

CITY OF MONTCLAIR

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

AGENDA PACKET



**Monday, September 16, 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, September 16, 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 — None

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 — None

Page No.

VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Regular Joint Meeting – September 3, 2024 [CC/SA/MHC/MHA/MCF]

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C. Agreements	
1. Consider Approval of Agreement No. 24-76 with CivicPlus for Continued use of the Municode Platform for Online Hosting of the City's Municipal Code and Codification of City Ordinances [CC]	17
D. Resolutions	
1. Consider Adoption of Resolution No. 24-3457 Approving Agreement No. 24-77, an Affordable Housing Agreement with the Montclair Housing Authority and the Montclair Housing Corporation; Authorizing the Transfer of 10052 Central Avenue, Montclair, to the Montclair Housing Authority for use as Affordable Housing; and Declaring such Real Property to be Exempt Surplus Land [CC] Consider Authorizing a \$40,000 Appropriation from the Economic Development Assets Fund for Rehabilitation of the Property Located at 10052 Central Avenue, Montclair [CC] Consider Adoption of MHA Resolution No. 24-03 Approving Agreement No. 24-77, 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 [MHA] Consider Adoption of MHC Resolution No. 24-04 Approving Agreement No. 24-77, an Affordable Housing Agreement with the City of Montclair and the Montclair Housing Corporation [MHC]	23

IX. PULLED CONSENT CALENDAR ITEMS

X. COMMUNICATIONS

A. Department Reports

1. Human Services Department — Upcoming Events

B. City Attorney

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

<i>Property:</i>	<i>APN: 1010-301-07-0000</i>
<i>Negotiating Parties:</i>	<i>City of Montclair, UWP Investments, LLC</i>
<i>City Negotiators:</i>	<i>Edward C. Starr, City Manager</i>
<i>Under Negotiation:</i>	<i>Recommendations Regarding Purchase Price</i>

C. City Manager/Executive Director

D. Mayor/Chairperson

E. Council Members/Directors

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

1. Personnel Committee Meeting – September 3, 2024 [CC]

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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 Monday, October 7, 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, September 12, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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 August 31, 2024.

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



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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 September 16, 2024; and the Payroll Documentation dated September 8, 2024, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated September 16, 2024, totals \$1,561,659.21.

The Payroll Documentation dated September 8, 2024, totals \$869,581.08gross, with \$608,185.05net 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:	SEPTEMBER 16, 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 August 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 August 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 August 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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 August 31, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Successor to the Redevelopment Agency Warrant Register dated 08.01.24-08.31.24 in the amounts of \$8,304.19 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 August 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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 August 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 August 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 August 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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 August 31, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Warrant Register dated 08.01.24–08.31.24 in the amount of \$75,204.91 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 August 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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 August 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 August 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 August 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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 August 31, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Warrant Register dated 08.01.24–08.31.24 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 August 31, 2024.



CITY COUNCIL AGENDA REPORT

DATE: SEPTEMBER 16, 2024

FILE I.D.: PDT362

SECTION: CONSENT - ADMIN. REPORTS

DEPT.: POLICE

ITEM NO.: 9

PREPARER: M. BUTLER

SUBJECT: CONSIDER AUTHORIZING THE RECEIPT OF \$18,962 FROM THE 2023 JUSTICE ASSISTANCE GRANT PROGRAM AND AN ALLOCATION OF \$685.25 FROM THE TECHNICAL SERVICES SMALL EQUIPMENT FUND TO PURCHASE AUTOMATED EXTERNAL DEFIBRILLATORS FOR THE POLICE DEPARTMENT

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the receipt of \$18,962 from the 2023 Justice Assistance Grant (JAG) to purchase automated external defibrillators (AEDs).

BACKGROUND: The Police Department received \$18,962 from the 2023 Edward Byrne Memorial JAG Program in July 2024. The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA) awards JAG Program funds to eligible units of local government. JAG Program awards are designed to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice.

San Bernardino County (the County) is the primary recipient for all local JAG Program funds, and submits a joint application for all local subrecipient jurisdictions including the City of Montclair. As the JAG Program Administrator, the County disburses appropriate grant allocations to eligible jurisdictions after deducting a five percent administrative fee, as allowable under JAG guidelines. The City entered into two agreements with the County, Agreement No. 23-71 in September 2023 and 24-01 in January 2024, for the receipt of these grant funds.

In July 2023, staff submitted a proposed project to the County requesting to use JAG 2023 funds toward the purchase of AEDs. The County received a grant award in September 2023 from BJA for all disparate jurisdictions' JAG 2023 projects, and the County Board of Supervisors accepted the award in November 2023.

As part of their patrol duties, Montclair Police Officers respond to medical emergency calls, which include incidents involving community members who are suffering from cardiac arrest. Being mobile in a patrol vehicle often allows officers to arrive at a medical call prior to Fire and Emergency Medical Services (EMS) personnel. It is the policy of the Montclair Police Department that all officers be trained to provide emergency medical aid and to facilitate an emergency medical response. Officers receive training in the proper use, maintenance, and deployment of AEDs that complies with regulations adopted by the EMS Authority and the standards of the American Heart Association or the American Red Cross. Patrol vehicles equipped with AEDs provide officers quick access to this equipment to initiate lifesaving measures to victims experiencing sudden cardiac arrest. Initiating high-quality cardiopulmonary resuscitation (CPR) and immediate use of an AED can make the difference between life and death.

An AED is a medical device designed to analyze the heart rhythm and deliver an electric shock to victims of sudden cardiac arrest, which occurs when the heart suddenly stops beating regularly. They are lightweight and portable, making it easy to store them in

patrol cars and deploy while out in the field. The AED uses voice prompts, lights, and text to inform the rescuer of the steps to take to use the device properly. According to the American Heart Association, a person's chance of surviving a cardiac arrest drops by seven to ten percent every minute a normal heartbeat is not restored. Immediate CPR and AED use can double or triple the person's chance of survival.

AEDs are also a lifesaving measure to members of our own Department, including officers who may experience a cardiac arrest while on duty related to an injury, a gunshot wound, or natural causes. Research suggests that over time, officers experiencing stress related to their duties can lead to heart disease and high blood pressure—both of which can lead to cardiac arrest. Heart attacks are among the top five causes of officer deaths.

Recently, the Police Department received a grant award from Firehouse Subs Public Safety Foundation, Inc. to purchase ten Physio-Control LIFEPAK 1000 AEDs. This allowed staff to place AEDs in patrol cars that were not currently AED-equipped and replace broken and worn out AEDs. With JAG 2023 funds, the Police Department would be able to purchase an additional seven AEDs: five would be placed into patrol cars, making the entire black-and-white patrol fleet AED-equipped; one AED would be kept in the armory for officers to deploy on special assignments, such as serving a search warrant utilizing the BearCat; and one would be mounted in the police station on the second floor near the dispatch center. Currently, there is one AED in the atrium on the first floor and one in the detention facility on the first floor. These additional seven AEDs would make the Department more sufficiently prepared to initiate lifesaving treatment to members of the public or the Police Department suffering from sudden cardiac arrest.

Bid quotations for the purchase of seven Physio-Control LIFEPAK 1000 AEDs were received from the following vendors:

<u>Vendor</u>	<u>Bid Amount</u>
One Beat Medical & Training	\$19,647.25
Stryker Medical	\$20,564.97
Coro Medical LLC	\$26,331.15

One Beat Medical & Training is the selected vendor for the purchase of AEDs. This vendor has the lowest bid, offering competitive pricing and quality equipment. The Police Department has been highly satisfied with the AEDs recently purchased from One Beat Medical & Training from the Firehouse Subs grant.

FISCAL IMPACT: The City of Montclair's 2023 JAG allocation is \$19,960—the San Bernardino County Board of Supervisors would retain a five percent administrative fee of \$998. If authorized by the City Council, the remaining JAG 2023 funds in the amount of \$18,962 would be used to purchase AEDs. Since the quote from One Beat Medical & Training is \$685.25 more than Montclair's allocation, the Police Department would cover the remaining balance of the AEDs using its Technical Services Small Equipment Fund (Account No. 1143-4423-52690-400-00000).

RECOMMENDATION: Staff recommends the City Council authorize the receipt of \$18,962 from the 2023 JAG Program and a \$685.25 allocation from the Technical Services Small Equipment Fund to purchase AEDs for the Police Department.



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 2024	FILE I.D.:	FPP150
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	ADMIN. SVCS.
ITEM NO.:	10	PREPARER:	A. MYRICK
SUBJECT:	CONSIDER RECEIVING AND FILING THE 2024 LOCAL AGENCY BIENNIAL NOTICE CONSIDER DIRECTING STAFF TO AMEND THE CITY'S CONFLICT OF INTEREST CODE AND SUBMIT THE REVISED CODE TO THE CITY COUNCIL FOR ADOPTION WITHIN 90 DAYS PURSUANT TO THE POLITICAL REFORM ACT		

REASON FOR CONSIDERATION: The City Council is the designated code-reviewing body for the City's Conflict of Interest Code. It is necessary to review the Conflict of Interest Code on a biennial basis, which includes the filing of a Local Agency Biennial Notice and amending the Code to update the list of designated employees who are required to file Statements of Economic Interests and to incorporate any other necessary changes.

The 2024 Local Agency Biennial Notice is attached and hereby submitted to the City Council for filing.

BACKGROUND: Pursuant to the Political Reform Act of 1974 (Government Code §8100, et seq.), all public agencies are required to adopt a Conflict of Interest Code. A Conflict of Interest Code designates positions required to annually file Statements of Economic Interest (Fair Political Practices Commission [FPPC] Form 700), and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interest. More information about the Form 700 can be found on the FPPC's website at <https://www.fppc.ca.gov/Form700.html>.

The City of Montclair Conflict of Interest Code, first adopted on October 4, 1976, contains the requirement that all City Council Members, Planning Commissioners, City Manager, City Attorney, and designated employees responsible for managing public investments annually file Statements of Economic Interests. In addition, the Code requires that there be a listing of designated employees who, by job title, "make or participate in the making of governmental decisions which may have a foreseeable material effect on financial interests."

At its meeting on June 3, 2024, the City Council directed staff to perform a review of the City's Conflict of Interest Code and submit the 2024 Local Agency Biennial Notice to the City Council by October 1, 2024.

Staff has reviewed the Conflict of Interest Code and has completed the Biennial Notice, which notes that areas of the Code require amendments. The 2024 Local Agency Biennial Notice must be filed by October 1, 2024, affirming that this review has been completed and indicating the actions required to be taken.

The City Council is required to adopt amendments to the Conflict of Interest Code within 90 days of the filing of the Biennial Notice. Staff anticipates the amendments to the Conflict of Interest Code will be submitted for adoption at a regular City Council meeting in December to meet the 90-day deadline.

FISCAL IMPACT: There would be no fiscal impact associated with the City Council's actions of receiving and filing the Biennial Notice and directing staff to amend the City's Conflict of Interest Code.

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

1. Receive and file the 2024 Local Agency Biennial Notice; and
2. Direct staff to amend the City's Conflict of Interest Code and submit the revised Code to the City Council for adoption within 90 days pursuant to the Political Reform Act.

2024 Local Agency Biennial Notice

Name of Agency: City of Montclair
Mailing Address: 5111 Benito Street, Montclair, CA 91763
Contact Person: Andrea Myrick Phone No. (909) 625-9416
Email: amyrick@cityofmontclair.org Alternate Email: cityclerk@cityofmontclair.org

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that *(check one BOX)*:

☒ **An amendment is required. The following amendments are necessary:**

(Check all that apply.)

- ☒ Include new positions
- ☐ Revise disclosure categories
- ☒ Revise the titles of existing positions
- ☒ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☒ Other *(describe)* Gift limits and ethics training requirements.

☐ **The code is currently under review by the code reviewing body.**

☐ **No amendment is required.** (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer

Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2024**, or by the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

FPPC Advice: www.fppc.ca.gov (866.275.3772)
advice@fppc.ca.gov

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CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 2024	FILE I.D.:	CCK205
SECTION:	CONSENT - AGREEMENTS	DEPT.:	ADMIN. SVCS.
ITEM NO.:	1	PREPARER:	K. ROMAN
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 24-76 WITH CIVICPLUS FOR CONTINUED USE OF THE MUNICODE PLATFORM FOR ONLINE HOSTING OF THE CITY'S MUNICIPAL CODE AND CODIFICATION OF CITY ORDINANCES		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 24-76 with CivicPlus for continued use of the Municode platform for online hosting of the Montclair Municipal Code and codification of City ordinances.

The City does not have a contract with our municipal code codifier, CivicPlus, and is currently billed for services. CivicPlus is requesting that current clients transition to a newly offered annual subscription model, which requires the City enter into an agreement. A copy of Agreement No. 24-76 is attached for City Council review and consideration.

BACKGROUND: Municode, the City's longtime online municipal code hosting vendor and codifier, was acquired by CivicPlus in late 2021. Municode provides municipalities with tools to manage their code of ordinances and other legal documents online. It aims to enhance transparency and accessibility of local laws and regulations by making them available to the public in a user-friendly format.

Prior to its acquisition by CivicPlus, Municode had not increased its rates since 2016. CivicPlus will be increasing rates for the Municode platform in October, and likely on an annual basis going forward, and is offering current customers the opportunity to transition to an annually billed subscription service model that covers any number of ordinances within the subscription period and make costs more predictable for budgeting purposes.

For all customers, the online code hosting fee will be increasing by 20 percent from \$900 to \$1,080 annually. For customers who remain under the legacy billing model, the per-page charge is going up by 30 percent from \$19.75 to \$25.68, the annual administrative fee is increasing 10 percent from \$450 to \$495, and the per-ordinance codification fee will remain at \$25 per ordinance. CivicPlus is bundling the administrative and per-page fees together for the subscription model, and has used the City's average of these costs over the previous five years to arrive at our proposed base subscription rate of \$2,215, which will be subject to annual rate increases. CivicPlus intends to continue charging the online hosting and ordinance codification fees as separate fees in the subscription model, with the ordinance fee set at \$90 per year based on the average number of ordinances the City has submitted over the past five years.

FISCAL IMPACT: The first year's annual cost was calculated based on the City's average billings for the past 5 years, minus a pro-rated cost for the administrative fee, which has already been paid through May 31, 2025. Therefore, the first year's subscription would be \$3,197.50 and would begin on January 1, 2025.

The subscription would renew annually with the next year's cost being subject to a three percent increase, unless 60-day notice to cancel is provided by either party. Staff would initiate a cancellation if dissatisfied with the service, and would obtain Council approval if any significant increases or changes to the terms of the contract are proposed outside of the expected 3 percent annual increases.

RECOMMENDATION: Staff recommends that the City Council approve Agreement No. 24-76 with CivicPlus for continued use of the Municode platform for online hosting of the City's Municipal Code and codification of City ordinances.

**CivicPlus**

302 South 4th St. Suite 500
Manhattan, KS 66502
US

Quote #:

Q-73271-1

Date:

4/16/2024 8:08 AM

Customer:MONTCLAIR CITY,
CALIFORNIA

Product Name	DESCRIPTION	QTY	TOTAL
Full-Service Supplementation Subscription	Full-Service Supplementation Subscription	1.00	USD 2,215.00
Code and Supp Year 1 Annual Fee Discount	Year 1 Annual Fee Discount for Administrative Support Fee Paid Through 5/31/2025	1.00	USD -187.50
Semi-Annual Electronic Supplementation Service Included	Semi-Annual Electronic Supplementation Service Included Electronic Schedule 1, 7	1.00	USD 0.00
Annual Print Supplementation Service Included	Annual Print Supplementation Service Included Print Schedule - 1	1.00	USD 0.00
Custom OrdBank Subscription	OrdBank Subscription	1.00	USD 90.00
Supplement PDF	Supplement PDF	1.00	USD 0.00
Custom Online Code Hosting	Online Code Hosting Subscription	1.00	USD 1,080.00
Code in Word	Code in Word	1.00	USD 0.00
Annual Recurring Supplement Services - Initial Term		USD 3,197.50	
Annual Recurring Supplement Services - (Subject to Uplift)		USD 3,385.00	

1. This Statement of Work ("SOW") is between City of Montclair, CA ("Customer") and CivicPlus, LLC ("CivicPlus"), the acquirer and sole owner of Municode, LLC f/k/a Municipal Code Corporation, and incorporates and is subject to the terms and conditions located at Addendum 1 attached to this SOW.

2. This SOW shall begin on 1/1/2025 ("Effective Date") and all the services provided to Customer listed in the above line items (the "Services") shall align to renew annually on each anniversary of the Effective Date ("Renewal Date"). Unless terminated, Customer shall be invoiced for the Annual Recurring Services on each Renewal Date of each calendar year subject to 3% annual increase. Customer will pay all invoices within 30 days of the date of such invoice.

Acceptance

By signing below, the parties are agreeing to be bound by the covenants and obligations specified in this SOW. For CivicPlus Billing Information, please visit <https://www.civicplus.com/verify/>.

IN WITNESS WHEREOF, the parties have caused this SOW to be executed by their duly authorized representatives as of the dates below.

Client

CivicPlus

By:

By:



Printed Name:

Printed Name:

John Dutrey

Amy Vikander

Title:

Title:

Mayor

Senior Vice President of Customer Success

Date:

Date:

8/28/2024

Addendum 1

<p>This agreement ("Agreement") is explicitly agreed to by the Customer listed on the Statement of Work. All terms used in this Agreement that are not otherwise defined shall have the definition ascribed to it in the Statement of Work.</p> <p>1. Scope of Services. The Services provided to Customer under this Agreement are set forth in the CivicPlus Statement of Work signed by the parties (the "SOW"). Customer may purchase additional services for additional cost at any time upon mutual written consent of the Parties, including but not limited to updating the frequency of Supplement updates, additional labor required because of delays, errors or omissions on the part of Customer.</p> <p>2. Limitations of Services. Annual Recurring Supplement Service does NOT include:</p> <ul style="list-style-type: none"> • Additional copies, reprints, binders, and tab orders; • Documents drafted in InDesign or that contain form-based code requirements, are subject to additional editorial fees; • Documents that contain: multiple tables, graphics, unique formatting requirements, or any other form-based code requirements; • Legal work, creation of fee schedules, gender-neutral review/implementation, external linking; • Codifying complete replacement of complex subject matter such as, but not limited to, Zoning (or equivalent). This work is subject to a one-time editorial conversion fee and an increase in the annual supplement rate and online hosting fee(s). Quote provided upon receipt of material; • Codifying a newly adopted full Chapter/Title/Appendix. This may be subject to a one-time additional editorial fee and an increase in the annual supplement rate and online hosting fee(s). Material to be reviewed upon receipt; • Codifying a newly adopted term change legislation. This may be subject to a one-time additional editorial fee. Material to be reviewed upon receipt; • Adding entirely new material such as but not limited to new Zoning chapters will be covered in your current annual cost. However, the addition will lead to an increase in your annual cost upon your next renewal. We will work with you to provide a revised annual cost. • The addition of Manuals, Policies, Procedures, Comprehensive Plans, Land Use, Unified Codes, Zoning (or equivalent). Quotation upon request; and • Online Code hosting and online features, this is listed separately. <p>For services outside the scope of the Annual Recurring Supplement Services, a per page rate of \$23 will be applied.</p> <p>3. Each document for processing should be its own individual file, named by its ordinance number. Customer should send in all documents to CivicPlus as MS WORD versions or a convertible PDF version.</p>	<p>4. Term and Termination. This Agreement shall remain in full force and effect for an initial period of one year commencing on the Effective Date ("Initial Term"), at the end of the Initial Term, this Agreement shall automatically renew for additional one-year terms (each a "Renewal Term"). If either Party does not intend to renew this Agreement, they shall provide sixty days prior notice to the end of the then-current term. Either party may terminate this Agreement for cause in the event the other party materially breaches any term of this Agreement and does not substantially cure such breach within thirty days after receiving notice of such breach. A delinquent Customer account remaining past due for longer than 90 days is a material breach by Customer and is grounds for CivicPlus termination.</p> <p>5. Compensation. Unless otherwise stated in an SOW signed by the Customer, the Customer shall pay CivicPlus for the Services annually at the start of each Renewal Term, within 30 days of the date an invoice is sent.</p> <p>6. Integration. This Agreement sets forth the entire agreement between and among the parties with respect to the Services. This Agreement supersedes all prior written or oral agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.</p> <p>7. Limitation of Liability. CivicPlus' liability arising out of or related to this Agreement, or any associated SOW, will not exceed five times the amounts paid by Customer for the Services in the year prior to such claim of liability. In no event will CivicPlus be liable to Customer for any consequential, indirect, special, incidental, or punitive damages arising out of or related to this Agreement. If applicable law limits the application of the provisions of this Limitation of Liability section, CivicPlus' liability will be limited to the maximum extent permissible.</p> <p>8. Ownership. Customer shall own all right, title, and interest in and to the code created under this Agreement. Customer is responsible for providing all necessary and correct documentation, materials and communication in a timely manner in order to enable CivicPlus to perform the Services and acknowledges CivicPlus cannot begin performance of the Services until all necessary documentation, materials and communication is received.</p> <p>9. Customer acknowledges that any legal analysis provided by CivicPlus is provided to Customer for their use and direction. However, Customer agrees the Services provided for herein do not review legal codes for legal sufficiency, draw legal conclusions, provide legal advice, opinions or recommendations about Customer's legal rights, remedies, defenses, options, selection of forms, or strategies, or apply the law to the facts of any particular situation or establish an attorney-Customer relationship. CivicPlus is not a law firm and may not perform services performed by an attorney, and the Services contemplated herein do not constitute a substitute for the advice or services of an attorney.</p> <p>10. In the event either party is unable to perform its obligations under the terms of this Agreement because of acts of God, strikes, damage or other causes reasonably beyond its control, such party shall not be liable for damages to the other for any damages resulting from such failure to perform or otherwise from such causes.</p>
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Contact Information

Organization

URL

Street Address

Address 2

City

State

Postal Code

CivicPlus provides telephone support for all trained clients from 7am –7pm Central Time, Monday-Friday (excluding holidays). Emergency Support is provided on a 24/7/365 basis for representatives named by the Client. Client is responsible for ensuring CivicPlus has current updates.

Emergency Contact & Mobile Phone

Emergency Contact & Mobile Phone

Emergency Contact & Mobile Phone

Billing Contact

E-Mail

Phone

Ext.

Fax

Billing Address

Address 2

City

State

Postal Code

Tax ID #

Sales Tax Exempt #

Billing Terms

Account Rep

Info Required on Invoice (PO or Job #)

Are you utilizing any external funding for your project (ex. FEMA, CARES): Y [] or N []

Please list all external sources: _____

Contract Contact

Email

Phone

Ext.

Fax

Project Contact

Email

Phone

Ext.

Fax



CITY COUNCIL AGENDA REPORT

DATE:	SEPTEMBER 16, 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. 24-3457 APPROVING AGREEMENT NO. 24-77, AN AFFORDABLE HOUSING AGREEMENT WITH THE MONTCLAIR HOUSING AUTHORITY AND THE MONTCLAIR HOUSING CORPORATION; AUTHORIZING THE TRANSFER OF 10052 CENTRAL 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 \$40,000 APPROPRIATION FROM THE ECONOMIC DEVELOPMENT ASSETS FUND FOR REHABILITATION OF THE PROPERTY LOCATED AT 10052 CENTRAL AVENUE, MONTCLAIR

CONSIDER ADOPTION OF MHA RESOLUTION NO. 24-03 APPROVING AGREEMENT NO. 24-77, 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. 24-04 APPROVING AGREEMENT NO. 24-77, AN AFFORDABLE HOUSING AGREEMENT WITH THE CITY OF MONTCLAIR AND THE MONTCLAIR HOUSING CORPORATION

REASON FOR CONSIDERATION: Proposed Agreement No. 24-77 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 10052 Central Avenue (Property) and the subsequent leasing and operations of said Property as an affordable housing unit.

Proposed City Council Resolution No. 24-3457 would approve entering into Agreement No. 24-77, and would authorize the transfer of Property to the MHA.

Proposed MHA Resolution No. 24-03 would approve Agreement No. 24-77, and accept the transfer of Property from the City.

Proposed MHC Resolution No. 24-04 would approve Agreement No. 24-77.

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. 24-77 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 property be operated as a rental unit made available to low- to moderate-income persons. As such, staff has prepared Agreement No. 24-77 an affordable housing agreement by and between the City, MHA, and MHC.

Proposed Agreement No. 24-77 contains language related to the conveyance of the Property, compliance with applicable laws, use of the Property, remedies, and general provisions. The more salient points of proposed Agreement No. 24-77 relate to the conveyance of fee title of the Property from the City to the MHA and leasing of the Property from the MHA to the MHC for the day-to-day operation of the Property, as well as the rehabilitation and rental of the Property to low-moderate-income persons.

10052 Central Avenue, Montclair

The subject Property is located on a highly visible and desirable portion of Central 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 1954 and the lot size is 8,400 square feet. The dwelling unit is 1,248 square feet with three bedrooms and two bathrooms.

FISCAL IMPACT: Staff is requesting an appropriation of funds from the Economic Development Agency Assets Fund totaling a maximum of \$40,000 related to costs associated with removal of the existing in ground pool, installation of a new fence, sidewalk repairs, electrical repairs, and minor landscaping.

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

1. Adopt Resolution No. 24-3457 approving Agreement No. 24-77, an Affordable Housing Agreement with the Montclair Housing Authority and Montclair Housing Corporation; authorizing transfer of certain real property located at 10052 Central 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 \$40,000 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. 24-03 approving Agreement No. 24-77, 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. 24-04 approving Agreement No. 24-77, an Affordable Housing Agreement with the City of Montclair and the Montclair Housing Authority.

RESOLUTION NO. 24-3457

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING AGREEMENT NO. 24-77, 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 10052 CENTRAL 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 10052 Central 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. 24-77, 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 24-77, 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 6: The City Council authorizes City Manager Edward C. Starr to sign Agreement No. 24-77 on behalf of the City of Montclair.

SECTION 7: The City Clerk shall certify to the adoption of 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. 24-3457 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. 24-03

**A RESOLUTION OF THE MONTCLAIR HOUSING AUTHORITY
APPROVING AGREEMENT NO. 24-77, 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
10052 CENTRAL AVENUE, MONTCLAIR, CALIFORNIA,
FROM THE CITY OF MONTCLAIR**

WHEREAS, the City of Montclair (the "City") acquired property located at 10052 Central 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. 24-77, 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 24-77, an Affordable Housing Agreement by and among the City of Montclair, Montclair Housing Authority, and Montclair Housing Corporation.

SECTION 4: The Montclair Housing Authority authorizes the Executive Director of the Montclair Housing Authority to execute Agreement No. 24-77 on behalf of the Montclair Housing Authority.

SECTION 5: 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 6: The Montclair Housing Authority Secretary shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2024.

Chair

ATTEST:

Secretary

I, Andrea M. Myrick, Secretary of the Montclair Housing Authority, DO HEREBY CERTIFY that Resolution No. 24-03 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. 24-04

**A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION
APPROVING AGREEMENT NO. 24-77, 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 10052 Central 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. 24-77, 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 24-77, 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. 24-77 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. 24-04 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 September 16, 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 10052 Central 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 10052 Central Avenue, Montclair, California, and described in the Legal Descriptions.

“Property Value” means the amount of Seven Hundred and Twenty Thousand Dollars (\$720,000). 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:

1010-295-03-0000

TRACT 3391 LOT 11 TR NO 3391 LOT 11 EX N 24 FT AND N 34 FT LOT 12

ATTACHMENT NO. 24-77

LEASE

By and Between

THE MONTCLAIR HOUSING AUTHORITY

and

MONTCLAIR HOUSING CORPORATION

LEASE

THIS LEASE (the “Lease”) is made as of September 16, 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 September 16, 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 10052 Central 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 September 16, 2024 (the “Commencement Date”) and continuing until [September 16, 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:

1010-295-03-0000

TRACT 3391 LOT 11 TR NO 3391 LOT 11 EX N 24 FT AND N 34 FT LOT 12

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: 1010-295-03-0000

[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:

1010-295-03-0000

TRACT 3391 LOT 11 TR NO 3391 LOT 11 EX N 24 FT AND N 34 FT LOT 12

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:
1010-295-03-0000

TRACT 3391 LOT 11 TR NO 3391 LOT 11 EX N 24 FT AND N 34 FT LOT 12

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 September 16, 2024, 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

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON TUESDAY,
SEPTEMBER 3, 2024, AT 6:10 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 6:10 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 August 19, 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 August 19, 2024.

IV. PUBLIC COMMENT – None

V. CLOSED SESSION

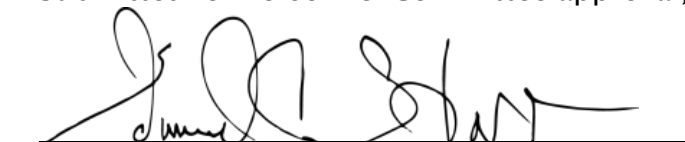
At 6:11 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 6:44 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 6:44 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 TUESDAY, SEPTEMBER 3, 2024 AT 7:00 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 7:00 p.m.

II. INVOCATION

Chaplain Dianna Delgado, Chaplain of the Streets, gave the invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Ruh 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 Community Development Diaz; Director of Finance Kulbeck; Director of Public Works/City Engineer Heredia; Police Chief Reed; Fire Chief Pohl; City Attorney Robbins; City Clerk Myrick

V. PRESENTATIONS — None

VI. PUBLIC COMMENT

- Carolyn Raft, West Valley Mosquito and Vector Control District Board Secretary and Montclair representative, shared information about the District's various social media accounts, advised that no cases of West Nile viruses have been reported in Montclair, and reported sterile male mosquitos continue to be released into the community.

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:	Items B-2 and C-1
MOTION:	Approve the Consent Calendar as presented.
MADE BY: SECOND BY:	Council Member/Director Lopez 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 — August 19, 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 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.

2. Consider Authorizing a \$70,808.82 Appropriation from the Equipment Replacement Fund for the Purchase of a 2025 Case 580EV Electric Backhoe Loader from Sonrsay Machinery for the Public Works Department

Consider Declaring a 2005 CASE Backhoe Loader (Unit 304) as Surplus and Available for Sale at Auction

Mayor Dutrey commended staff on the positive feedback received from **South Coast Air Quality Management District** for the efforts on going electric.

ACTION – Consent Calendar – Item B-2	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

3. Consider Authorizing a \$160,561.38 Appropriation from the Equipment Replacement Fund for the Purchase of Three 2025 Ford Explorer Interceptor Utility Vehicles from Fritts Ford for the Police Department

Consider Declaring One Ford Police Interceptor Utility Vehicle (Unit 411) as Surplus and Available for Parts or for Sale at Auction

Consider Authorizing the Reassignment of One Ford Police Interceptor Utility Vehicle (Unit 425) as a Cadet Vehicle

ACTION – Consent Calendar – Item B-3	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

4. Consider Declaring a 1999 Chevrolet Blazer (Unit 112) as a Surplus Vehicle Available for Parts or for Sale at Auction

ACTION – Consent Calendar – Item B-4	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

C. Agreements

1. **Consider Approval of Agreement No. 24-73 with the Department of Homeland Security, Federal Emergency Management Agency to Accept a Staffing for Adequate Fire and Emergency Response (SAFER) Grant in the Amount of \$691,129 to Hire Two Full-Time Firefighter Paramedics**

Consider Authorizing Receptionist/Office Specialist Amanda Romano to Accept the Grant Award and Terms in the FEMA Online Portal

Mayor Pro Tem Johnson asked what would happen to the two full time positions after the 3 year grant ends.

City Manager Starr clarified the City has the option to discontinue or fund the position through the General Fund account; therefore, continuing to fund these positions would be at the City Council's discretion.

Council Member Lopez noted plans to construct high density housing in north Montclair will necessitate more public safety staff to respond to increased calls for service, and asked where the new positions would be stationed.

City Manager Starr stated they would be assigned to Fire Station No. 151, given the high demand for services in the northern area of the city. He added the two positions have already been approved in the FY 2024-25 budget, and would be funded by the grant through FY 2028-29.

Mayor Dutrey noted voters approved Measure L in 2020 to improve public safety response; therefore, he favors having the General Fund continue to support these positions after the grant expires.

ACTION – Consent Calendar – Item C-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

2. **Consider Approval of Agreement No. 24-74 with CRP/VP Montclair Village Owner LLC for the Purchase of Real Property Generally Located at the Intersection of Arrow Highway and Fremont Avenue (APN 1007-703-06-0000), Subject to Any Revisions Deemed Necessary by the City Attorney**

Consider Authorizing City Manager Edward C. Starr to Sign Agreement No. 24-74 and Related Documents

ACTION – Consent Calendar – Item C-2	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

D. Resolutions — None

X. COUNCIL WORKSHOP

A. Capital Improvement Program

The City Council continued this presentation to an adjourned meeting to be held on Monday, September 16, 2024, at 5:45 p.m. in the City Council Chambers.

XI. COMMUNICATIONS

A. Department Reports

1. Police Department — Pink Patches for Breast Cancer Awareness Month in October

Police Chief Reed presented the updated pink patch design that Police Department staff will be wearing in October to promote Breast Cancer Awareness Month and advised staff who would like to participate must make a minimum \$30 donation to the Loma Linda Medical Center.

B. City Attorney

City Attorney Robbins requested the City Council meet in closed session concerning the following:

1. Request for City Council to Meet in Closed Session Pursuant to Government Code §54956.9(d)(1) Regarding Pending Litigation [CC]

Delgado v. City of Montclair

2. Request for City Council to Meet in Closed Session Pursuant Government Code §54957.6 Regarding Conference with Designated Labor Negotiator Edward C. Starr [CC]

Agency: City of Montclair
Employee: Management Employees
Associations: Montclair City Confidential Employees Association
General Employees – Teamsters Local 1932
Montclair Fire Fighters Association
Montclair Police Officers Association

C. City Manager/Executive Director — No comments

D. Mayor/Chair

Mayor/Chair Dutrey acknowledged holidays occurring and groups and causes recognized during the month of September. He reported his recent attendance at a meeting of city leaders to discuss a regional approach to address the homelessness crisis; noted the great turnout at the **Chamber of Commerce's Night in the Garden** event; and advised he would like the City Council to approve a regular meeting calendar for 2025 before the end of the year to determine which meetings can be cancelled in advance.

E. Council Members/Directors

1. Council Member/Director Ruh urged the community to be kind to those working in the service industry in honor of Labor Day; and noted his attendance at the *Night in the Garden* event and at Planning Commissioner Emeritus **Luis Flores's** vigil.

2. Council Member/Director Lopez commended the **Chamber** for the great turnout at their *Night in the Garden* event and requested staff to provide an update regarding the roundabout project at the intersection of Ramona Avenue and Howard Street.

City Manager Starr advised the project is awaiting additional grant funding, noting the original estimate was \$2 million dollars short. He indicated a more thorough update will be included during the City Council Workshop on September 16.

3. Mayor Pro Tem/Vice Chair Johnson thanked everyone who attended the **Chamber** event. She invited the community to attend a business networking breakfast at the **Chino Basin Water Conservation District** on Thursday, September 12, from 8:30 a.m. to 10:00 a.m., as well as a free e-waste event on Saturday and Sunday, September 28 and 29, at Alma Hofman Park from 9:00 a.m. to 2:00 p.m. She commended staff for extending operations of the splash pad due to the hot weather.

F. Committee Meeting Minutes

The following committee minutes were received and filed for informational purposes:

1. Personnel Committee — August 19, 2024

XII. CLOSED SESSION

At 7:33 p.m., the City Council went into closed session to discuss pending litigation and labor negotiations.

XIII. CLOSED SESSION ANNOUNCEMENTS

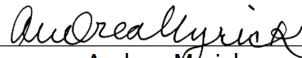
At 7:55 p.m., the City Council returned from closed session. Mayor Dutrey announced that the City Council discussed pending litigation and real labor; information was received and direction given to staff on both items; and no further announcements would be made at this time.

XIV. ADJOURNMENT

At 7:55 p.m., the Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board were adjourned.

At 7:55 p.m., the City Council was adjourned to Monday, September 16, 2024, at 5:45 p.m. in the City Council Chambers for a workshop on the Capital Improvement Program.

Submitted for City Council/Successor Agency Board/Montclair Housing Corporation Board/Montclair Housing Authority Commission/Montclair Community Foundation Board approval,



Andrea Myrick,
City Clerk