure projects. Those transfers are usually recorded when the projects nears completion or prior to mid-year budget preparation. Any negative in that fund will be eliminated at those times. Transfers from these funds (C.D.B.G., Gas Tax, Measure I, etc.) may go negative on cash pending collections of these revenues. In this way we can determine if obligations for projects are exceeding current resources.
- (5) This debt service operation utilizes transaction and use taxes which are part of the sales tax and Successor Agency property taxes. These have been sufficient in prior fiscal years to cover the necessary debt service; however, they are not completely received until fiscal year-end. Once debt service is covered the excess will be transferred to the General Fund.

**CITY OF MONTCLAIR
STATEMENT OF CASH AND INVESTMENT ACCOUNTS
AS OF July 31, 2024**

	Par Value	Purchase Date	Maturity Date	Coupon Interest Rate	Current Market Value	Balance at Cost	Totals
CHECKING ACCOUNT							
Checking Account							\$ 19,240,545.33
Asset Seizure Account							\$ 2,473.36
CASH W/FISCAL AGENT, CD's, LAIF DEPOSITS, AND SHORT-TERM U.S. AGENCY SECURITIES							
Local Agency Investment Fund (LAIF)				4.530%	47,584,335.14	48,517,770.47	
First American Government					2,000,000.00	2,000,000.00	
					<u>\$ 49,584,335.14</u>		\$ 50,517,770.47
U.S. AGENCY SECURITIES							
							\$ -
TOTAL							<u>\$ 69,760,789.16</u>

Current market values obtained from US Bank.

CITY OF MONTCLAIR
CASH AND INVESTMENTS BY TYPE
July 31, 2024
Total Cash & Investments \$69,760,789



**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
TREASURER'S REPORT
FOR THE MONTH ENDING**

July 31, 2024

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH BY FUND
July 31, 2024**

COMBINED OPERATING FUND

Operating	<u>38,119.84</u>	\$	38,119.84
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LRPRP Fund

Operating	<u>0.00</u>	\$	0.00
-----------	-------------	----	------

RORF

	647,418.86		
RORF Area I	0.00		
RORF Area II	0.00		
RORF Area III	0.00		
RORF Area IV	0.00		
RORF Area V	0.00		
RORF Area VI	0.00	\$	647,418.86

TOTAL CASH

	<u><u>\$ 685,538.70</u></u>
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**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH
July 31, 2024**

Checking Account

US Bank

685,538.70

TOTAL CASH

685,538.70

NOTE:

In accordance with State law, the Successor Agency receives the monies necessary to cover its obligations for the upcoming six month period. The monies are received in January and June of each year.

The Successor Agency has sufficient funds available to meet expenditures during the upcoming six-month period.

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
WARRANT REGISTER**

FOR THE MONTH ENDING

July 31, 2024

City of Montclair
 Final Warrant Register
 Council Date 08/19/2024
 Regular Warrants
 Checking Account: Successor to the RDA

	Warrants	US Bank transfers	Area Totals
SRDA Combined Operating Fund	0.00	5,313.92	5,313.92
RORF (Redevelopment Obligation Retirement Funds)	0.00	0.00	0.00
	0.00	5,313.92	
July 31, 2024 Total			5,313.92

Note: Reimburse City for 7/3 payrolls
 Reimburse City for 7/18 payrolls

Vice Chair Johnson

Book Transfer Daily Activity Detail

CITY OF MONTCLAIR

SinglePoint

Reported Activity From 07/01/2024 To 07/31/2024

Printed on 08/06/2024 at 4:35 PM PDT



Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
07/18/2024	\$2979.98	153499275813	153499275805	Completed

Debit Account Name CITY OF MONTCLAIR SUCCESSOR AGENCY
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimb City for 07/18/24 Payroll
Initiate Date 07/18/2024
Initiate Time 04:43PM CDT
Initiated By JKULBECK
Completed Date 07/18/2024
Completed Time 04:43PM CDT

Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
07/10/2024	\$2333.94	153499275813	153499275805	Completed

Debit Account Name CITY OF MONTCLAIR SUCCESSOR AGENCY
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimb City for 07/03/24 Payroll
Initiate Date 07/10/2024
Initiate Time 08:30PM CDT
Initiated By JKULBECK
Completed Date 07/10/2024
Completed Time 08:30PM CDT

Total Number of Book Transfers: 2
Total Amount of Book Transfers: \$5,313.92

--- End of Report ---

**CITY OF MONTCLAIR
HOUSING CORPORATION
TREASURER'S REPORT
FOR THE MONTH ENDING**

July 31, 2024

TABLE OF CONTENTS

SCHEDULE 1 - STATEMENT OF CASH AND INVESTMENTS

CASH AND INVESTMENTS GRAPH

Schedule 1

CITY OF MONTCLAIR
HOUSING CORPORATION
STATEMENT OF CASH AND INVESTMENTS
July 31, 2024

	<u>Interest Rate</u>	<u>Market Value</u>	<u>Book Value</u>
Checking Account			
US Bank			51,293.50
Investments			
LAIF	4.53%	1,100,955.62	<u>1,105,026.49</u>
TOTAL CASH & INVESTMENTS			<u><u>1,156,319.99</u></u>

NOTE:

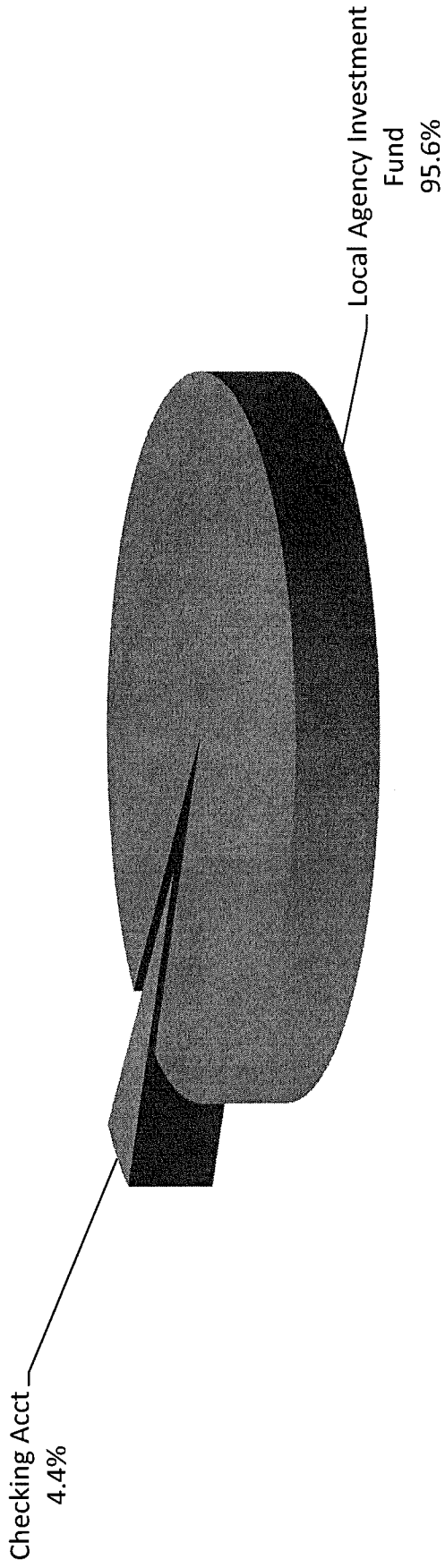
Pursuant to the Corporation's Investment Policy, all moneys are invested in banks, the Local Agency Investment Fund, and in securities with maturities of no greater than three years.

The Corporation has sufficient funds available to meet expenditures during the upcoming six-month period.

The Corporation is in compliance with the internal control procedures set forth in its Investment Policy.

**CITY OF MONTCLAIR
HOUSING CORPORATION
CASH AND INVESTMENTS GRAPH
July 31, 2024**

Total Cash & Investments - \$1,156,320



**CITY OF MONTCLAIR
HOUSING CORPORATION
WARRANT REGISTER**

FOR THE MONTH ENDING

July 31, 2024

City of Montclair
Final Warrant Register
Council Date 08/19/2024
Regular Warrants
Checking Account: MHC

<u>Warrants</u>	<u>ACH Transfers</u>	<u>Voided Checks</u>	<u>US Bank transfers</u>	<u>Totals</u>
32,122.29	0.00	0.00	0.00	32,122.29

July 31, 2024 Total

32,122.29

US Bank transfers:

Vice Chair Johnson

Accounts Payable

Checks by Date - Summary by Check Number

User: cramirez
Printed: 8/7/2024 9:33 AM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
5699	Mont002	City of Montclair	07/18/2024	2,986.62
5700	Mont074	Monte Vista Water District	07/18/2024	1,205.92
5701	Sout018	Southern California Edison Co	07/18/2024	165.68
5702	Sout021	Southern California Gas Co	07/18/2024	580.00
5703	HernG001	Gabriel Hernandez	07/18/2024	2,591.00
5704	Lexa001	Lexar Construction	07/24/2024	9,675.00
5705	Mont074	Monte Vista Water District	07/30/2024	2,499.27
5706	SCE-Res	Southern California Edison Co	07/30/2024	562.95
5707	Sout018	Southern California Edison Co	07/30/2024	687.35
5708	HernG001	Gabriel Hernandez	07/30/2024	7,491.00
5709	JGL001	JGL Electric Company, Inc.	07/30/2024	975.00
5710	Lexa001	Lexar Construction	07/30/2024	2,702.50
Report Total (12 checks):				32,122.29

**CITY OF MONTCLAIR
HOUSING AUTHORITY
TREASURER'S REPORT
FOR THE MONTH ENDING
July 31, 2024**

Schedule 1

**CITY OF MONTCLAIR
HOUSING AUTHORITY
STATEMENT OF CASH
July 31, 2024**

	<u>Interest Rate</u>	<u>Market Value</u>	<u>Book Value</u>
Checking Account			
US Bank			3,037.57
Investments			
LAIF	4.53%	3,178,908.74	<u>3,190,663.01</u>
TOTAL CASH & INVESTMENTS			<u><u>3,193,700.58</u></u>

NOTE:
Pursuant to the Authority's Investment Policy, all moneys are invested in banks, the Local Agency Investment Fund, and in securities with maturities of no greater than three years.

During the upcoming month, surplus moneys will be invested in the Local Agency Investment Fund. The MHA has sufficient monies available to meet expenditures during the next six month period.

**CITY OF MONTCLAIR
HOUSING AUTHORITY
WARRANT REGISTER
FOR THE MONTH ENDING
July 31, 2024**

City of Montclair
Final Warrant Register
Council Date 08/19/2024
Regular Warrants
Checking Account: MHA

<u>Warrants</u>	<u>Voided Checks</u>	<u>US Bank transfers - out.</u>	<u>Totals</u>
0.00	0.00	0.00	0.00
July 2024 Total			<u>0.00</u>

Vice Chair Johnson