

**CITY OF MONTCLAIR  
AGENDA FOR CITY COUNCIL, SUCCESSOR AGENCY,  
MONTCLAIR HOUSING CORPORATION, MONTCLAIR  
HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY  
FOUNDATION MEETINGS**

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

June 3, 2019

7:00 p.m.

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

*Persons wishing to speak on an agenda item, including closed session items, are requested to complete a yellow Speaker Information Card located at the entrance of the Council Chambers and present it to the City Clerk prior to consideration of the item. The Mayor/Chair (or the meeting's Presiding Officer) will recognize those who have submitted a card at the time of the item's consideration by the City Council/Board of Directors/Commissioners, and speakers may approach the podium to provide comments on the item at that time.*

*Audio recordings of the CC/SA/MHC/MHA/MCF meetings are available on the City's website at [www.cityofmontclair.org](http://www.cityofmontclair.org) and can be accessed by the end of the next business day following the meeting.*

- 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 HEARINGS**

Page No.

- A. Consider First Reading of Ordinance 19-985 Adding Section 6.16.025 to the Montclair Municipal Code Establishing and Mandating a Commercial and Organic Waste Recycling Program and Amending Specific Sections of Chapters 1.12 and 6.16 Related to Penalties and Refuse Collection and Disposal in the City of Montclair [CC]

Consider Setting a Public Hearing on Monday, June 17, 2019, at 7:00 p.m. in the City Council Chambers to Consider Second Reading and Adoption of Ordinance No. 19-985 [CC]

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**VII. PUBLIC COMMENT**

*This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded up to five minutes to address the City Council/Boards of Directors/Commissioners. (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.*

**VIII. CONSENT CALENDAR**

A. Approval of Minutes

1. Special Meeting — May 9, 2019 [CC]
2. Regular Joint Meeting — May 20, 2019 [CC/SA/MHC/MHA/MCF]

B. Administrative Reports	
1. Consider Authorizing a \$15,586 Appropriation from the Public Safety Grant Fund to Purchase a Respirator Fit Tester and Batteries for Handheld Radios [CC]	11
2. Consider Approval of Warrant Register and Payroll Documentation [CC]	13
C. Agreements	
1. Consider Approval of Agreement No. 19-39 with San Bernardino County for Construction of the Central Avenue Rehabilitation Phase 1 Project [CC]	14
2. Consider Award of Contract to Sully Miller Contracting Company in the Amount of \$7,129,961.75 for Construction of the Central Avenue Rehabilitation Phase 1 Project [CC]	
Consider Approval of Agreement No. 19-40 with Sully Miller Contracting Company for Construction of the Central Avenue Rehabilitation Phase 1 Project [CC]	
Consider Authorization of a \$700,000 Construction Contingency for the Project [CC]	23
3. Consider Approval of Agreement No. 19-41 with Econolite Systems for Traffic Signal Maintenance Services [CC]	30
4. Consider Approval of Agreement No. 19-42 with Albert Grover & Associates for Traffic Engineering Services [CC]	49
5. Consider Approval of Agreement No. 19-43 with the State of California, Department of General Services, Office of Administrative Hearings (OAH) to Furnish Administrative Law Judges for the Purpose of Conducting Hearings Regarding Industrial Disability Retirement Determination Appeals [CC]	64
6. Consider Approval of Agreement No. 19-44 with the San Bernardino County Office of Homeless Services for Access to the Homeless Management Information System [CC]	
Consider Authorizing the City Manager to Sign Agreement No. 19-44 [CC]	71
7. Consider Award of Contract to R Dependable Construction, Inc., in the Amount of \$24,800 for Construction of the Montclair Transcenter Shelter Repair Project [CC]	
Consider Approval of Agreement No. 19-45 with R Dependable Construction, Inc., for Construction of the Montclair Transcenter Shelter Repair Project [CC]	
Consider Authorization of a \$3,500 Construction Contingency for the Project [CC]	80
8. Consider Approval of Agreement No. 19-46 with Ontario-Montclair School District to Utilize the Family Resource Center for Case Management Services and to Support Operating Costs at the Facility [CC]	87
9. Consider Approval of Agreement No. 19-47 with the San Bernardino County Department of Aging and Adult Services to Accept an Award to Provide the Senior Citizen Nutrition Program [CC]	98

D. Resolutions

1. Consider Adoption of Resolution No. 19-3236 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges [CC] 180
2. Consider Adoption of Resolution No. 19-3239 Authorizing the Application for Statewide Park Development and Community Revitalization Program Grant Funds to Develop Reeder Ranch Park [CC] 186

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. BUSINESS ITEMS — None**

**XI. RESPONSE — None**

**XII. COMMUNICATIONS**

A. City Department Reports — None

B. City Attorney

1. Request to Meet in Closed Session Pursuant to Government Code §54956.9(d)(2) Regarding Potential Litigation [CC]

*1 Potential Case*

C. City Manager/Executive Director

D. Mayor/Chairperson

E. Council Members/Directors

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

1. Personnel Committee Meeting— May 20, 2019 [CC] 188

**XIII. COUNCIL/MHC WORKSHOP**

A. Fiscal Year 2019-20 Preliminary Budget Review [CC/MHC]

*(The City Council and MHC Board of Directors may consider continuing this item to an adjourned meeting on Monday, June 17, 2019, at 5:30 p.m. in the City Council Chambers)*

**XIV. CLOSED SESSION**

**XV. CLOSED SESSION ANNOUNCEMENTS**

**XVI. 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, June 17, 2019, at 7:00 p.m. in the Council Chambers.*

*Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Acting Bodies after distribution of the Agenda packet are available for public inspection in the City Clerk's Office at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.*

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

*I, Andrea M. Phillips, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763, on May 30, 2019.*



# AGENDA REPORT

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**DATE:** JUNE 3, 2019

**FILE I.D.:** REF020

**SECTION:** PUBLIC HEARINGS

**DEPT.:** FINANCE

**ITEM NO.:** 9

**PREPARER:** D. PARKER

**SUBJECT:** CONSIDER FIRST READING OF ORDINANCE 19-985 ADDING SECTION 6.16.025 TO THE MONTCLAIR MUNICIPAL CODE ESTABLISHING AND MANDATING A COMMERCIAL AND ORGANIC WASTE RECYCLING PROGRAM AND AMENDING SPECIFIC SECTIONS OF CHAPTERS 1.12 AND 6.16 RELATED TO PENALTIES AND REFUSE COLLECTION AND DISPOSAL IN THE CITY OF MONTCLAIR

CONSIDER SETTING A PUBLIC HEARING ON MONDAY, JUNE 17, 2019, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS TO CONSIDER SECOND READING AND ADOPTION OF ORDINANCE NO. 19-985

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**REASON FOR CONSIDERATION:** The City Council is requested to consider conducting the first reading of Ordinance No. 19-985 adding Section 6.16.025 to the Montclair Municipal Code establishing and mandating a Commercial and Organic Waste Recycling Program and amending specific sections of Chapters 1.12 and 6.16 related to Penalties and Refuse Collection and Disposal in the City of Montclair. Amendments to the Montclair Municipal Code require a public hearing review and two readings of the Ordinance performed by the City Council before its adoption.

A copy of proposed Ordinance 19-985 is attached for the City Council's review and consideration.

**BACKGROUND:** Chapter 6.16 of Title 6 of the City of Montclair Municipal Code contains the regulations for Refuse Collection and Disposal; however, Chapter 6.16 does not presently include commercial general and organic waste recycling processes. These processes are currently mandated by state law. State law requires that local governments implement these requirements.

The State of California, Department of Resources, Recycling, and Recovery (CalRecycle) administers and provides oversight for all of California's state-managed, non-hazardous waste handling and recycling programs. As part of our implementation of these state's requirements, the City created a voluntary commercial general and organic waste recycling program. The rate of participation in the program, while increasing, has not increased fast enough to satisfy CalRecycle's requirements. CalRecycle is threatening notification of non-compliance and ultimately can issue penalties of up to \$10,000 per day if conformance with their established criteria is not achieved. In order to achieve compliance, they now requiring cities' established commercial recycling programs become mandatory.

To make commercial general and organic waste recycling procedures mandatory, Section 6.16.025 would need to be added to require these processes. This would also establish the City's ability to enforce these requirements. Staff is also recommending some cleanup language to other areas of Chapter 6.16 (Refuse Collection and Disposal) and 1.12 (Penalties) to correct typographical errors, remove redundancies, and include references to other pertinent sections of the Code. Ordinance No. 19-85 would be effective 30 days after adoption by City Council.

**FISCAL IMPACT:** Proposed Ordinance No. 19-985 adding Section 6.16.025 to the Montclair Municipal Code covers refuse collection processes and procedures and does not involve the setting of fees or costs. The City Council's adoption of Ordinance No. 19-985 would have no direct fiscal impact other than to avoid penalties imposed by CalRecycle.

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

1. Conduct first reading of Ordinance No. 19-985 adding section 6.16.025 to the Montclair Municipal Code establishing and mandating a Commercial and Organic Waste Recycling Program and amending specific sections of Chapters 1.12 and 6.16 related to penalties and refuse collection and disposal in the City of Montclair; and
2. Set a public hearing for Monday, June 17, 2019, at 7:00 p.m. in the City Council Chambers to consider second reading and adoption of Ordinance No. 19-985.

ORDINANCE NO. 19-985

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTIONS WITHIN CHAPTERS 6.02 (DEFINITIONS) AND 6.16 (REFUSE COLLECTION AND DISPOSAL) OF THE MONTCLAIR MUNICIPAL CODE; ADDING SECTION 6.16.025 ESTABLISHING A MANDATORY COMMERCIAL RECYCLING AND ORGANIC WASTE RECYCLING/DIVERSION PROGRAM; AND AMENDING SECTION 1.12.010 (PENALTIES)

WHEREAS, various codes of the State of California establish the requirements for refuse collection, recycling and disposal; and

WHEREAS, implementation of the various requirements specified in applicable Codes was accomplished by the City of Montclair in Title 6 - Health and Safety of its Municipal Code which specifies processes and procedures covering Refuse Collection and Disposal; and

WHEREAS, to recognize recycling and organic waste disposal programs currently required by State Law and available, revision of the Municipal Code is required.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION I.** Section 6.02.010 of Chapter 6.02 of Title 6 is amended to include the following definitions:

**6.02.010 - Definitions.**

**Business** means a commercial or public entity including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, strip mall, school, school district, special district, federal, state, local, regional agency or facility. "Business" also includes a multifamily residential dwelling or mobile home park of five or more units.

**Organic waste** means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

**Scavenging** means engaging in any of the following activities:

1. Tampering or meddling with a container used for disposal of solid waste including recyclable materials.
2. Tampering or meddling with the contents of any container used for disposal of solid waste including recyclable materials.
3. Removing the contents of any container used for disposal of solid waste including recyclable materials.
4. Removing any container used for disposal of solid waste, including recyclable materials, from the location where the container has been placed by the owner of the container or owner's agent or employee.
5. Removing, tampering, or meddling with solid waste, including recyclable materials, set out for collection pursuant to the provisions of Chapter 6.16 on private property or on any sidewalk, street, or public right-of-way.

**SECTION II.** Section 6.16.020 is hereby amended as follows:

**6.16.020 - Receptacle required.**

- A. All garbage, rubbish and waste materials as defined in Chapter ~~7-02~~ **6.02** of this title shall be deposited in a single receptacle or receptacles as required ~~and receptacle(s) shall not exceed 36 gallons,~~ **which may be provided by the City or its duly authorized agent.** When garbage is deposited with waste material, rubbish or refuse, the receptacle shall be of a ~~metal,~~ plastic or otherwise impervious material with a tight-fitting cover.

- B. ~~Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises with the exception of bins that are provided to a multifamily, commercial or industrial property by the City's contractor.~~ Refuse containers shall be maintained in good condition. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice to the City's authorized waste hauler. The City Manager or his/her designee shall have the authority to refuse collection services for failure to comply herewith.

~~G. Plastic bags having sufficient strength and watertightness and which are designed for the containment of refuse may also be used. Cardboard barrels with metal rims are not proper trash containers. When set out on the curb side, both cardboard barrels and boxes shall be picked up and not returned to the resident.~~

**SECTION III.** Section 6.16.025, establishing and mandating a commercial and organic waste recycling program, is hereby added to Chapter 6.16 of the Montclair Municipal Code as follows:

**6.16.025 – Commercial recycling and organic waste recycling/diversion.**

- A. Any business generating four or more cubic yards of solid waste per week and any multifamily residential dwelling of five or more units shall reuse, recycle, compost, or otherwise divert its commercial solid waste from disposal by taking one, or any combination, of the following actions:
1. Source separate recyclable materials from the solid waste being discarded and subscribe with the City's franchise hauler, for the pickup of the recyclable materials separately from the solid waste to divert the recyclable materials from disposal.
  2. Source separate recyclable materials from the solid waste and self-haul them to a certified materials recovery facility (MRF) or other mixed waste processing facility for diversion from disposal.
    - a. Each business subject to this section that does not subscribe with city's franchise hauler for pick-up of its recyclable materials shall be responsible for ensuring and demonstrating its compliance with the requirements of this section to the City Manager or their designee with satisfactory proof of acceptable levels of waste diversion on a quarterly basis (March, June, September and December).
    - b. To comply with subsection B of this section, property owners of multifamily complexes may require tenants to source separate their recyclable materials. Tenants must source separate their recyclable materials as required by property owners of multifamily complexes subject to this section.
  3. The City shall implement a commercial solid waste recycling program that consists of education, outreach and monitoring of businesses, that is designed to divert commercial solid waste from businesses.
  4. Nothing in this section is intended to prevent or limit the existing right of any business to donate, sell, or otherwise dispose of its recyclable materials as provided by Section 41952 of the Public Resources Code.
- B. Any business and any multifamily residential dwelling of five or more units generating four or more cubic yards of solid waste per week shall recycle, compost, or otherwise divert its solid waste from disposal by taking one, or any combination, of the following actions.
1. Source separate organic waste from the solid waste being discarded, and subscribe with the City's franchise hauler for the pick-up of the organic materials separately from the solid waste to divert the materials from disposal.

2. Source separate organic waste from the solid waste and self-haul them to a certified organic processing and recycling facility for diversion from disposal.
  - a. Each business subject to this section that does not subscribe with the City's franchise hauler for pick-up of its organic materials shall be responsible for ensuring and demonstrating its compliance with the requirements of this section to the City Manager or their designee with satisfactory proof of acceptable levels of organics recycling on a quarterly basis (March, June, September and December).
  - b. To comply with subsection B of this section, property owners of multifamily complexes may require its contracted landscapers to recycle the green waste materials and provide satisfactory proof that the materials are being properly recycled.
3. The City's franchise hauler shall implement a commercial organics recycling program that consists of education, outreach and monitoring of businesses, that is designed to divert organic materials from businesses.
- C. Nothing in this section is intended to prevent or limit the existing right of any business to donate, sell or otherwise dispose of its organics materials as provided by Section 41952 of the Public Resources Code.
- D. Penalties. Any person who violates any provision of this section shall be guilty of a misdemeanor or an infraction, at the discretion of the City Manager, as defined by and punishable in the manner provided for in Section 1.12.010 of this Code.

**SECTION IV.** Section 6.16.140 prohibiting scavenging in solid waste containers in the City is hereby amended in order to add references and remove redundancies within the Code as follows:

**6.16.140 – Scavenging Prohibited.**

- A. Scavenging. It is unlawful for any person to engage in the act of scavenging, as defined in Section 6.02.010. ~~For purposes of this section, "scavenging" means engaging in any of the following activities:~~
  - ~~1. Tampering or meddling with a container used for disposal of solid waste including recyclable materials:~~
  - ~~2. Tampering or meddling with the contents of any container used for disposal of solid waste including recyclable materials:~~
  - ~~3. Removing the contents of any container used for disposal of solid waste including recyclable materials:~~
  - ~~4. Removing any container used for disposal of solid waste, including recyclable materials, from the location where the container has been placed by the owner of the container or owner's agent or employee:~~
  - ~~5. Removing, tampering, or meddling with solid waste, including recyclable materials, set out for collection pursuant to the provisions of this chapter 6.16 on private property or on any sidewalk, street, or public right-of-way:~~

~~C.—Enforcement:~~

- ~~1. It is unlawful for any person to violate any provision or fail to comply with any requirements of this section. In addition to other remedies provided by law, any person violating any provision of this section or failing to comply with any of the requirements is deemed guilty of an infraction within the manner provide in Montclair Municipal Code Section 1.12.010:~~
- ~~2. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of or failure to comply with any of the provisions of this section is committed, continued, or permitted:~~



~~D.—Penalties.—Each infraction is punishable by:~~

~~1.—A fine not exceeding \$100 for the first violation.~~

~~2.—A fine not exceeding \$200 for the second violation within one year.~~

~~3.—A fine not exceeding \$500 for each additional violation within one year.~~

~~E.—It is declared to be an infraction for any person, other than those individuals listed in subsection B, to violate any provision of this Section 6.16.040.~~

**C. Penalties.** Any person who violates any provision of this section shall be guilty of a misdemeanor or an infraction, at the discretion of the City Manager, as defined by and punishable in the manner provided for in Section 1.12.010 of this Code.

**SECTION V.** Subsection B of Section 1.12.010 is amended to include recovery of Attorney's Fees to the description of Penalties as follows:

**1.12.010 – Penalties.**

B. Penalties.

**4. Attorney Fees.** In addition to any civil and criminal penalties as provided by the provisions of this section or otherwise, the City may recover reasonable attorneys' fees, court costs, and other expenses of litigation and/or prosecution incurred in the enforcement of the provisions of this Code against a person, business, or entity found to have violated any of the provisions of this Code.

**SECTION VI. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

**SECTION VII. Effective Date.**

This Ordinance shall be in full force and effect thirty (30) days after passage.

**SECTION VIII. Posting.**

The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

**APPROVED AND ADOPTED** this XX day of XX, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 19-985 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2019, and finally passed not less than five (5) days thereafter on the XX day of XX, 2019, by the following vote, to-wit:

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

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Andrea M. Phillips  
City Clerk

FIRST  
READING  
06/03/2019



Staff is also seeking approval to use FY2017 HSGP funds to purchase 66 batteries for the Department’s handheld, two-way radios used by emergency personnel. Radio communication is a lifeline for first responders connecting them not only to the Communications Center to allow for interagency coordination of incidents, but also to mutual aid and emergency medical personnel during situations that require a mutual and coordinated response. Each Officer is required to have two batteries for his/her radio, which allows two-way communication that is essential in developing situational awareness of an incident or a major event as it is occurring or evolving. Uninterrupted communications is paramount to the efficient assessment of situations helping to ensure the safety of first responders and the community.

Bid quotations for the purchase of 66 batteries for handheld radios were received from the following vendors:

<u>Vendor</u>	<u>Bid Amount</u>
Radio.Parts	\$5,835
Procom Communications	\$6,347
SBC Information Services	\$6,527

Staff proposes to purchase the batteries from San Bernardino County Information Services. This vendor does not offer the lowest cost per battery, but it is a local source who provides a one-year warranty; thus, if necessary, batteries can be repaired or exchanged without the Department incurring shipping and handling fees. SBC Information Services has been a reliable company for many years supplying quality batteries for the Department’s radios.

The Department’s request to procure a respirator fit tester and batteries for handheld radios has already been approved by the Homeland Security Grants Unit for the FY2017 HSGP.

**FISCAL IMPACT:** If approved by the City Council, the purchase of one respirator fit tester and 66 batteries would result in an appropriation from the Public Safety Grant Fund (1163) in the amount of \$15,586. The City would receive full reimbursement from the FY2017 HSGP.

**RECOMMENDATION:** Staff recommends the City Council authorize a \$15,586 appropriation from the Public Safety Grant Fund to purchase a respirator fit tester and batteries for handheld radios.



# AGENDA REPORT

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<b>DATE:</b> JUNE 3, 2019	<b>FILE I.D.:</b> FIN540
<b>SECTION:</b> ADMIN. REPORTS	<b>DEPT.:</b> FINANCE
<b>ITEM NO.:</b> 2	<b>PREPARER:</b> L. LEW/V. FLORES
<b>SUBJECT:</b> CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	

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

**BACKGROUND:** Mayor Pro Tem Raft has examined the Warrant Register dated June 3, 2019; and the Payroll Documentation dated May 12, 2019; and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated June 3, 2019, totals \$1,180,549.11; and the Payroll Documentation dated May 12, 2019, totals \$614,618.12 gross, with \$433,989.25 net being the total cash disbursement.

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



# AGENDA REPORT

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**DATE:** JUNE 3, 2019

**FILE I.D.:** SBC251-G

**SECTION:** AGREEMENTS

**DEPT.:** PUBLIC WORKS

**ITEM NO.:** 1

**PREPARER:** N. CASTILLO

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 19-39 WITH SAN BERNARDINO COUNTY FOR CONSTRUCTION OF THE CENTRAL AVENUE REHABILITATION PHASE 1 PROJECT

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**REASON FOR CONSIDERATION:** The City and San Bernardino County desire to enter into an agreement for joint participation in a pavement rehabilitation project on Central Avenue. Agreements with the City require City Council approval.

A copy of proposed Agreement No. 19-39 with San Bernardino County is attached for the City Council's review and consideration.

**BACKGROUND:** On May 16, 2019, the City received and opened eight bid proposals for the Central Avenue Rehabilitation Phase 1 Project. The rehabilitation project will repair damaged concrete, curb, gutter and sidewalk; replace non-compliant pedestrian ramps; install traffic signal video detection at all intersections as well as install audio pedestrian countdowns at multiple intersections; install a recycled water mainline; grind the existing pavement and resurface the street with new asphalt pavement; and install new traffic legends. As part of the street resurfacing work, new median island landscaping and hardscape will be constructed. Improvements include new monument entry signs, new water-saving irrigation systems, gabion-style hardscape features, and new drought-tolerant landscaping.

The Central Avenue Street Rehabilitation Project Phase 1 will extend from the southern City limit to the I-10 Freeway. Portions of Central Avenue from the southern City limit at Phillips Boulevard through State Street reside within unincorporated San Bernardino County. Additionally, the County requested the pavement rehabilitation on Howard Street from Central Avenue to 190 feet east of Central Avenue (completely in county jurisdictional boundary). As a result, the County has agreed to pay for a share of the project proportionate with the portion that lies in County areas. The City will include the rehabilitation of County portions of Central Avenue and Howard Street in the Central Avenue Rehabilitation Project Phase 1 and the County will reimburse the City.

**FISCAL IMPACT:** As this project is entirely funded with Bond Proceeds, any subsequent County reimbursement would be placed in a separate fund and utilized for additional infrastructure improvement as were the original bond proceeds.

**RECOMMENDATION:** Staff recommends that the City Council approve Agreement No. 19-39 with San Bernardino County for construction of the Central Avenue Rehabilitation Phase 1 Project.

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

**Contract Number****SAP Number**

## Public Works

<b>Department Contract Representative</b>	Sundaramoorthy (Sri) Srirajan, P.E., Chief
<b>Telephone Number</b>	(909) 387-8167
<b>Contractor</b>	City of Montclair (CITY)
<b>Contractor Representative</b>	
<b>Telephone Number</b>	(909) 625-9444
<b>Contract Term</b>	5/21/19 - 12/31/21
<b>Original Contract Amount</b>	\$943,000.00
<b>Amendment Amount</b>	
<b>Total Contract Amount</b>	\$943,000.00
<b>Cost Center</b>	650002000 / 34H14962

### IT IS HEREBY AGREED AS FOLLOWS:

*(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)*

WHEREAS, COUNTY and CITY (COUNTY and CITY are also each referred to herein as "Party" and collectively referred to herein as "Parties") desire to cooperate and jointly participate in a pavement rehabilitation project on Central Avenue, from Phillips Boulevard north to Interstate 10 (I-10), and on Howard Street from Central Avenue to 190 feet east of Central Avenue (hereinafter referred to as "PROJECT"); and

WHEREAS, the PROJECT is located in the unincorporated area of the COUNTY and in the incorporated area of the CITY; and

WHEREAS, California Streets and Highways Code section 1710 authorizes COUNTY to contract with CITY for CITY's maintenance, construction or repair of COUNTY highways, the cost being paid by COUNTY; and

WHEREAS, COUNTY determines that it is necessary for the more efficient maintenance, construction, or repair of the COUNTY roads identified herein to contract with CITY for the PROJECT; and

WHEREAS, it is anticipated that the funding for the design and construction phases of the PROJECT will be from COUNTY Senate Bill 1 Road Maintenance and Rehabilitation Account funds and CITY bond funds; and

WHEREAS, the total estimated cost for the PROJECT is \$8,753,920.00; and

WHEREAS, COUNTY's share of cost is estimated at \$943,000 and CITY's share of cost is estimated at \$7,810,920 as set forth in Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, the above-described costs are proportioned based on work done in each Parties' jurisdiction; and

WHEREAS, COUNTY and CITY desire to set forth responsibilities and obligations of each as they pertain to such participation and to the design, construction, and funding of the PROJECT.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1.0 CITY AGREES TO:

- 1.1 Act as the Lead Agency in the design, construction, construction engineering, inspection and California Environmental Quality Act (CEQA) compliance (Public Resources Code section 21000 et seq.) of the PROJECT. Right-of-way activities are not anticipated for the PROJECT and therefore are not part of this Agreement.
- 1.2 Provide plans and specifications and all necessary construction engineering for the PROJECT to COUNTY, for COUNTY's prior review and approval.
- 1.3 Construct the PROJECT by contract in accordance with the plans and specifications of CITY, which have been reviewed and approved by COUNTY, to the satisfaction of and subject to concurrence of COUNTY.
- 1.4 Arrange for relocation of all utilities which interfere with construction of the PROJECT within the entire PROJECT limits, pursuant to paragraph 3.9 below.
- 1.5 Obtain a no-cost permit from COUNTY for work within the COUNTY's right-of-way.
- 1.6 Advertise, award, administer, and initially fund the construction of the PROJECT, in accordance with the provisions of California Public Contract Code applicable to cities and require, as well as enforce, CITY's contractors to comply with all applicable laws and regulations, including Labor Code sections 1720 et seq. and 1770 et seq. that concern the payment of prevailing wages.
- 1.7 CITY shall require all contractors and vendors working on the PROJECT to have appropriate and adequate insurance coverage for the mutual protection and benefit of the Parties. Except for Workers' Compensation, Errors and Omissions and Professional Liability policies, CITY shall require and ensure that all CITY contractors/subcontractors for the PROJECT shall have insurance policies that contain endorsements naming the COUNTY and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the COUNTY to vicarious liability but shall allow coverage for the COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.
- 1.8 Require CITY's contractors and subcontractors to pay the minimum of prevailing wages.
- 1.9 Provide adequate inspection of all items of work performed under the construction contract(s) with CITY's contractors or subcontractors for the PROJECT and maintain adequate records of inspection and materials testing for review by COUNTY. CITY shall provide copies of any records of inspection and materials testing to COUNTY within ten (10) business days of CITY's receipt of written demand from COUNTY for such records. This shall be included as a PROJECT cost.
- 1.10 Pay its proportionate share of the cost of the PROJECT. The cost of the PROJECT shall include the cost of design, construction, construction engineering, inspection and CEQA compliance for the PROJECT. CITY shall pay 100% of PROJECT landscape and hardscape construction costs as well as pay for PROJECT landscape maintenance service costs and maintain PROJECT landscape beginning after completion of the PROJECT. CITY's proportionate share of cost for the PROJECT is estimated at



\$7,810,920. CITY shall be responsible for the sum of \$7,810,920, plus its share of any PROJECT cost increases pursuant to paragraphs 3.7, 3.9 and 3.11 below.

- 1.11 Upon CITY's and COUNTY's acceptance of the PROJECT, submit to the COUNTY an itemized accounting of actual PROJECT costs incurred by CITY and statement for COUNTY's proportionate share of PROJECT costs, as provided herein. Costs shall be amended following CITY and COUNTY acceptance of the final construction cost accounting. In no event shall COUNTY's proportionate share of cost of PROJECT exceed \$1,178,750 (COUNTY's estimated share of cost for PROJECT plus twenty-five percent) absent a written amendment to this Agreement approved pursuant to paragraph 3.16.
- 1.12 Include compliance with any applicable requirements of CEQA, as well as completing the required CEQA documentation.
- 1.13 Accept all payments from COUNTY via electronic funds transfer (EFT) directly deposited into the CITY's designated checking or other bank account. The CITY shall promptly comply with directions and accurately complete forms provided by COUNTY required to process EFT payments.

2.0 COUNTY AGREES TO:

- 2.1 Pay to the CITY its proportionate share of the cost of the PROJECT. The cost of the PROJECT shall include the cost of PROJECT design, construction, construction engineering, inspection and CEQA compliance. COUNTY's proportionate share of cost for the PROJECT is estimated at \$943,000.
- 2.2 Pay to CITY, on a reimbursement basis, its share of PROJECT costs, including its jurisdictional share of any PROJECT cost increases pursuant to paragraphs 3.7, 3.9 and 3.11 below, within ninety (90) calendar days after receipt of an itemized statement as set forth in paragraph 1.11 of this Agreement, setting forth all actual PROJECT costs incurred by CITY, together with adequate documentation of said expenditures. In no event shall COUNTY's proportionate share of cost of PROJECT exceed \$1,178,750 (COUNTY's estimated share of cost for the PROJECT plus twenty-five percent) absent a written amendment to this Agreement approved pursuant to Paragraph 3.16.
- 2.3 Provide a no-cost permit to the CITY for its work in COUNTY's right-of-way.
- 2.4 Review and approve the plans and specifications of the PROJECT.

3.0 IT IS MUTUALLY AGREED:

- 3.1 After CITY's and COUNTY's acceptance of completed PROJECT, the COUNTY shall be responsible for performing any maintenance for the PROJECT that is in the County Maintained Road System and within the COUNTY unincorporated area and the CITY shall be responsible for performing any maintenance for the PROJECT that is in the CITY incorporated area.
- 3.2 CITY agrees to indemnify, defend (with counsel approved by COUNTY) and hold harmless the COUNTY, its officers, employees, agents, and volunteers from any and all claims, actions, or losses, damages, and/or liability arising out of CITY's performance of its obligations under this Agreement.
- 3.3 COUNTY agrees to indemnify and hold harmless the CITY, its officers, employees, agents, and volunteers from any and all claims, actions, or losses, damages, and/or liability resulting from COUNTY's negligent acts or omissions which arise from COUNTY's performance of its obligations under this Agreement.
- 3.4 In the event the CITY and/or the COUNTY is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the CITY and/or COUNTY shall indemnify the other to the extent of its comparative fault.
- 3.5 In the event of litigation arising from this Agreement, each Party to the Agreement shall bear its own costs, including attorney(s) fees. This paragraph shall not apply to the costs or attorney(s) fees relative to paragraphs 3.2, 3.3 and 3.4.
- 3.6 CITY and COUNTY are authorized self-insured public entities for purposes of Professional Liability, Automobile Liability, General Liability, and Workers' Compensation and warrant that through their programs of self-insurance, they have adequate coverage or resources

- to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.
- 3.7 The Parties acknowledge that final PROJECT costs may ultimately exceed current estimate of PROJECT costs. Any additional PROJECT costs resulting from increased bid prices, change orders, or arising from unforeseen site conditions, including Utility relocation (but not from requested additional work by the COUNTY or CITY, which is addressed in paragraph 3.8 below) over the estimated total of PROJECT cost of \$8,753,920 (which is the sum of \$7,810,920 from CITY and \$943,000 from COUNTY), shall be borne by each Party in proportion to where the work actually lies (based on jurisdiction), as part of the Parties' respective obligations to pay the cost for the PROJECT.
- 3.8 If either CITY or COUNTY requests additional work that is beyond the scope of the original PROJECT, and not considered by all parties to be a necessary part of the PROJECT, said work, if approved by all parties, will be paid solely by the agency requesting the work.
- 3.9 In the case wherein one of the Parties owns a utility that needs to be relocated for a PROJECT and that Party does not have prior rights for that utility, it will be the sole responsibility of that Party to relocate the utility at that Party's cost. This shall not be included as a PROJECT cost. In the case that a utility relocation is determined to be a PROJECT cost based on that utility having prior rights, the relocation of the utility will be included as a PROJECT cost for which the COUNTY and CITY will be responsible for funding within their jurisdictional boundaries.
- 3.10 CITY shall notify COUNTY of the bids received and the amounts thereof. Within ten (10) business days thereafter, CITY and COUNTY shall determine the cost of the PROJECT. In the event that either Party intends to cancel this Agreement based upon the bids or amount thereof, said Party shall notify the other Party prior to the awarding of a contract so as to avoid detrimental reliance by any Party, contractor or potential contractor.
- 3.11 If after opening bids for the PROJECT, it is found that a cost overrun of 25% or less of the estimated PROJECT costs will occur, CITY may award the contract.
- 3.12 If, upon opening of bids, it is found that a cost overrun exceeding 25% of the estimated PROJECT costs will occur, CITY shall not award any contracts for the PROJECT. Rather CITY and COUNTY shall endeavor to agree upon an alternative course of action, including re-bidding of the PROJECT. If, after thirty (30) calendar days, an alternative course of action is not mutually agreed upon in writing, this Agreement shall be deemed to be terminated by mutual consent.
- 3.13 In the event that change orders are required during the course of the PROJECT, said change orders must be in form and substance as set forth in attached Exhibit "B" of this Agreement and approved by both CITY and COUNTY. Contract change order forms will be delivered by fax and must be returned within ten (10) business days. The COUNTY shall not unreasonably withhold approval of change orders. If a COUNTY disapproved or modified change order is later found to be a cost of the PROJECT, then the COUNTY shall be responsible for any costs, awards, judgments or settlements associated with the disapproval or modified change order.
- 3.14 This Agreement may be cancelled upon thirty (30) calendar days advance written notice of either Party, provided however, that neither Party may cancel this Agreement after CITY awards a contract to construct the PROJECT. In the event of cancellation as provided herein, including termination pursuant to paragraph 3.10 or 3.12 above, all PROJECT costs required to be paid by the Parties prior to the effective date of cancellation shall be paid by the Parties in the same proportion to their contribution for the PROJECT. The Parties recognize and agree that the provisions governing utility relocation and construction are dependent upon the Parties first satisfying CEQA. As provided in this paragraph, the Agreement may be cancelled with or without cause, before, during or after CEQA review/approval.
- 3.15 Except as provided in Paragraph 3.14, and except for the Parties' operation, maintenance and indemnification obligations contained herein which shall survive Agreement termination, this Agreement shall terminate upon completion of the PROJECT and payment of final billing by the COUNTY for its share of the PROJECT costs.

- 3.16 This Agreement contains the entire agreement of the Parties with respect to subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.
- 3.17 This Agreement shall be governed by the laws of the State of California. Any action or proceeding between CITY and COUNTY concerning the interpretation or enforcement of this Agreement, or which arises out of or is in any way connected with this Agreement or the PROJECT, shall be instituted and tried in the appropriate state court, located in the County of San Bernardino, California.
- 3.18 Time is of the essence for each and every provision of this Agreement.
- 3.19 Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for any or against any party. Any term referencing business days shall be deemed COUNTY business days. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.
- 3.20 No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
- 3.21 If a court of competent jurisdiction declares any portion of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of this agreement is frustrated.
- 3.22 This Agreement may be signed in counterparts, each of which shall constitute an original.
- 3.23 This Agreement will be effective on the date it is signed by both Parties and shall conclude upon satisfaction of the terms identified in paragraph 3.15 or December 31, 2021 (whichever occurs first).
- 3.24 The Recitals are incorporated into the body of this Agreement.

THIS AGREEMENT shall inure to the benefit of and be binding upon the successors and assigns of both Parties.

COUNTY OF SAN BERNARDINO

CITY OF MONTCLAIR

*(Print or type name of corporation, company, contractor, etc.)*

►  
\_\_\_\_\_  
Curt Hagman, Chairman, Board of Supervisors

By ► \_\_\_\_\_  
*(Authorized signature - sign in blue ink)*

Dated: \_\_\_\_\_  
SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Name Javier John Dutrey  
*(Print or type name of person signing contract)*

Laura H. Welch  
Clerk of the Board of Supervisors  
of the County of San Bernardino

Title Mayor  
*(Print or Type)*

By \_\_\_\_\_  
Deputy

Dated: \_\_\_\_\_  
Address 5111 Benito Street  
Montclair, CA 91763

ATTEST: \_\_\_\_\_  
Andrea Phillips, City Clerk

**FOR COUNTY USE ONLY**

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► Suzanne Bryant, County Counsel	► Mohammad Ali, P.E.	► Kevin Blakeslee, Director
Date _____	Date _____	Date _____

**EXHIBIT A**

**ESTIMATE OF PROJECT COSTS  
FOR CITY OF MONTCLAIR/COUNTY OF SAN BERNARDINO  
FOR THE PAVEMENT REHABILITATION  
IN THE MONTCLAIR AREA**

<b>DESCRIPTION</b>	<b>AMOUNT</b>	<b>COUNTY OF SAN BERNARDINO SHARE</b>	<b>CITY OF MONTCLAIR SHARE</b>
Construction (excluding hardscape/landscape)	<b>\$7,113,370</b>	<b>\$910,000</b>	<b>\$6,203,370</b>
Hardscape/Landscape Construction	<b>\$1,327,550</b>	<b>\$0</b>	<b>\$1,327,550</b>
All other costs such as design, construction engineering, inspection and California Environmental Quality Act (CEQA) compliance	<b>\$313,000</b>	<b>\$33,000</b>	<b>\$280,000</b>
<b>TOTAL</b>	<b>\$8,753,920</b>	<b>\$943,000</b>	<b>\$7,810,920</b>

**EXHIBIT B**

**CONTRACT CHANGE ORDER REVIEW/APPROVAL**

**PROJECT: CENTRAL AVENUE, FROM PHILLIPS BOULEVARD NORTH TO INTERSTATE 10 (I-10) AND  
HOWARD STREET, FROM CENTRAL AVENUE EAST TO 190 FEET EAST OF CENTRAL AVENUE  
CITY OF MONTCLAIR CONTRACT #**

File: H14962

Proposed Contract Change Order No. \_\_\_\_\_ has been reviewed in accordance with the existing agreements with the City of Montclair and County of San Bernardino for the above project and the following shall apply:

DATE OF CITY OF MONTCLAIR ACTION: \_\_\_\_/\_\_\_\_/\_\_\_\_

APPROVED for Implementation with 100% Participation by COUNTY OF SAN BERNARDINO

APPROVED Subject to Comments/Revisions Accompanying This Document

APPROVED With Limited Funding Participation by COUNTY OF SAN BERNARDINO

\_\_\_\_\_% of Actual Cost to be Funded by COUNTY OF SAN BERNARDINO

COUNTY OF SAN BERNARDINO Participation Not to Exceed \$ \_\_\_\_\_

DISAPPROVED -Not Acceptable to COUNTY OF SAN BERNARDINO

***Note: Approval under any of the above conditions shall in no case be construed as agreement to increase the total financial participation beyond that prescribed in the existing CITY OF MONTCLAIR and COUNTY agreement without a separate amendment to said agreement. Net increases in costs deriving from this and previously approved Contract Change Orders shall not cause the total construction costs to exceed the sum of the authorized contract total and contingency amounts.***

Comments, as follows and/or attached, are conditions of the above action?  YES  NO

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SIGNED: \_\_\_\_\_

TITLE: \_\_\_\_\_

Distribution:  
Signed Original Returned to **CITY OF MONTCLAIR**  
Signed Original for **COUNTY OF SAN BERNARDINO** File



# AGENDA REPORT

**DATE:** JUNE 3, 2019

**FILE I.D.:** STA804

**SECTION:** AGREEMENTS

**DEPT.:** PUBLIC WORKS

**ITEM NO.:** 2

**PREPARER:** N. CASTILLO

**SUBJECT:** CONSIDER AWARD OF CONTRACT TO SULLY MILLER CONTRACTING COMPANY IN THE AMOUNT OF \$7,129,961.75 FOR CONSTRUCTION OF THE CENTRAL AVENUE REHABILITATION PHASE 1 PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 19-40 WITH SULLY MILLER CONTRACTING COMPANY FOR CONSTRUCTION OF THE CENTRAL AVENUE REHABILITATION PHASE 1 PROJECT

CONSIDER AUTHORIZATION OF A \$700,000 CONSTRUCTION CONTINGENCY FOR THE PROJECT

**REASON FOR CONSIDERATION:** The City Council is requested to consider awarding a contract, Agreement No. 19-40, to Sully Miller Contracting Company in the amount of \$7,129,961.75 for construction of the Central Avenue Rehabilitation Phase 1 Project, and to authorize a \$700,000 construction contingency for the Project.

**BACKGROUND:** On May 16, 2019, the City received and opened eight bid proposals for the Central Avenue Rehabilitation Phase 1 Project. The rehabilitation project will repair damaged concrete, curb, gutter, and sidewalk; replace non-compliant pedestrian ramps; install traffic signal video detection at all intersections as well as install audio pedestrian countdowns at multiple intersections; install a recycled water mainline; grind the existing pavement and resurface the street with new asphalt pavement; and install new traffic legends. As part of the street resurfacing work, new median island landscaping and hardscape will be constructed. Improvements include new monument entry signs, new water-saving irrigation systems, gabion-style hardscape features, and new drought-tolerant landscaping. Additionally, the County is participating in the pavement rehabilitation project on Central Avenue and on Howard Street from Central Avenue to 190 feet east of Central Avenue. A summary of the bid results are below.

### Summary of Bid Results for the CENTRAL AVENUE REHABILITATION PHASE 1 PROJECT

<i>Contractor</i>	<i>Bid Amount</i>
Sully Miller Contracting Company	\$7,129,961.75
JM Olvera Engineering, Inc.	\$7,325,892.00
PALP	\$7,596,710.20
All American Asphalt	\$7,685,148.00
Environmental Construction, Inc.	\$8,097,904.43
Gentry Brothers, Inc.	\$8,100,778.00
Los Angeles Engineering, Inc.	\$8,183,460.00
<i>Engineer's Estimate</i>	<i>\$8,500,000.00</i>
Griffith Company	\$8,640,871.50

Following the bid opening, the eight bid proposals were reviewed for completeness and accuracy. The bid proposal from the apparent low bidder, Sully Miller Contracting Company, provided all required documents and was deemed the lowest responsible, responsive bidder for the project. Sully Miller Contracting Company has performed work for the City, and reference checks with surrounding cities indicate that Sully Miller Contracting Company is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the project specifications.

The anticipated duration of this project is 115 working days, with the work expected to begin in late July and completed no later than January 1, 2020.

**FISCAL IMPACT:** The project is entirely funded with Bond Proceed funds.

**RECOMMENDATION:** Staff recommends that the City Council take the following actions in relation to the Central Avenue Rehabilitation Phase 1 Project:

1. Award of contract to Sully Miller Contracting Company, in the amount of \$7,129,961.75, for construction of the Project.
2. Consider approval of Agreement No. 19-40 with Sully Miller Contracting Company for construction of the Project.
3. Consider authorizing a \$700,000 construction contingency for the Project.



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

**A. Recitals.**

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

**CENTRAL AVENUE REHABILITATION PHASE 1 PROJECT**

"PROJECT" hereinafter.

**B. Resolution.**

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

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

## AGREEMENT

each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

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

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

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

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

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

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

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

## AGREEMENT

- (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
  - (6) Automobile - Property Damage \$500,000 each accident.
  - c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
    - (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
    - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
  - d. Each such policy of insurance provided for in paragraph b. shall:
    - (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
    - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
    - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
    - (4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
    - (5) Otherwise be in form satisfactory to CITY.
  - e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.
6. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or

## AGREEMENT

damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

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

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

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

**AGREEMENT**

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

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

9. **CONTRACT PRICE AND PAYMENT:** CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **May 16, 2019**.

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

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

CONTRACTOR

CITY

**Sully Miller Contracting Company**  
135 S. State College Blvd., suite 400  
Brea, CA. 92821

**CITY OF MONTLAIR, CALIFORNIA**

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

\_\_\_\_\_

Javier "John" Dutrey  
Mayor

\_\_\_\_\_  
Name & Title

**ATTEST:**

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

\_\_\_\_\_

Andrea M. Phillips  
City Clerk

\_\_\_\_\_  
Name & Title

**APPROVED AS TO FORM:**

\_\_\_\_\_

Diane E. Robbins  
City Attorney



# AGENDA REPORT

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<b>DATE:</b>	JUNE 3, 2019	<b>FILE I.D.:</b>	TRC600
<b>SECTION:</b>	AGREEMENTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	N. CASTILLO
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 19-41 WITH ECONOLITE SYSTEMS FOR TRAFFIC SIGNAL MAINTENANCE SERVICES		

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**REASON FOR CONSIDERATION:** Agreement No. 18-41 with Econolite Systems for traffic signal maintenance expires on June 30, 2019. Both the City and Econolite Systems wish to enter into a new contract for a one-year term.

A copy of Proposed Agreement No. 19-41 with Econolite Systems for traffic signal maintenance services is attached for the City Council's review and consideration.

**BACKGROUND:** At its meeting on June 18, 2018, City Council approved Agreement No. 18-41 with Team Econolite Systems. The City of Montclair has been using Econolite's services for many years and they have been outstanding. The institutional knowledge brought by the Econolite team provides unsurpassed value to the City's traffic signal system. Additionally, the rapport that has been built between Econolite Systems and the City's Traffic Engineering Consultant Albert Grover & Associates provides excellent traffic signal performance. Recent audit from the San Bernardino County Transportation Authority (SBCTA) resulted in a 96 percent reliability of our signals being in coordination for the efficient and safe movement of traffic. City staff went through a vetting process to make sure that Econolite is the best value for the City. The new rates in the new agreement are essentially staying the same. The increase is in order to absorb the costs related to the Department of Industrial Relations prevailing wage increases, cost of business increases, including cost of fuel for vehicles and insurance. Accordingly, proposals from other firms were not sought, since Econolite continues to be the best value for the City. Staff recommends to continue utilizing Econolite to provide traffic signal maintenance services, since it is in the best interest and value of the City and within our purchasing guidelines.

**FISCAL IMPACT:** Under the terms of the proposed contract, the monthly preventative maintenance cost will increase from \$73.30 to \$76.66 per intersection. Other rates for extraordinary maintenance have increased relative to the cost of inflationary expenses associated with prevailing wages, fuel, and insurance. The new proposed rates are shown in Exhibit B of Agreement No. 19-41.

The preliminary budget for fiscal year 2019-20 has monies appropriated utilizing the rates established in Agreement No. 18-41. Since the amount of the proposed increases will vary based upon need and future scheduled maintenance, any adjustment necessary in the fiscal year 2019-20 budget will be assessed and made during the Midyear Budget Review.

**RECOMMENDATION:** Staff recommends that the City Council approve Agreement No. 19-41 with Econolite Systems for traffic signal maintenance services.

**CITY OF MONTCLAIR**

**AGREEMENT FOR CONSULTANT SERVICES**

**WITH ECONOLITE SYSTEMS FOR TRAFFIC SIGNAL MAINTENANCE**

THIS AGREEMENT is made and effective as of July 1, 2019, between the City of Montclair, a municipal corporation ("City") and ECONOLITE SYSTEMS a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on July 1, 2019 and shall remain and continue in effect for a period of 12 months until tasks described herein are completed, but in no event later than June 30, 2020, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks.

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

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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



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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials, and agents ("Indemnified Parties") from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant. Said indemnification shall include any claim that Consultant, or Consultant's employees or agents, are considered to be employees of the City or are entitled to any employee benefits from City, including but not limited to those available under Public Employees Retirement Law. Said obligation to indemnify, defend and hold harmless the Indemnified Parties shall apply to all liability as defined above whether the Indemnified Parties were actively or passively negligent, except that it shall not apply to claims arising from the sole negligence or willful misconduct of the Indemnified Parties. The Consultant's obligation to defend the Indemnified Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, liability, demands, causes of action, suits, losses, expenses, errors, omissions and/or costs.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section. These indemnification provisions are independent of and shall not in any way be limited by the insurance requirements of this Agreement. City approval of the insurance required by this Agreement does not in any way relieve the Consultant from liability under this section.

10. INSURANCE

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

(a) **Types of Required Coverages**

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

- (1) **Commercial General Liability:** Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$10,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) **Automobile Liability Insurance:** Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1), including owned, non-owned and hired autos, or the exact equivalent, with minimum limits of \$10,000,000 for bodily injury and property damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- (3) **Workers’ Compensation:** Workers’ Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- (4) **Professional Liability:** Professional Liability insurance with limit of not less than \$10,000,000 each claim. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusion that may potentially affect the work to be performed.

**(b) Endorsements**

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

- (1) Commercial General Liability

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

Additional Insured Endorsements shall not:

- 1. Be limited to “Ongoing Operations”
- 2. Exclude “Contractual Liability”

3. Restrict coverage to the "Sole" liability of contractor
4. Exclude "Third-Party-Over Actions"
5. Contain any other exclusion contrary to the Agreement

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

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

(2) Auto Liability

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

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

(3) Workers' Compensation

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

(c) **Notice of Cancellation**

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

(d) **Waiver of Subrogation**

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

(e) **Evidence of Insurance**

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

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

**(f) Deductible or Self-Insured Retention**

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

**(g) Contractual Liability/Insurance Obligations**

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

**(h) Failure to Maintain Coverage**

Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Contract. In addition, the City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.

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

**(i) Acceptability of Insurers**

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

**(j) Claims Made Policies**

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

**(k) Insurance for Subcontractors**

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

**11. INDEPENDENT CONTRACTOR**

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

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

**12. LEGAL RESPONSIBILITIES**

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

**13. UNDUE INFLUENCE**

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

(c) Consultant covenants that neither he/she nor any office or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subconsultant. Consultant further covenants that Consultant has not contracted with

nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement.

16. NOTICES

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

To City: Noel Castillo  
City Engineer  
City of Montclair  
5111 Benito  
Montclair, CA 91763

To Consultant: Brian Akerley  
Associate Vice President  
Econolite Systems  
1250 N. Tustin Ave. Anaheim, CA 92807

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only Mike Oliver (responsible employee) shall perform the services described in this Agreement; or a City approved designee.

Consultant's responsible employee may use assistants, under his direct supervision, to perform some of the services under this Agreement. Consultant shall provide City fourteen (14) days' notice prior to the departure of the responsible employee from Consultant's employ. Should he leave Consultant's employ, the City shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.



18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF REQUEST FOR PROPOSALS

Consultant is bound by the contents of City's Request for Proposal incorporated herein by this reference, and the contents of the proposal submitted by the Consultant. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

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

25. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

**CITY OF MONTCLAIR**

**CONSULTANT**

By: \_\_\_\_\_  
Javier John Dutrey, Mayor

By: \_\_\_\_\_  
Brian Akerley, Asso. Vice President

Attest:

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

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

Approved as to Form:

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

**EXHIBIT A**

**SCOPE OF MAINTENANCE SERVICES REQUIRED**

**ADMINISTRATIVE REQUIREMENTS**

**General** – Contractor shall furnish all tools, equipment, apparatus, facilities, labor, material, services, traffic control, etc., and perform all work necessary to maintain in good working order all traffic signal facilities at the locations listed herein. All work performed or equipment, parts, or materials supplied shall be subject to the inspection and approval of the City Engineer or his designated representative.

**Contact** – Contractor shall maintain a single, local or toll free telephone number where it can be reached 24 hours per day, seven days per week for reporting signal problems. Contractor shall also provide names and telephone numbers for at least three (3) responsible individuals representing Contractor that may be contacted 24 hours per day in the event of a signal related emergency.

**Equipment/Labor** – Contractor shall have available and readily accessible all required tools, equipment, apparatus, materials, facilities, and skilled labor necessary to perform all work necessary to maintain traffic signal systems and safety lighting in good working order. Skilled labor is further defined as traffic signal maintenance technicians that are certified as Level II Traffic Signal Technicians as issued by the International Municipal Signal Association (IMSA). Non-skilled labor may be used for certain tasks such as relamping, cleaning, painting, etc. Prior to commencement of contract, Contractor shall submit certification papers on all employees potentially working on City signals.

Contractor shall be equipped with spare parts sufficient to return a defective signal to operation following ordinary and extraordinary trouble calls. Examples of trouble calls where spare parts may be required include damages to controller cabinets, controller cabinet components, signal poles/heads, pedestrian indications/poles, and conduit/wiring. The substitute components shall be equal to or better than those they are replacing.

**Prevailing Wage** – Pursuant to Section 1773 of the Labor Code of the State of California, the General Prevailing Rates of Wages have been determined and these are listed in the California Department of Transportation publication, General Prevailing Wage Rates. The contractor and any subcontractors used in connection with this maintenance contract shall not pay its employees less than the prevailing wage. This requirement is applicable to routine maintenance, preventative maintenance checks, extraordinary maintenance and any other work requested by City or required under this contract. Certified payrolls shall be submitted to City on a monthly basis.

**Notification** – Contractor shall provide a toll-free emergency contact telephone number for reporting signal related problems, damages, and emergencies. The number shall be in service 24 hours per day, seven days per week, and 365 days per year.]

**Response Time** – Contractor should expect service requests outside of the Contractor's normal working or service hours. These service requests may be given by telephone, fax, e-mail, written correspondence, or other means. Contractor shall maintain 24-hour response capabilities in order to effectively address and respond to service requests.

The Contractor will need to ascertain whether service requests are of an "emergency" nature requiring an immediate response or whether the request is general in nature requiring routine response. Requests deemed to be "emergencies" shall be responded to immediately with all possible haste, arriving at the signal location within one hour of first notification. Routine requests shall be responded to within 24 hours of first notification unless other arrangements are agreed to.

The following events shall establish an emergency condition and the following action shall be taken:

1. Failure or malfunction of the traffic signal system or interruption of normal signal operations caused by or from:
  - Vehicle collisions or accidents
  - Acts of God
  - Civil disorder
  - Malicious mischief or vandalism
  - Actions of other contractors or utility companies

Under these conditions the Contractor shall immediately restore the traffic signal to normal operations. If that is not possible due to the extent of damage, sufficient repairs shall be made to enable the intersection to operate in all red flash.

2. Whenever any traffic signal indication or indications fail at any location such that less than two indications for any one direction of travel are functional, the Contractor shall immediately restore the indication(s) to normal operation.
3. Any appurtenant traffic signal equipment such as safety lighting, traffic signal heads, street name signs, block number or other regulatory signs, warning or guide signs affixed to mast arms or poles, reported to be knocked down, dangling, or otherwise creating a public safety hazard shall be immediately repaired or removed in order to eliminate the hazard or unsafe condition. Any equipment so removed shall be scheduled for replacement.
4. Any requests received by the Contractor where the nature of the call is unclear because of incomplete or inaccurate information shall be treated as an emergency.

**Record Keeping and Reporting** – The Contractor shall keep a current, permanent operational record of each and every piece of traffic control or safety equipment that the Contractor is required to maintain by this contract. These records shall be kept at each maintained location on a form approved by the City. The form shall include, at a

minimum, the date, time, description of device including all model, part, and serial number, narrative of deficiencies encountered, and a detail of any and all corrective action(s) taken. Entries shall be made legibly in indelible ink and shall be initialed by the technician making the entry.

The Contractor shall also submit to the City monthly summary reports of all activities relating to traffic signal and safety lighting maintenance for each maintained location. The summary report shall list the maintenance history for the entire reporting period for each individual signal location. A chronological report of all maintenance activities throughout the month is unacceptable. The summary reports shall be submitted to the City prior to the end of the month following the reporting period. The preferred method for reporting would be by e-mail as a Word or Excel document.

The following information, at a minimum, is required for each signal location:

- Signal location
- Date and approximate time of service
- Reason for service (callout or self-initiated)
- Description of service provided
- Notation of routine, extraordinary, emergency

For the purpose of this contract a month is defined as a calendar month. A year, except as may otherwise be defined elsewhere for specific purposes, is defined as a calendar year running from January 1 to December 31.

**Salvaged or Damaged Equipment** – Salvaged or damaged equipment shall become the property of Contractor unless otherwise directed by the City.

**MONTHLY MAINTENANCE/PREVENTATIVE MAINTENANCE CHECK-TRAFFIC SIGNALS**

The Contractor shall carry on a program of continuing comprehensive routine maintenance designed to reduce or eliminate the incidences of malfunctions and operational complaints, and extend the useful life of the equipment. The Contractor shall perform the following services at each signalized intersection on a monthly basis. Unless otherwise indicated, payment for the work would be considered part of the monthly service charge for the preventative maintenance check.

1. Clean the inside and outside of all controller cabinet assemblies and meter service pedestals.
2. Ensure proper working of fan/cooling system. Clean filters as necessary. Replace filters every six months.
3. Visually inspect all relays, clocks, dials, motors, switches, etc., and adjust, make minor repairs, make major repairs, or replace as necessary. Major repairs and replacements are considered non-routine and shall be compensated based on agreed prices or on a time and materials basis with prior approval from the City.

4. Walk all the approaches of the intersection and visually inspect all signal poles, mast arms, signal heads, and indications, traffic control signs, pedestrian signals, internally illuminated street name signs, loop sealants, pull box covers, and other signal appurtenances. All traffic signal heads and pedestrian signal heads found out of alignment shall be properly aligned. Missing signs shall be replaced. Cracked or damaged loop sealants shall be resealed. All other equipment found missing or damaged shall be replaced or repaired. Realigning heads, replacing missing signs, loop repairs or recutting loops, and other damage repairs shall be compensated based on agreed prices or on a time and materials basis with prior approval from the City.
5. Check the timing of individual signal phases and internal timing circuits for all timed devices in the cabinet.
6. Maintain an accurate chronograph and set all real-time clocks to the National Bureau of Standards (WWV) time. When and where necessary, adjust clocks Daylight Savings Time within 48 hours of time changes.
7. Check the yellow phase duration on all phases by stopwatch.
8. Check detector units and systems including, but not limited to, inductive loops, video detection, microwave sensors, radio transmitters/receivers, and pedestrian push buttons for correct detection of both vehicles and pedestrians. Adjust or repair as necessary.
9. Immediately correct all safety deficiencies found during routine inspections and schedule non-emergency work with the City.
10. Check all traffic signal controller communications equipment for proper operation and adjust or repair as necessary.
11. Check all field wiring for inadequacies (i.e., proper grounding, splices etc.).
12. Check and record incoming voltage at all intersections to prevent excessive wear on the signal control equipment.
13. Paint traffic signal visors and back plates at a rate of two intersections per month.
14. Report any change out of controllers or signal timing to City's Traffic Engineer, Albert Grover and Associates.

**MONTHLY MAINTENANCE/PREVENTATIVE MAINTENANCE CHECK-SAFETY LIGHTING**

The Contractor shall carry on a program of continuing comprehensive routine maintenance designed to reduce or eliminate the incidences of malfunctions and operational complaints and extend the useful life of the equipment. The program shall include, but not necessarily be limited to, the following:

1. On a monthly basis, check all safety lighting systems for proper operation and replace any burned out bulbs or electronic components. Field inspections shall be conducted at night unless the electrical service is of a type that permits daytime inspection.
2. The Contractor shall repair or furnish and replace any inoperative starter boards or photoelectric controls, and any damaged or knocked down safety light assemblies.

**EXTRAORDINARY MAINTENANCE**

The failure or malfunction of the signal system shall be considered extraordinary when it is mainly caused by "Acts of God," civil disorder, vehicle collision, vandalism, construction activities, metal fatigue or defects, or merely equipment failure due to age or deterioration. Examples include the following:

1. Replacement of vehicle detection equipment (loop or video detection).
2. Relamping – Clean, polish, and inspect all fixtures at the time the traffic signals are relamped. All lamps are LEDs and will be replaced only when they burn out or at the direction of the City Engineer. At this time all broken or deteriorated parts will be replaced or changed as necessary, signal heads realigned, and mast arm mounted street name signs adjusted. This work may also be required as directed by the City Engineer.
3. Damage to interconnect communications components including cable, communications terminal panels, and system field master controllers.
4. Underground Service Alert (USA) marking, if requested.
5. Adjustment, relamping, or repair of flashing beacon at Fire Station No. 1.
6. Replacement of signal equipment due to damage by vandalism, wind, rain, fire, accident, etc.
7. Requests for information or other services from the City.

**EXHIBIT B**



**EXHIBIT B  
COST OF SERVICES**

Monthly Maintenance / Preventative Maintenance Check per Intersection \$76.66

<b>Description (Hourly Labor Rate)</b>	<b>Regular</b>	<b>Overtime</b>	<b>Double Time</b>
Supervisor	\$107.74	N/A	N/A
Lead Technician	\$127.52	\$169.99	\$212.48
Technician	\$127.52	\$169.99	\$212.48
Lead Utility Technician	\$127.52	\$169.99	\$212.48
Utility Technican	\$127.52	\$169.99	\$212.48
Lab Technician	\$127.52	\$169.99	\$212.48
Laborer	\$127.52	\$169.99	\$212.48
Relamper	\$70.95	\$107.10	\$143.26

<b>Description (Hourly Equipment Rate)</b>			
Technician Van	\$13.90		
Bucket Truck to 36 feet	\$38.59	N/A	N/A
Utility Truck	\$38.59	N/A	N/A
Bucket Truck above 36 feet	\$58.29	N/A	N/A
Crane Truck	\$151.00	N/A	N/A
Arrow Board	\$16.78	N/A	N/A
Air Compressor w/ tools	\$25.17	N/A	N/A
Dump Truck	\$62.92	N/A	N/A

<b>Materials</b>			
All	Cost Plus 20%	N/A	N/A

<b>Miscellaneous</b>	
6-foot diameter loop and lead-in cable (per unit)	\$561.12





# AGENDA REPORT

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<b>DATE:</b>	JUNE 3, 2019	<b>FILE I.D.:</b>	PUB115
<b>SECTION:</b>	AGREEMENTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	N. CASTILLO
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 19-42 WITH ALBERT GROVER & ASSOCIATES FOR TRAFFIC ENGINEERING SERVICES		

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**REASON FOR CONSIDERATION:** Agreement No. 18-47 with Albert Grover & Associates for traffic engineering services expires on June 30, 2019. Both the City and Albert Grover & Associates wish to amend the termination date to have the contract expire on June 30, 2024. Agreements with the City require City Council approval.

**BACKGROUND:** Traffic engineering services for smaller cities are typically provided through consultant contracts with consultants specializing in traffic engineering. The City of Montclair has been using Albert Grover & Associates (AGA) and its predecessor, Mohle Grover and Associates, since 1990 for these services. Sample services include signal timing monitoring/changes, review of traffic issues related to development activities, warrant analyses for signals and stop signs, and other on-call services as necessary. AGA's services and response to City needs over the last 28 years have been outstanding. The service rates are staying the same. AGA's fees are regularly audited by Caltrans to establish that charges are reasonable and meet the requirements set forth in 48 Code of Federal Regulations. AGA's 28 years of services uniquely qualifies them to continue to provide traffic engineering services. Their institutional knowledge of the city's traffic infrastructure provides a value that could not be matched by any other firm. Accordingly, proposals from other firms were not sought, since no other firm has the institutional knowledge of the city's traffic infrastructure. Staff recommends to continue utilizing AGA to provide traffic engineering services, since it is in the best interest and value of the City and within our purchasing guidelines.

**FISCAL IMPACT:** It is anticipated that monthly invoices over the next 12-month period would likely average \$3,000 to \$3,500. The current budget includes an appropriation of \$55,000 for these services.

The preliminary budget for fiscal year 2019-20 has monies appropriated utilizing the rates established in Agreement No. 18-47. Since the amount of the proposed increases will vary based upon need and future scheduled maintenance, any adjustment necessary in the fiscal year 2019-20 budget will be assessed and done during the Midyear Budget Review.

**RECOMMENDATION:** Staff recommends that the City Council approve Agreement No. 19-42 with Albert Grover & Associates for traffic engineering services.

**CITY OF MONTCLAIR**  
**AGREEMENT FOR CONSULTANT SERVICES**  
**FOR TRAFFIC ENGINEERING**

THIS AGREEMENT is made and effective as of July 1, 2019, between the City of Montclair, a municipal corporation ("City") and Albert Grover & Associates a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on July 1, 2019 and shall remain and continue in effect for a period of 60 months until tasks described herein are completed, but in no event later than June 30, 2024, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks.

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

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

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

(e) Each July after the first year of the Agreement, the hourly rates set forth in Exhibit B shall be subject to change in accordance with Labor Agreements of Consultant's office and field personnel. Consultant shall submit the new hourly rate schedule to City for approval or rejection, which shall occur within 30 days following submission. If City rejects the revised rate schedule, this Agreement shall terminate. If City accepts the revised rate schedule, this Agreement shall continue with the revised rate schedule. Authority to reject or accept the revised rate schedule is delegated to the City Manager.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials, and agents ("Indemnified Parties") from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant. Said indemnification shall include any claim that Consultant, or Consultant's employees or agents, are considered to be employees of the City or are entitled to any employee benefits from City, including but not limited to those available under Public Employees Retirement Law. Said obligation to indemnify, defend and hold harmless the Indemnified Parties shall apply to all liability as defined above whether the Indemnified Parties were actively or passively negligent, except that it shall not apply to claims arising from the sole negligence or willful misconduct of the Indemnified Parties. The Consultant's obligation to defend the Indemnified Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, liability, demands, causes of action, suits, losses, expenses, errors, omissions and/or costs.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section. These indemnification provisions are independent of and shall not in any way be limited by the insurance requirements of this Agreement. City approval of the insurance required by this Agreement does not in any way relieve the Consultant from liability under this section.

10. INSURANCE

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

**(a) Types of Required Coverages**

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

- (1) **Commercial General Liability:** Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$10,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) **Automobile Liability Insurance:** Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1), including owned, non-owned and hired autos, or the exact equivalent, with minimum limits of \$10,000,000 for bodily injury and property damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- (3) **Workers’ Compensation:** Workers’ Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- (4) **Professional Liability:** Professional Liability insurance with limit of not less than \$10,000,000 each claim. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusion that may potentially affect the work to be performed.

**(b) Endorsements**

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

- (1) Commercial General Liability

**Additional Insured:** The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out

of the work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

Additional Insured Endorsements shall not:

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

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

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

(2) Auto Liability

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

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

(3) Workers' Compensation

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

(c) **Notice of Cancellation**

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

(d) **Waiver of Subrogation**

Required insurance coverages shall not prohibit Contractor from waiving the right of subrogation prior to a loss. Contractor shall waive all rights of subrogation against the indemnified parties and policies shall contain or be endorsed to contain such a provision.

This provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

**(e) Evidence of Insurance**

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

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

**(f) Deductible or Self-Insured Retention**

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

**(g) Contractual Liability/Insurance Obligations**

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

**(h) Failure to Maintain Coverage**

Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Contract. In addition, the City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.



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

**(i) Acceptability of Insurers**

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

**(j) Claims Made Policies**

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

**(k) Insurance for Subcontractors**

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

**11. INDEPENDENT CONTRACTOR**

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

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

16. NOTICES

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

To City: Noel Castillo  
 City Engineer  
 City of Montclair  
 5111 Benito  
 Montclair, CA 91763

To Consultant: Chalap Sadam  
 Vice President  
 Albert Grover & Associates  
 211 East Imperial Highway  
 Suite 208  
 Fullerton, CA 92835

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only Mark Miller, Chalap Sadam, Greg Wong, Felipe Ortega, Phillip

Fuentes, Ruben Perales, Ignacio Sanchez, Roland Hizon, David Roseman, Jessica Espinoza, and the rest of the team identified in the service delivery organization chart portion of the proposal (responsible employees) shall perform the services described in this Agreement.

Consultant's responsible employee may use assistants, under his direct supervision, to perform some of the services under this Agreement. Consultant shall provide City fourteen (14) days' notice prior to the departure of the responsible employee from Consultant's employ. Should he leave Consultant's employ, the City shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF REQUEST FOR PROPOSALS

Consultant is bound by the contents of City's Request for Proposal, incorporated herein by this reference, and the contents of the proposal submitted by the Consultant. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

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

25. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

**CITY OF MONTCLAIR**

**ALBERT GROVER & ASSOCIATES**

By: \_\_\_\_\_  
Javier John Dutrey, Mayor

By: \_\_\_\_\_  
Name:  
Title:

Attest:

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

By: \_\_\_\_\_  
Name:  
Title:

Approved as to Form:

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

EXHIBIT A

On-Call Traffic Engineering Services



AGA's Staff Qualifications

Name	Certification/ Registration	Years of Experience	Years with AGA	Education Training	Position	Project Assignment
Chalup Sadam	P.E., Civil #74080 P.E., Traffic #1813	29	25	MS-Civil, 1990 MBA, 2002	Vice President	Project Manager
Mark Miller	P.E., Civil #40956 P.E., Traffic #1575 P.T.O.E. #234	45	26	BS-Civil, 1975	Executive Vice President	Contract Oversight and Technical Advisor
David Roseman	P.E., Traffic #1585	32	4	BS-Civil, 1988	Principal Transportation Engineer	QA/QC Manager
Greg Wong	P.E., Civil #64349	23	18	BS-Civil, 1996	Senior Transportation Engineer	Task Manager Traffic Signals & Signal Timing
Felipe Ortega	Level 3-Signal Technician	24	11	Signal Technician Level 3	Advanced System Integrator	Traffic Signals & Signal Timing
Phillip Fuentes	C-10 License	30	12	Signal Technician Level 2	Signal System Specialist	Traffic Signals & Signal Timing
Andrew Luna	E.I.T. #156851	4	4	BS-Civil, 2016	Associate Engineer II	Traffic Signals & Signal Timing
Ignacio Sanchez H.	P.E., Civil #72073 P.E., Traffic #2344 P.T.O.E. #2457	28	14	BS-Civil 1986	Senior Transportation Engineer	Task Manager Transportation Design & Construction Support
Yolanda Cervantes	E.I.T. #162276	5	4	BS-Civil, 2016	Associate Engineer II	Transportation Design & Construction Support
Jessica Espinoza	E.I.T. #160008	4	4	BS-Civil, 2016	Associate Engineer II	Transportation Design & Construction Support
Dalay Balcazar	E.I.T.	1	1	BS-Civil, 2018	Assistant Engineer	Transportation Design & Construction Support
Ruben Perales	P.E., Civil #83169 P.E., Traffic #2838	16	14	BS-Civil, 2004	Senior Design Engineer	Task Manager Traffic Investigations & Transportation Planning
Roland Hizon	E.I.T. #XE095497	30	14	BS-Civil, 1982	Transportation Engineer	Traffic Investigations & Transportation Planning
Elias Garcia	E.I.T. #154776	6	6	BS-Civil, 2015	Associate Transportation Engineer I	Traffic Investigations & Transportation Planning
Kawai Mang	E.I.T. #153235	5	5	BS-Civil, 2013	Associate Transportation Engineer I	Traffic Investigations & Transportation Planning

**EXHIBIT B**

**On-Call Traffic Engineering Services**



**SECTION V  
SCHEDULE OF HOURLY RATES**

Principal/President	\$	275	
Vice President	\$	250	
Director of Project Development	\$	250	
Principal Transportation Engineer	\$	225	
Senior Transportation Engineer	\$	200	
Senior Design Engineer/Project Development Manager	\$	185	
Advanced System Integrator	\$	180	
Senior Associate	\$	170	
Transportation Engineer/Senior Project Coordinator	\$	170	
Senior Signal Systems Specialist/Construction Inspector/System Integrator	\$	165	
Signal Systems Specialist/Design Engineer	\$	150	
Associate Transportation Engineer II/Civil Engineering Associate	\$	140	
Transportation Engineering Associate	\$	135	
Associate Transportation Engineer I	\$	125	
Signal Systems Technician/Senior CADD Operator	\$	125	
Project Coordinator	\$	120	
Associate Engineer II	\$	115	
CADD Operator/Associate Engineer I	\$	110	
Assistant Transportation Engineer/Assistant Engineer	\$	90	
Traffic Enumerator, Engineering Aide II	\$	75	
Engineering Aide I	\$	50	
Council/Commission Meetings, Hearings, etc. (Billing Rate + \$50 Surcharge)	\$	1,000	Minimum
Expert Witness (Billing Rate + \$50 Surcharge)	\$	1,000	Minimum
Expert Witness - Deposition/Court (Billing Rate + \$100 Surcharge)	\$	1,000	Minimum
Subconsultants will be billed at cost plus 20%			

***Hourly Rates are All-inclusive:** The hourly rates noted above are all-inclusive fees for services rendered, there will be no additional expense charges for overtime, travel, printing, or other miscellaneous expenses.*

***Hourly Rate Adjustments:** The hourly rates noted above will be in effect for a minimum of one year. Each July after the first year of an Agreement, the hourly rates shown above may be subject to adjustment based on labor and overhead costs. AGA will submit new hourly rates schedules to the City up to once annually in July for approval.*



# AGENDA REPORT

**DATE:** JUNE 3, 2019

**FILE I.D.:** PER600/ADM035

**SECTION:** AGREEMENTS

**DEPT.:** ADMIN. SVCS.

**ITEM NO.:** 5

**PREPARER:** J. HAMILTON

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 19-43 WITH THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES, OFFICE OF ADMINISTRATIVE HEARINGS (OAH) TO FURNISH ADMINISTRATIVE LAW JUDGES FOR THE PURPOSE OF CONDUCTING HEARINGS REGARDING INDUSTRIAL DISABILITY RETIREMENT DETERMINATION APPEALS

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of proposed Agreement No. 19-43 with the State of California's Department of General Services, Office of Administrative Hearings (OAH) to furnish Administrative Law Judges (ALJs) for the purpose of conducting hearings regarding industrial disability retirement determination appeals pursuant to *California Government Code § 27727*.

**BACKGROUND:** On December 17, 2018, the City Council approved and adopted Resolution No. 18-3220, which made certain findings to reinstate former employee Megan Stafford to her position as a police officer. This reinstatement was based upon a medical report by Dr. Sturtz indicating that she is no longer presently incapacitated for duty as a police officer within the meaning of the Public Employees' Retirement Law, that there were no specific job duties that Ms. Stafford is unable to perform despite being determined to be disabled previously, and that she is capable of returning to her position as a police officer without limitations and in a full-time capacity. As a result, the City Council directed and delegated to the City Manager the authority to offer Ms. Stafford reinstatement to her previous position on or before January 7, 2019, and to notify the California Public Employees' Retirement System (CalPERS) to discontinue her industrial disability allowance on January 7, 2019. Ms. Stafford was offered reinstatement to her previous position as a police officer, which she did not accept, and, on January 8, 2019, she appealed the City Council's determination to cancel her industrial disability retirement allowance as is authorized by *California Government Code § 21156*. Such an appeal must be conducted pursuant to the States Administrative Procedure Act (APA) (*California Government Code §§ 11370, et seq.*).

On February 19, 2019, the City Council approved Agreement No. 19-15 with the Zappia Law Firm to represent the City's interest in this matter as well as any other matter related to CalPERS industrial disability retirement matters. On April 30, 2019, Ms. Stafford's attorney contacted the City to advise that Ms. Stafford has representation and desired to move her appeal forward. The appropriate authority to hear such appeals is the State of California's Department of General Services' Office of Administrative Hearings (OAH). The OAH provides an Administrative Law Judge (ALJ) to preside over the disability retirement appeal hearing and who will then provide to the City a "proposed decision regarding the subject of Ms. Stafford's appeal." The City continues to maintain the right to either adopt or reject the ALJ's decision.



In order to advance this appeal process, the City must enter into an agreement with OAH before a hearing can then be scheduled. OAH has five regional offices, one of which is located in Los Angeles. OAH provides its own hearing rooms but cases may be heard in other venues.

*California Government Code § 11370.4* requires that all OAH costs be recovered from the agencies it serves. Fees typically include a filing fee for each case filed, an hourly rate for Administrative Law Judge services, and costs for requested interpreters, court reporters or electronic recordings. The State of California sets the fees for the OAH services each fiscal year pursuant to the State's *Price Book* for the Department of General Services or, in the case of court reporting and interpreters, pursuant to contracts obtained as a result of the competitive local bidding process.

The OAH has a Standard Agreement with three attached exhibits: Exhibit A (Scope of Work), Exhibit B (Invoicing and Payment), and Exhibit C (General Terms and Conditions). It is likely that any hearing scheduled in this matter will not be set until after the beginning of Fiscal Year 2019-2020 and, therefore, the fees provided reflect this anticipated fiscal year.

**FISCAL IMPACT:** The proposed fees as outlined in the State's *Price Book* for the Department of General Services for Fiscal Year 2019-2020, as applicable to the OAH, in Agreement No. 19-43, are summarized below:

	<i>Proposed Rates</i>
Administrative Law Judge (ALJ)	\$295.00/hour
Court Reporter	Local Contract Rate
Transcript Rate	Local Contract Rate
Filing Fee	\$100.00/case

Since these services are used on an as-needed basis, the exact fiscal impact is currently unknown. Funds for attorney services are currently included in the Fiscal Year 2018-19 Budget and planned for inclusion in the Fiscal Year 2019-2020 Budget.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 19-43 with the State of California's Department of General Services, Office of Administrative Hearings (OAH) to furnish Administrative Law Judges (ALJs) for the purpose of conducting hearings regarding industrial disability retirement determination appeals.

**STANDARD AGREEMENT**

AGREEMENT NUMBER

1. This Agreement is entered into between:

LOCAL AGENCY'S NAME

City of Montclair

CONTRACTOR'S NAME

Department of General Services / Office of Administrative Hearings

2 The term of this Agreement is:

Upon the date of approval and execution by all parties through five years

3. The maximum amount of this Agreement is:

**\$ 48,000.00**  
Forty Eight Thousand Dollars and No Cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

- Exhibit A – Scope of Work 2 pages
- Exhibit B – Budget Detail and Payment Provisions 1 pages
- Exhibit C – General Terms and Conditions 1 pages

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

**CONTRACTOR**

CONTRACTOR'S NAME

Office of Administrative Hearings

BY (Authorized Signature)

DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Alex Mojtahedi, Chief of Administration

ADDRESS

2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833

**LOCAL AGENCY**

LOCAL AGENCY NAME

City of Montclair

BY (Authorized Signature)

DATE SIGNED(Do not type)

**I declare under penalty of perjury that I have full authority to execute this agreement on behalf of the Local Agency.**

PRINTED NAME AND TITLE OF PERSON SIGNING

Javier John Dutrey, Mayor

**ATTEST:**

ADDRESS

5111 Benito Street, Montclair, CA 91763

Andrea M. Phillips, City Clerk

## EXHIBIT A

### SCOPE OF WORK

1. Upon request of City of Montclair (hereinafter referred to as "Local Agency"), Department of General Services, Office of Administrative Hearings (OAH) agrees to furnish the services of Administrative Law Judges (ALJs) to the Local Agency, for the purpose of conducting hearings pursuant to Government Code section 27727 when required personnel are available by OAH. The assignment of ALJs for hearings will be at the discretion of the Director and/or Presiding Administrative Law Judges, who may elect to hear the matter themselves.

The Local Agency agrees to provide OAH a written request for hearing with all pleadings, documents, papers, or other materials that have been provided to the other party. The Local Agency agrees to provide OAH copies of all applicable laws and ordinances governing the hearing. The Local Agency agrees that OAH will not be able to schedule a hearing or mediation until these materials are provided.

The Local Agency agrees to inform OAH if the hearing is to be recorded or if a court reporter is required. The Local Agency agrees to inform OAH 30 days prior to the hearing if any accommodations or interpreters are required.

In consideration of the performance of such services by OAH, the Local Agency agrees to pay to OAH the cost of rendering such services at the rate established at the time the services are rendered. In the event a calendared case is taken off calendar, or needs to be re-calendared, other than by OAH, and OAH is unable to schedule the ALJ for another case, the Local Agency agrees to pay OAH for the original hearing time or until the ALJ is assigned to another case, whichever occurs first. Every effort will be made to promptly reassign the scheduled ALJ in the event a calendared matter is cancelled, taken off calendar, settled, re-calendared or continued.

The costs of OAH's services include filing fees, ALJ hourly rates, any reasonable costs related to any requested accommodations, and translator/interpreter fees as required. All costs associated with providing a record of the hearing (reporter/transcription, etc.) shall be billed directly to the Local Agency. ALJ hourly rates and filing fees charged by OAH will be the rates set forth in the Department of General Services' Price Book at the time the services are rendered. Rates for court reporters will be the current contract rates at the time the services are rendered, which vary by geographical location. Fees for translator/interpreters and transcription services will be based on current contract rates at the time the services are rendered. All rates are subject to change annually.

The Local Agency further agrees to be responsible for the full costs of any service provided by OAH regardless of any agreement the Local Agency may have with a third party.

The contract is effective upon approval and execution of all signatures to this contract. The term of this contract is five years from the effective date of the contract and may be extended by amendment.

2. The services shall be performed at a location convenient for all parties.
  
3. The project representatives during the term of this agreement will be:

<b>Office of Administrative Hearings</b>	<b>Local Agency:</b> City of Montclair
<b>Name:</b> Alan Alvord	<b>Name:</b> Jon Hamilton, Director of Administrative Services
<b>Phone:</b> 619-525-4475	<b>Phone:</b> (909) 625-9406
<b>Fax:</b> 916-263-0545	<b>Fax:</b> (909) 621-1584
<b>Email:</b> <a href="mailto:Alan.Alvord@dqs.ca.gov">Alan.Alvord@dqs.ca.gov</a>	<b>Email:</b> <a href="mailto:jhamilton@cityofmontclair.org">jhamilton@cityofmontclair.org</a>

Direct all inquiries to:

<b>Office of Administrative Hearings</b>	<b>Local Agency:</b> City of Montclair
	<b>Section/Unit:</b> Administrative Services
<b>Attention:</b> Tim Dean	<b>Attention:</b> Jon Hamilton, Director of Administrative Services
<b>Address:</b> 2349 Gateway Oaks Dr. Suite 200	<b>Address:</b> 5111 Benito Street
<b>Sacramento, CA 95833</b>	Montclair, CA 91763
<b>Phone:</b> 916-263-0791	<b>Phone:</b> (909) 625-9406
<b>Fax:</b> 916-263-0545	<b>Fax:</b> (909) 621-1584
<b>Email:</b> <a href="mailto:tim.dean@dqs.ca.gov">tim.dean@dqs.ca.gov</a>	<b>Email:</b> <a href="mailto:jhamilton@cityofmontclair.org">jhamilton@cityofmontclair.org</a>

4. OAH will retain the administrative record, including electronic recording for 30 days following the issuance of a decision / proposed decision. After 30 days, OAH will transmit the complete record to the Local Agency unless the Local Agency directs otherwise. Decisions / Proposed Decisions and closed case files shall be directed to:

<b>Local Agency:</b> City of Montclair
<b>Section/Unit:</b> Administrative Services
<b>Attention:</b> Jon Hamilton, Director of Administrative Services
<b>Address:</b> 5111 Benito Street
Montclair, CA 91763
<b>Phone:</b> (909) 625-9406
<b>Fax:</b> (909) 621-1584
<b>Email:</b> <a href="mailto:jhamilton@cityofmontclair.org">jhamilton@cityofmontclair.org</a>

## EXHIBIT B

### **1. INVOICING AND PAYMENT**

- A. For services rendered in accordance with the Scope of Work, and upon receipt and approval of the invoices, the Local Agency agrees to compensate the Department of General Services, Office of Administrative Hearings, for actual expenditures incurred in accordance with the rates specified herein. Compensation for services rendered by OAH pursuant to this agreement shall not be dependent on the decision rendered by the ALJ in a hearing involving the Local Agency. OAH charges will include filing fees, Administrative Law Judge hourly rates, and translator/interpreter fees as required. All costs associated with providing a record of the hearing (reporter/transcription, etc.) shall be billed directly to the Local Agency. ALJ hourly rates and filing fees charged by OAH will be the rates set forth in the Department of General Services' Price Book at the time the services are rendered. Rates for court reporters will be the current contract rates at the time the services are rendered, which vary by geographical location. Fees for translator/interpreters and transcription services will be based on current contract rates at the time the services are rendered. All rates are subject to change annually. Any training required of the ALJs by the Local Agency to conduct these hearings will be paid out of the contract funds by the Local Agency at the prevailing ALJ hourly rate. The Price Book is available at <http://www.dgs.ca.gov/ofs/Pricebook.aspx>
- B. The OAH shall be paid not more frequently than monthly, in arrears, upon submission of an original invoice, which properly details all charges, expenses, direct and indirect costs.

## EXHIBIT C

### **GENERAL TERMS AND CONDITIONS**

1. APPROVAL: This Agreement is of no force or effect until signed by both parties.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. CANCELLATION/TERMINATION:
  - A. This agreement may be cancelled or terminated without cause by either party by giving 30 calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
  - B. Upon receipt of a notice of termination or cancellation from the Local Agency, OAH shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
  - C. OAH shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.
4. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
5. SETTLEMENT OF DISPUTES: In the event of a dispute, the Local Agency shall file a "Notice of Dispute" with the Director of OAH within 10 days of discovery of the problem. Within 10 days, the Director of OAH shall meet with the Local Agency for purposes of resolving the dispute. The Director of OAH shall make the final administrative decision regarding a dispute.



## Community Development and Housing Agency

<b>Department Contract Representative</b>	Tom Hernandez Homeless Services Officer
<b>Telephone Number</b>	909-386-8208
<b>Contractor</b>	
<b>Contractor Representative</b>	
<b>Telephone Number</b>	
<b>Contract Term</b>	Date of Execution-October 31, 2021
<b>Original Contract Amount</b>	N/A
<b>Amendment Amount</b>	N/A
<b>Total Contract Amount</b>	N/A
<b>Cost Center</b>	N/A

**Briefly describe the general nature of the contract:** Standard non-financial Memorandum of Understanding template outlining expectations for the provision of the Homeless Management Information System with County of San Bernardino homeless service providers, effective upon the date of execution through October 31, 2021.

**FOR COUNTY USE ONLY**

Approved as to Legal Form  ▶ Robert F. Messinger, Principal Assistant County Counsel  Date _____	Reviewed for Contract Compliance  ▶  Date _____	Reviewed/Approved by Department  ▶ Dena Fuentes, Deputy Executive Officer  Date _____
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**MEMORANDUM OF UNDERSTANDING**

**Between**

**County of San Bernardino**

**Acting By and Through**

**County of San Bernardino Community Development and Housing Agency**

**Office of Homeless Services**

**And**

**City of Montclair**

**For Homeless Management Information System**

**Date of Execution through October 31, 2021**

**WHEREAS**, the County of San Bernardino (County) Community Development and Housing Agency (CDHA) Office of Homeless Services (OHS) is responsible for coordinating countywide efforts to end and prevent homelessness in San Bernardino County; and,

**WHEREAS**, the United States Congress, in accepting Conference Report 106-988m indicated that “local jurisdictions should be collecting an array of data on homelessness in order to prevent duplicate counting of homeless persons and to analyze their patterns of use of assistance, including how they enter and exit the homeless assistance system and the effectiveness of the systems”; and,

**WHEREAS**, OHS has been allocated funds by the United States Department of Housing and Urban Development (HUD) to provide data collection services regarding the individuals experiencing homelessness in the County of San Bernardino; and,

**WHEREAS**, OHS is responsible for administering and maintaining the HUD mandated county-wide Homeless Management Information System (HMIS), a web-enabled database used by homeless services providers to capture information about the San Bernardino County persons they serve; and

**WHEREAS**, OHS is responsible for ensuring that all homeless services providers within the County of San Bernardino adhere to HUD and local policy and procedures regarding the utilization of the HUD mandated HMIS; and,

**WHEREAS**, OHS is the system host and provides the personnel and administrative support to operate HMIS, and has the responsibility to establish, support and manage HMIS in a manner that will meet HUD’s standards for minimum data quality, privacy, security and other requirements for agencies participating in HMIS; and,

**WHEREAS**, **City of Montclair**, hereafter referred to as “Agency,” has been awarded, allocated funds, or seeks to provide homeless program services within the County of San Bernardino;

**NOW, THEREFORE**, in consideration of the foregoing premises, the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County, acting by and through OHS, and Agency agree to the following terms and conditions:

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## **I. BACKGROUND**

In September of 2007, the San Bernardino County Board of Supervisors (Board) approved the formation of the San Bernardino County Homeless Partnership (Partnership) to provide leadership in creating a stronger countywide network of service delivery to homeless individuals, homeless families, and those at risk of becoming homeless through facilitating better communication, planning coordination, and cooperation among all entities that provide services to the county's homeless.

In addition, the Board created the OHS, originally under Human Services and the Department of Behavioral Health, now administered by the Community Development and Housing Agency, to provide administrative support for the newly formed Partnership.

To address the multidimensional problem of homelessness locally and nationally, HUD, through a Congressional directive, required all Continuum of Cares (CoC) to implement an expanded HMIS to address the problem more effectively. An HMIS is a computerized data collection system used by homeless services providers to capture information about the persons they serve. This data collection system tracks collaborative agencies' services that are provided throughout each CoC to homeless individuals and families. Services tracked include emergency, transitional, and permanent housing bed usage, employment, veteran's status, referrals to health and human service providers, legal aid or other relevant supportive service agencies.

In February 2013, OHS accepted a grant agreement from HUD to administer and maintain the HMIS for the County of San Bernardino.

This MOU between OHS and the Agency delineates the roles and responsibilities of OHS and the Agency regarding HMIS participation to capture information about the San Bernardino County persons they serve.

## **II. OHS RESPONSIBILITIES**

OHS shall:

- A. Ensure compliance with all applicable federal and state laws and regulations regarding the protection of client privacy and confidentiality of client information.
- B. Provide the Agency with a matrix clearly outlining the HUD required data elements that must be included in the data file to be migrated to the OHS HMIS system; (if applicable).
- C. Provide User ID and Passwords to Users before being granted access to HMIS.
- D. Provide monthly User's, Agency Administration and Report Training; and other trainings deemed necessary.
- E. Conduct regular on-site monitoring visits to ensure compliance with HUD and HMIS Policies and Procedures.
- F. Provide ongoing data and technical support through monthly trainings, one-on-one trainings as well as Webinars via Go-To-Meetings.
- G. Create monthly reports as needed and submit them as an e-mail attachment for review.
- H. Provide utilization reports to participating agencies on a regular basis to include data quality and tracking.

## **III. AGENCY RESPONSIBILITIES**

Agency shall:

- A. Ensure compliance with all applicable federal and state laws regarding protection of client privacy and confidentiality regulations, and the HMIS Policies and Procedures pertaining to client confidentiality, user conduct, security and the ongoing functionality and stability of services used to support the HMIS.

- B. Attend monthly User's, Agency Administration and Reports Trainings as provided by OHS.
- C. Ensure compliance with all the HUD required data elements.
- D. Ensure compliance with HUD Technical Standards specified in the HMIS Policies and Procedures.
- E. Keep Interagency data sharing agreements and Client Consent/Information release forms for all individual client data that is shared to non-custodial agencies where the internal policies of the Agency allows data sharing.
- F. Ensure compliance and full participation with local CoC CA-609 Coordinated Assessment System written procedures.

**IV. MUTUAL RESPONSIBILITIES**

- A. OHS and the Agency agree they will establish mutually satisfactory methods for the exchange of such information as may be necessary in order that each party may perform its duties and functions under this agreement; and appropriate procedures to ensure all information is safeguarded from improper disclosure in accordance with applicable State and Federal laws and regulations.
- B. OHS and the Agency agree they will establish mutually satisfactory methods for problem resolution.

**V. REQUIRED DATA COLLECTION ELEMENTS**

It is the responsibility of the Agency to collect data based on the HUD 2017 HMIS Data Standards, Version 1.2, October 2017, unless the Agency has Read Only Access.

- A. The Universal Data Elements include: Name, Social Security Number, Date of Birth, Ethnicity and Race, Gender, Veteran Status, Disabling Condition, Living Situation, Prior Living Situation, Zip Code of Last Permanent Address, Project Entry Date, Unique Person Identification Number (system generated), Project Exit Date, Destination, Program Identification Number (system generated), Household Identification Number (system generated), Relationship to Head of Household, Client Location, and Length of Time on Street, in an Emergency Shelter (ES) or Safe Haven.
- B. Project-Specific Data Elements include:

HIV/AIDS	Mental Health	Substance Abuse
Domestic Violence	Services Received	Reasons for Leaving
Employment	Education	Chronic Health Condition
Pregnancy Status	Veteran's Information	Children's Education
Destination at Exit	Non-Cash Benefits	Housing Status
Income and Source	Financial Assistance Provided Supportive Services for Veterans Families only (SSVF)	Housing Assessment at Exit [Homeless Prevention Emergency Solutions Grant (ESG) & CoC Funded]
Health Insurance	Residential Move-In Date (SSVF, Rapid Re-Housing Programs ESG & CoC Funded)	Date of Engagement (ESG Street Outreach only)
Physical Disability	Development Disability	Date of Contact (ESG Street Outreach only)
Last Permanent Address (SSVF only)	General Health Status	

## **VI. USAGE OF DATA**

### **A. Data Use by OHS**

For the purposes of system administration, user support, and program compliance, OHS will use the data contained within HMIS for analytical purposes only and will not disseminate client-level data. OHS will release aggregate data contained within HMIS for research and reporting purposes only.

### **B. Data Use by Agency**

As the guardians entrusted with client personal data, HMIS Users have a moral and a legal obligation to ensure that the data they collect is being gathered, accessed and used appropriately. It is also the responsibility of each user to ensure that client data is only used for the ends for which it was collected, ends that have been made explicit to clients and are consistent with the mission of the Agency and the HMIS to assist families and individuals to resolve their housing crisis. Proper user training, adherence to HMIS Policies and procedures, and a clear understanding of client confidentiality are vital to achieving these goals. Any individual or participating Agency misusing or attempting to misuse HMIS will be denied access to the system.

## **VII. CONFIDENTIALITY AND INFORMED CONSENT**

The Agency agrees to abide by and uphold all privacy protection standards established by HMIS as well as their respective agency's privacy procedures. The Agency will also uphold relevant and applicable Federal and California State confidentiality regulations and laws that protect client records, and the Agency will only release confidential client records with written consent by the client, or the client's guardian, unless otherwise provided for in the regulations or laws.

## **VIII. POSTINGS – Privacy and Mandatory collection notices must be posted at AGENCY**

The participating Agency must post Privacy and mandatory Collection notices at each intake desk or comparable location. The Privacy and Mandatory Collection notices must be made available in writing at the client's request. If the Agency maintains a website, a link to the privacy notice must be on the homepage of the Agency's website.

## **IX. RIGHTS**

HMIS data from agencies resides in one central database. Data sharing is currently limited to the data within the CoC. The CoC reserves the right at a later date to expand data sharing to include collaborative wide data.

## **X. COPYRIGHT**

The HMIS is protected by copyright and is not to be copied, except as permitted by law or by contract with owner of the copyright. The Agency's users' storage of materials copyrighted by others on the systems or displaying the materials through web pages must comply with copyright laws and guidelines.

## **XI. RIGHT TO MONITOR**

A. OHS staff or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Inspector General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of the Agency in the delivery of services provided under this MOU. Full cooperation shall be given by the Agency in any auditing or monitoring conducted.

- B. The Agency shall cooperate with OHS in the implementation, monitoring and evaluation of this MOU and comply with any and all reporting requirements established by this MOU.
- C. The Agency shall provide all reasonable facilities and assistance for the safety and convenience of OHS's representative in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Agency.

## **XII. TERM**

This MOU is effective upon Date of Execution through October 31, 2021, unless terminated earlier in accordance with the provisions of Section XIII of this MOU.

## **XIII. EARLY TERMINATION**

This MOU may be terminated without cause upon thirty (30) days written notice by either party. The CDHA Deputy Executive Officer, or his/her appointed designee, has the authority to terminate this MOU on behalf of CDHA. The Agency Director, or his/her appointed designee, has the authority to terminate this MOU on behalf of the Agency.

## **XIV. GENERAL PROVISIONS**

- A. No waiver of any of the provisions of the MOU shall be effective unless it is made in writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the MOU shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- B. Any alterations, variations, modifications, or waivers of provisions of the MOU, unless specifically allowed in the MOU, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this MOU. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- C. Indemnification. Agency agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this MOU from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. Agency's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

**XV. CONCLUSION**

- A. This MOU, consisting of seven (7) pages, is the full and complete document describing services to be rendered by CDHA and Agency for the HUD Homeless Assistance grants.
- B. The signatures of the Parties affixed to this MOU affirm that they are duly authorized to commit and bind their respective entities to the terms and conditions set forth in this document.



City of Montclair

COUNTY OF SAN BERNARDINO  
COMMUNITY DEVELOPMENT AND HOUSING  
AGENCY, OFFICE OF HOMELESS SERVICES

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Name: Edward C. Star  
Title: City Manager  
Address: 5111 Benito Street  
Montclair, CA 91763

Name: Dena Fuentes  
Title: Deputy Executive Officer  
Address: 385 North Arrowhead Ave, 3rd Floor  
San Bernardino, CA 92415-0043

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# AGENDA REPORT

**DATE:** JUNE 3, 2019

**FILE I.D.:** TRN365

**SECTION:** AGREEMENTS

**DEPT.:** PUBLIC WORKS

**ITEM NO.:** 7

**PREPARER:** S. STANTON

**SUBJECT:** CONSIDER AWARD OF CONTRACT TO R DEPENDABLE CONSTRUCTION, INC., IN THE AMOUNT OF \$24,800 FOR CONSTRUCTION OF THE MONTCLAIR TRANSCENTER SHELTER REPAIR PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 19-45 WITH R DEPENDABLE CONSTRUCTION, INC., FOR CONSTRUCTION OF THE MONTCLAIR TRANSCENTER SHELTER REPAIR PROJECT

CONSIDER AUTHORIZATION OF A \$3,500 CONSTRUCTION CONTINGENCY FOR THE PROJECT

**REASON FOR CONSIDERATION:** Staff is recommending approval of the award of a construction contract for the Montclair Transcenter Shelter Repair Project. Awards of contracts and agreements with the City require City Council approval.

**BACKGROUND:** On May 6, 2019, City Council authorized appropriation of \$50,000 for construction of the Montclair Transcenter Shelter Repair Project. The appropriation comes from the Contingency Reserve Fund. The project stems from a traffic accident where an Foothill Transit bus collided with a shade shelter at the Montclair Transcenter. City staff expects to receive full reimbursement from an insurance claim through the drivers insurance policy. This project is intended to repair the damaged shade shelter back to its original condition.

On May 21, 2019, the City received and opened two bid proposals for the Montclair Transcenter Shelter Repair Project. The bid results are shown below.

<i>Bidder</i>	<i>Bid Amount</i>
R Dependable Construction, Inc.	\$24,800.00
<i>Engineer's Estimate</i>	<i>\$25,000.00</i>
RS Construction & Development, Inc.	\$60,000.00

Following the bid opening, the two bid proposals were reviewed for completeness and accuracy. The bid proposal from the apparent low bidder, R Dependable Construction, Inc., provided all required documents and was deemed the lowest responsible responsive bidder for the project. R Dependable Construction, Inc. has never performed work for the City. Through a background and reference check, R Dependable Construction, Inc. is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the project specifications.



The anticipated duration of this project is 21 working days, work is expected to begin in early July and be completed no later than August 15, 2019.

**FISCAL IMPACT:** Staff is recommending the use of Contingency Reserve Fund to cover the award amount of \$24,800 and the construction contingency of \$3,500. In total the recommendation is for \$28,300.

**RECOMMENDATION:** Staff recommends that the City Council take the following actions in relation to the Montclair Transcenter Shelter Repair Project:

1. Consider award of contract to R Dependable Construction, Inc., in the amount of \$24,800 for construction of the Project.
2. Consider approval of agreement No. 19-45 with R Dependable Construction, Inc., for construction of the Project.
3. Consider authorization of a \$3,500 construction contingency for the Project.

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

**A. Recitals.**

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

**MONTCLAIR TRANSCENTER SHELTER REPAIR PROJECT**

"PROJECT" hereinafter.

**B. Resolution.**

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

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

## AGREEMENT

each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

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

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

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

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

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

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

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

## AGREEMENT

- (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
  - (6) Automobile - Property Damage \$500,000 each accident.
  - c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
    - (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
    - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
  - d. Each such policy of insurance provided for in paragraph b. shall:
    - (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
    - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
    - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
    - (4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
    - (5) Otherwise be in form satisfactory to CITY.
  - e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.
6. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or

## AGREEMENT

damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

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

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

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

**AGREEMENT**

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

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

9. **CONTRACT PRICE AND PAYMENT:** CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **May 15, 2019**.

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

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

**CONTRACTOR**

**CITY**

**R DEPENDABLE CONSTRUCTION, INC.**  
1019 W. 3<sup>rd</sup> Street  
San Bernardino, CA 92410

**CITY OF MONTCLAIR, CALIFORNIA**  
5111 Benito Street, PO Box 2308  
Montclair, CA 91763

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

\_\_\_\_\_

Javier "John" Dutrey  
Mayor

\_\_\_\_\_  
Name & Title

**ATTEST:**

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

\_\_\_\_\_

Andrea M. Phillips  
City Clerk

\_\_\_\_\_  
Name & Title

**APPROVED AS TO FORM:**

\_\_\_\_\_

Diane E. Robbins  
City Attorney



# AGENDA REPORT

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**DATE:** JUNE 3, 2019

**FILE I.D.:** HSV044

**SECTION:** AGREEMENTS

**DEPT.:** HUMAN SVCS.

**ITEM NO.:** 8

**PREPARER:** A. COLUNGA

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 19-46 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT TO UTILIZE THE FAMILY RESOURCE CENTER FOR CASE MANAGEMENT SERVICES AND TO SUPPORT OPERATING COSTS AT THE FACILITY

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 19-46 with Ontario-Montclair School District (OMSD) to utilize the family resource center (FRC) for case management services and to support operating costs.

**BACKGROUND:** The Montclair Community Collaborative (MCC) was organized in 1996 to collectively strengthen the community. The mission of MCC is "to guarantee a progressive quality community for all by working together as diverse, committed individuals and organizations." MCC identifies resources and develops services for children, youth, and adults.

Continuing the MCC partnership, OMSD has used the FRC located at 9916 Central Avenue since 2011 to provide case management services, parenting classes, and counseling for students and their families. Proposed Agreement No. 19-46 would continue OMSD's use of the FRC and assist in paying for operation costs including utilities, maintenance, and cleaning.

The term of proposed Agreement No. 19-46 is July 1, 2019, through June 30, 2020.

**FISCAL IMPACT:** Should the City Council approve Agreement No. 19-46, OMSD will provide the City with \$14,200 for operating costs including utilities, maintenance, and cleaning at the Family Resource Center from July 1, 2019, through June 30, 2020.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 19-46 with OMSD to utilize the Family Resource Center for case management services and to support operating costs at the facility.



## AGREEMENT FOR SERVICES ONTARIO-MONTCLAIR SCHOOL DISTRICT

950 WEST "D" STREET • ONTARIO, CALIFORNIA 91762 • (909) 459-2500

**THIS AGREEMENT** is made and entered into this 1st day of July 2019 by and between the **Ontario-Montclair School District**, hereinafter referred to as the "**DISTRICT**," and **City of Montclair**, hereinafter referred to as the "**CONSULTANT**."

### **1. SERVICES TO BE PERFORMED BY CONSULTANT**

- a) **CONSULTANT** agrees to perform the following services on the dates and times herein stated in accordance with directions stipulated to by **DISTRICT** (provide attachment if necessary):

**Services to be provided as stated on Appendix A in support of delivery of mental health services.**

- b) **CONSULTANT** may, at **CONSULTANT**'s own expense, employ such assistants as **CONSULTANT** deems necessary to perform the services required of **CONSULTANT** by this Agreement. **DISTRICT** will not train, control, direct, or supervise **CONSULTANT**'s assistants or employees in the performance of those services.
- c) **CONSULTANT** is, and shall at all times be deemed to be, an independent contractor and shall be responsible for determining the sequence, method, details and manner in which it performs those services required under the terms of this Agreement. Nothing herein contained shall be construed as creating a relationship of employer and employee, or principal and agent, between **DISTRICT** and **CONSULTANT** or any of **CONSULTANT**'s agents or employees. **CONSULTANT** assumes exclusive responsibility for the acts of its employees or agents as they relate to services to be provided during the course and scope of their employment. **CONSULTANT**, its agents and employees, shall not be entitled to any rights and/or privileges of **DISTRICT**'s employees and shall not be considered in any manner to be **DISTRICT**'s employees.
- d) If **CONSULTANT** is a regular employee of a public entity, all services which **CONSULTANT** renders under this Agreement will be performed at times other than **CONSULTANT**'s regular assigned work day for said entity or during periods of vacation or leave of absence from said entity, using **CONSULTANT**'s own resources.

### **2. COMPENSATION**

- a) **Compensation for Services**

Except as otherwise provided in this Agreement, **DISTRICT** agrees to compensate **CONSULTANT** for services rendered under this Agreement as follows:

\$14,200.00 for the duration of this agreement.

#### **Travel Expenses**

**DISTRICT** will pay no additional amount for travel or other expenses of **CONSULTANT** under this Agreement unless specified below. Should travel or other expenses be specified below, **CONSULTANT** shall be entitled to the lesser amount of

1. The not to exceed amount stated, or



- 2. The actual amount expended. Supporting documentation for the authorized travel or other expenses shall be attached to this Agreement.  
NONE

**Summary of Compensation**

**Services: \$14,200.00**  
**Travel Expense: NONE**  
**Total contract amount not to exceed (services + travel) \$14,200.00**

- b) If this Agreement is with an individual consultant, **CONSULTANT** shall notify the **DISTRICT** whether or not **CONSULTANT** is a retired member of the California State Teacher's Retirement System (STRS) or the California Public Employees Retirement System (PERS).
- c) **DISTRICT** will not withhold any federal or state income tax for payment made pursuant to this Agreement but, if applicable, will provide **CONSULTANT** with a statement of earnings at the end of each calendar year. **CONSULTANT** is hereby advised that such statement of earnings shall, if required, be provided to the Internal Revenue Service and the State Franchise Tax Board.
- d) Unless specified below, payment for services and travel shall be made by **DISTRICT** to **CONSULTANT** after services/travel has been completed and consultant submits documentation for payment (e.g. consultant invoice).

**3. TERM OF AGREEMENT**

The term of this Agreement is from July 1, 2019 through June 30, 2020, unless sooner terminated pursuant to the provisions of Section 6 of this Agreement. **DISTRICT** and **CONSULTANT** may mutually agree in writing to extend the term of this Agreement provided, however, **DISTRICT** shall not be obligated to pay **CONSULTANT** any additional consideration unless **CONSULTANT** undertakes additional services, in which instance the consideration shall be increased as **DISTRICT** and **CONSULTANT** shall agree in writing.

**4. OBLIGATIONS OF CONSULTANT**

- a) During the term of this Agreement, **CONSULTANT** agrees to diligently prosecute the work specified in the "Services to be Performed by Consultant" to completion. **CONSULTANT** may represent, perform services for, and be employed by such additional clients, persons, or companies as **CONSULTANT**, in **CONSULTANT**'s sole discretion, sees fit.
- b) **CONSULTANT** will provide all space, materials, tools, and instrumentalities required to perform the services under this Agreement at **CONSULTANT**'s expense, and shall not be entitled to reimbursement. **CONSULTANT** shall not be entitled to any benefits the **DISTRICT** may make available to its employees, including, but not limited to, office or business equipment, office space, supplies, group health, life insurance, vacation or retirement benefits.
- c) At all times during the term of this Agreement, **CONSULTANT** agrees to provide workers' compensation insurance for **CONSULTANT**'s employees and agents as required by law. The policy shall include Employers' Liability including Occupational Disease with limits not less than \$1,000,000 per person per accident.
- d) **CONSULTANT** shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.
- e) **CONSULTANT** shall comply with the requirements of Education Code section 45125.1 with respect to fingerprinting of employees who may have any contact with the **DISTRICT**'s pupils if **CONSULTANT** provides any of the following services: school and classroom janitorial; school

site administrative; school site grounds and landscape maintenance; pupil transportation; school site food-related; tutoring, mentoring services. If at any time during the term of this Agreement **CONSULTANT** is either notified by the Department of Justice or otherwise becomes aware that any employee of **CONSULTANT** performing services under this Agreement has been arrested or convicted of a violent or serious felony listed in Penal Code section 667.5(c) or Penal Code section 1192.7, respectively, **CONSULTANT** agrees immediately to notify the **DISTRICT** and remove said employee from performing services on this Agreement. **CONSULTANT** shall certify in writing to the **DISTRICT** that neither the **CONSULTANT** nor any of its employees who are required by this section to submit or have their fingerprints submitted to the Department of Justice and who may come in contact with pupils have been convicted of a felony as defined in Education Code section 45122.1

- f) **CONSULTANT** shall indemnify, pay for the defense of, and hold harmless **DISTRICT** and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of **CONSULTANT**'s negligent or willful acts and/or omissions in rendering any services hereunder, including but not limited to the negligent or willful acts and/or omissions of **CONSULTANT**'s employees and agents. **CONSULTANT** shall assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning **CONSULTANT** or any employee/agent of **CONSULTANT** and shall further indemnify, pay for the defense of, and hold harmless **DISTRICT** of and from any such payment or liability arising out of or in any manner connected with **CONSULTANT**'s performance under this Agreement.
- g) During the entire term of this Agreement, **CONSULTANT** shall procure, pay for and keep in full force and effect the following types of insurance:
  - 1. Comprehensive general liability insurance, including owned and non-owned automobile (vehicle) liability insurance with respect to the services provided by, or on behalf of, **CONSULTANT** under this Agreement. All insurance policies shall state the name of the insurance carrier and name **DISTRICT** as an additional insured. Liability insurance for death, bodily injury and property damage shall be for no less than One Million dollars (\$1,000,000) per occurrence.
  - 2. The policies of insurance described in Paragraph (g) 1. above shall be carried with responsible and solvent insurance companies authorized to do business in the State of California. True and correct copies of all certificates of insurance reflecting the coverage required in Paragraph (g) 1. above are attached hereto. **CONSULTANT** agrees that it shall not cancel or change the coverage provided by the policies of insurance described in Paragraph (g) 1. above without first giving the **DISTRICT**'s Chief Business Official, thirty (30) days prior written notice. Should any such policy of insurance be canceled or changed, **CONSULTANT** agrees to immediately provide **DISTRICT** true and correct copies of all new or revised certificates of insurance.
- h) Neither this Agreement nor any duties or obligations under this Agreement may be assigned by **CONSULTANT** without the prior written consent of **DISTRICT**.

**5. OBLIGATIONS OF DISTRICT**

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

- b) **DISTRICT** shall defend, indemnify and hold **CONSULTANT** and its Council Members, officers, employees, agents, and staff harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), claims from injury or damages arising out of the performance of or in connection with this agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the improper conduct and/or negligence or intentional acts or omissions of **DISTRICT**, its officer, employees, agent, or staff.

**6. TERMINATION OF AGREEMENT**

- a) Unless otherwise terminated as provided below, this Agreement shall continue in force during the term of the Agreement, or until the services provided for herein have been fully and completely performed, whichever shall occur first, and shall thereupon terminate.
  - b) Should **CONSULTANT** default in the performance of this Agreement or breach any of its provisions, **DISTRICT** may terminate this Agreement by giving written notification to **CONSULTANT**.
  - c) If at any time during the performance of this Agreement **DISTRICT** determines, at its sole discretion, to suspend indefinitely or abandon the work under this Agreement, **DISTRICT** shall have the right to terminate the performance of **CONSULTANT**'s services hereunder by giving written notification to **CONSULTANT** of its intention to terminate.
  - d) In the event that **DISTRICT** terminates this Agreement under paragraph (b) or (c) of this Section, **CONSULTANT** shall only be paid for those services rendered to the date of termination. All cash deposits made by **DISTRICT** to **CONSULTANT**, if any, shall be refundable to **DISTRICT** in full upon termination of this Agreement unless specified to the contrary below.
- N/A

**7. GENERAL PROVISIONS**

- a) Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices shall be deemed given and served upon delivery personally, or three (3) days after depositing in the United States Mail. Mailed notices shall be addressed to the parties at the addresses set forth in this Agreement for **DISTRICT** and **CONSULTANT**. The foregoing addresses may be changed by written notice to the other party as provided herein.
- b) This Agreement supersedes any and all agreements either oral or written, between the parties hereto with respect to the rendering of services by **CONSULTANT** and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed by both parties, except **DISTRICT** may unilaterally amend the Agreement to accomplish the changes listed below:
  - 1. Increase dollar amounts;
  - 2. Administrative changes; and
  - 3. Changes as required by law.

- c) If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- d) This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- e) Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records and files of **DISTRICT**, **CONSULTANT**, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the State Auditor General of the State of California, at the request of the **DISTRICT** or as a part of any audit of **DISTRICT**, for a period of three (3) years after final payment is made under this Agreement. **CONSULTANT** shall preserve and cause to be preserved such books, records and files for the audit period.
- f) **CONSULTANT** warrants that he or she has the authority to so execute this Agreement and that no further approval of any kind is necessary to bind it hereto. This Agreement shall not become binding upon the **DISTRICT** until it has been duly approved or ratified by the Board of Trustees.

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

"DISTRICT"

"CONSULTANT"

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

*Signature*

Phil Hillman

*Printed Name*

Chief Business Official

*Title*

950 West D Street  
Ontario, CA 91762  
(909) 418-2500

\_\_\_\_\_  
*Signature*

J. John Dutrey

*Printed Name*

Mayor of the City of Montclair

*Title*

5111 Benito St.

*Address*

Montclair, CA 91763

*City, State, Zip*

(909) 625-8571

*Telephone Number*

ATTEST:

\_\_\_\_\_  
*Signature*

Andrea Phillips

*Printed Name*

City Clerk

*Title*

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date of Board of Trustees Approval:

### Certification of Compliance with California Education Code Section 45125.1

I hereby certify that all employees and representatives of CITY OF MONTCLAIR (“CONSULTANT”) who may come in contact with pupils and are required by California Education Code Section 45125.1 to submit or have their fingerprints submitted to the Department of Justice have now done so, that I have received and reviewed the report and that none of the foregoing have been convicted of a felony as defined in California Education Code Section 45122.1. The Ontario-Montclair School District is entitled to rely upon this representation. CONSULTANT hereby agrees to indemnify Ontario-Montclair School District for any and all claims, damages, suits and liability that arise out of, relate to or is associated with a failure of CONSULTANT to comply with California Education Code Section 45125.1 or with a failure to exercise reasonable care with respect to proper selection and/or supervision of CONSULTANT’s employees who may come in contact with pupils.

**CONSULTANT**

\_\_\_\_\_  
*Signature*

J. John Dutrey  
\_\_\_\_\_  
*Printed Name*

Mayor of the City of Montclair  
\_\_\_\_\_  
*Title*

5111 Benito St.  
\_\_\_\_\_  
*Address*

Montclair, CA 91763  
\_\_\_\_\_  
*City, State, Zip*

(909) 625-8571  
\_\_\_\_\_  
*Telephone Number*

ATTEST:

\_\_\_\_\_  
*Signature*

Andrea Phillips  
\_\_\_\_\_  
*Printed Name*

City Clerk  
\_\_\_\_\_  
*Title*

**END OF AGREEMENT FOR CONSULTANT SERVICES**

## Appendix A

### Ontario-Montclair Family Resource Center Network City of Montclair Human Services Division and the Ontario-Montclair School District

The County of San Bernardino Department of Behavioral Health's Family Resource Center Program is part of the Prevention and Early Intervention component of the Mental Health Services Act. The Ontario-Montclair School District is serving as the lead fiscal agency for the Family Resource Center (FRC) program whose goal is to improve the overall mental health of families, youth, and adults by reducing stigma and providing community access to behavioral health prevention and early intervention services at the neighborhood level. This effort will be designated as the Ontario-Montclair Family Resource Center Network.

**I. Purpose:** The intent of this appendix is to 1) Document the existing partnership between City of Montclair Human Services Division (City) and the Ontario-Montclair School District (OMSD); 2) Establish the terms and conditions under which the City will provide leadership and oversight for the Ontario-Montclair FRC Network; 3) Demonstrate City's commitment to the project.

The City and OMSD were co-founders of the Montclair Community Collaborative in 1996 and since that time the City has been a core partner with OMSD on many projects. Improving the mental health outcomes for City residents in need would greatly contribute to the health of the community and mission and collaborative. City of Montclair children, youth, families, and older adults would greatly benefit from prevention efforts and accessible nearby mental health services since there are no public or nonprofit mental health agencies located in the community.

The City has facilitated the community-health education program, Por La Vida, since 1997. Por La Vida now has an extensive network of Latinas in the community who disseminate health information at the grassroots level by teaching classes and who serve as leaders who network with neighbors and other community members.

The City offers a full range of services from early childhood education to senior services and offers evening and Saturday hours for many services. In addition to traditional recreation programs, the City has operated a free and low cost medical clinic for children and adults without access to health care for over 30 years. Many of the clinic clients are working poor who do not qualify for government coverage.

The City serves over 100 seniors a day through its lunch meal program at the City's Senior Center. Older adults also participate in social activity groups, arts and crafts, health fairs, and other support services at the Center.

The City operates after school programs at all elementary and middle school and summer recreation programs. Many of the City's recreation participants are in the Transitional Age Youth range (between the ages of 16-25 years old), and would benefit from the proposed Family Resource Center.

The City is fully committed to being a partner in OMSD's ongoing operation of its FRCs as "one-stop" centers and regional network of partners to reduce stigma and help increase access to mental health supports for trauma exposed individuals, individuals experiencing onset of serious psychiatric illness, children and transitional age youth (TAY) in stressed families, children and TAY at risk of school failure, and children and TAY at risk of or experiencing involvement with the juvenile justice system.

- II. Responsibilities:** The City will make client referrals to community counseling services and other FRC resources for residents needing supports in a community setting. The City will:
- Disseminate mental wellness and stigma reduction information through Por La Vida Promotoras (Leaders) and promote FRC partner community mental health workshops to residents.
  - Make referrals to FRC services through the City Medical Clinic and have staff and volunteers participate in stigma reduction and cultural competency related mental health trainings.
  - Make referrals to FRC services for seniors at the Montclair Senior Center.
  - Disseminate mental wellness and stigma reduction information at the youth Activity center, make referrals to FRC services for youth through the Center, and support the FRC community/service learning projects.
  - Provide the City's Central Avenue facility as a Family Resource Center for mental health resource services, case management, community counseling, parent education, and community mental health workshops.
  - Through a subcontract of \$9,000 per year the City of Montclair will provide access to the City owned FRC on Central Avenue. It is understood that any subcontracting agency will be approved by the County of San Bernardino Department of Behavioral Health (DBH), and shall be subject to all applicable provisions of the contract between OMSD and DBH, and that OMSD will be fully responsible for any performance of this subcontracting agency.
  - In addition to the subcontract of \$9,000 per, OMSD will pay the city of Montclair an amount of \$5,200 to cover the cost of contracted janitorial/custodial services at the FRC for the Fiscal Year 2019/2020.



**City of Montclair**

Subcontractor Budget FY 2019-2020

San Bernardino Department of Behavioral Health

Prevention and Early Intervention Family Resource Center

<b>CATEGORY</b>	<b>\$</b>
Operating Costs at the Central Avenue Facility	
Utilities/Internet/Security	\$ 9,000.00
Janitorial/Custodial Services	\$ 5,200.00
<b>Total Operating Expenses</b>	<b>\$ 14,200.00</b>



# AGENDA REPORT

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**DATE:** JUNE 3, 2019

**FILE I.D.:** HSV105

**SECTION:** AGREEMENTS

**DEPT.:** HUMAN SVCS.

**ITEM NO.:** 9

**PREPARER:** A. COLUNGA

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 19-47 WITH THE SAN BERNARDINO COUNTY DEPARTMENT OF AGING AND ADULT SERVICES TO ACCEPT AN AWARD TO PROVIDE THE SENIOR CITIZEN NUTRITION PROGRAM

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 19-47 with the San Bernardino County Department of Aging and Adult Services (DAAS) to accept an award to provide the Senior Citizen Nutrition Program.

**BACKGROUND:** The San Bernardino County Department of Aging and Adult Services (DAAS) has awarded the City a grant to continue to provide a Senior Citizen Nutrition Program for older adults, ages 60 and over. This is a cost reimbursement contract for a total contract not-to-exceed amount of \$450,000 covering Fiscal Years 19/20, 20/21, and 21/22. Despite the not-to-exceed amount of \$450,000 awarded, the program is subject to the availability of funds as DAAS sends the City incremental funding authorizations. The initial combined federal and NSIP funding for Fiscal Year 19/20 is \$124,048. This grant funding will be used for part-time salaries, nutrition education consultant fees, training, program supplies, and catered food expenses needed to operate the program. The City of Montclair is contracted to serve up to 20,561 meals and provide 252 days of service annually.

An in-kind/matching cash minimum amount of 11.1% of the funding provided is required each year. The City will achieve this in-kind/matching cash amount through the volunteer hours and personnel expenses already covered by the General Fund.

The term of proposed Agreement No. 19-47 is July 1, 2019 through June 30, 2022.

**FISCAL IMPACT:** Should the City Council approve Agreement No. 19-47 with DAAS the City would be awarded a grant in the not-to-exceed amount of \$450,000 to provide the Senior Citizen Nutrition Program from July 1, 2019, through June 30, 2022.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 19-47 with the San Bernardino County Department of Aging and Adult Services to accept an award to provide the Senior Citizen Nutrition Program.

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



**Contract Number**

Agreement No. 19-47

**SAP Number**

4400011668

**Department of Aging and Adult Services**

<b>Department Contract Representative</b>	<u>Patty Steven, Contract Analyst</u>
<b>Telephone Number</b>	<u>909.388.0212</u>
<b>Contractor</b>	<u>City of Montclair</u>
<b>Contractor Representative</b>	<u>Marcia Richter</u>
<b>Telephone Number</b>	<u>909.625.9453</u>
<b>Contract Term</b>	<u>July 1, 2019 through June 30, 2022</u>
<b>Original Contract Amount</b>	<u>\$450,000</u>
<b>Amendment Amount</b>	<u>N/A</u>
<b>Total Contract Amount</b>	<u>\$450,000</u>
<b>Cost Center</b>	<u>5292001036</u>

**IT IS HEREBY AGREED AS FOLLOWS:**

**WHEREAS**, The County of San Bernardino, hereafter referred to as "County," desires to provides nutrition programs for the elderly; and

**WHEREAS**, County has been allocated funds by the Older Americans Act of 1965 to develop nutrition programs for the elderly; and

**WHEREAS**, County finds City of Montclair, hereafter referred to as "Contractor," qualified to provide Elderly Nutrition services; and

**WHEREAS**, County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

**NOW THEREFORE**, County and Contractor mutually agree to the following terms and conditions:

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- ATTACHMENT M – CONTRACTOR/VENDOR CONFIDENTIALITY STATEMENT**
- ATTACHMENT N – SECURITY INCIDENT REPORT**

## I. DEFINITIONS

- A. Area Agency on Aging (AAA) – In 1976, the State of California designated the County of San Bernardino as an Area Agency on Aging. As a result of this designation, DAAS receives funding from the California Department of Aging to administer the programs authorized by the Older Americans Act.
- B. California Code of Regulations (CCR) – The codification of the general and permanent rules and regulations announced in the California Regulatory Notice Register by California state agencies.
- C. California Department of Aging (CDA) – Administers programs that serve older adults, adults with disabilities, family caregivers and residents in long-term care facilities throughout the state.
- D. CDA Policy Manual – Title III Program Manual for Area Agencies on Aging – This manual is based on Federal Regulations for Title III published March 31, 1980 (CRF, Chapter 8, Subchapter C, Part 1321), and pertinent parts of 45 CFR Subtitle A, Part 74, published June 3, 1980.
- E. Catalog of Federal Domestic Assistance (CFDA) – A government-wide compendium of federal programs, projects, services and activities that provide assistance or benefits to the American public.
- F. Code of Federal Regulations (CFR) – The codification of the general and permanent rules and regulations published in the Federal Register by the executive departments and agencies of the federal government of the United States.
- G. Congregate Nutrition Services (C-1) – Meals provided in a congregate setting for older individuals in an atmosphere that is pleasant and encourages socialization.
- H. Contractor – Refers to an Applicant whose application results in a contract to provide services to Elderly Nutrition Program clients. Contractor is accountable to DAAS for use of these funds and is responsible for executing the provision and services of the program.
- I. Cost Reimbursement – Payment method in which allowable and reasonable costs incurred by a contractor in the performance of the contract, which may include overhead, personnel, utilities, etc., are reimbursed in accordance with the terms of the contract.
- J. California Retail Food Code (CRFC) [Section 113700 et seq., California Health and Safety Code] – Replaces California Uniform Retail Food Facilities Law (CURFFL).
- K. Department of Aging and Adult Services (DAAS) – The designated Area Agency on Aging in San Bernardino County.
- L. Department of Health Care Services (DHCS) – The California Health and Human Services Agency that finances and administers a number of individual health care service delivery programs.
- M. Department of Justice (DOJ) – A federal executive department of the United States government responsible for the enforcement of the law and administration of justice.
- N. Disability – A condition attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in one (1) or more of the following areas of major life activity:
1. Self-care
  2. Receptive and expressive language
  3. Learning
  4. Mobility
  5. Self-direction
  6. Capacity for independent living
  7. Economic self-sufficiency
  8. Cognitive functioning
  9. Emotional adjustment

- O. Elder – Any person residing in California who is 65 years of age or older.
- P. Elderly Nutrition Program (ENP) – A program which provides nutrition services, as authorized by the Older Americans Act of 1965, as amended, and which shall be provided in accordance with the provisions of this Act.
- Q. Equipment – Tangible personal property with a useful life of more than one year and an acquisition cost of \$500 or more per unit.
- R. Financial Statement – For non-Federal entities that expend less than \$750,000 in a fiscal year in Federal awards, a statement that reflects the contractor's financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited.
- S. General Program Income – Meal income received in the form of contributions or donations made by the elderly for services rendered under this Contract.
- T. Hazard Analysis Critical Control Point (HACCP) – A systematic preventive approach to food safety from biological, chemical, and physical hazards in production processes that can cause the finished product to be unsafe and designs measures to reduce these risks to a safe level.
- U. HACCP Plan – A written document that delineates the formal procedures for following the HACCP principles that were developed by the National Advisory Committee on Microbiological Criteria for Foods and complies with the requirements of Section 114055, Health and Safety Code.
- V. HACCP Principles – The seven basic steps of HACCP which are:
1. The completion of hazard analysis identification by identifying the likely hazards to consumers presented by a specific food.
  2. The determination of critical control points in receiving, storage, preparation, display, and dispensing of a food.
  3. The setting of measurable critical limits for each critical control point determined.
  4. Developing and maintaining monitoring practices to determine if critical limits are being met.
  5. Developing and utilizing corrective action plans when failure to meet critical limits is detected.
  6. Establishing and maintaining a recordkeeping system to verify adherence to a HACCP plan.
  7. Establishing a system of audits to:
    - a. Initially verify the effectiveness of the critical limits set and appropriateness of the determination of critical control points.
    - b. Periodically verify the effectiveness of the HACCP plan.
- W. Home Delivered Nutrition Services (C-2) – Meals provided to older individuals who are homebound.
- X. Human Services (HS) – A system of integrated services, where the programs and resources of nine (9) county departments come together to provide a rich, more complete array of services to the citizens of San Bernardino County under one coordinated effort.
- Y. Indirect Costs – Costs incurred for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objective specifically benefitted, without effort disproportionate to the results achieved.
- Z. Matching Contributions – The value of third-party in-kind contributions and that portion of program and administrative costs funded (cash or in-kind) by the Contractor, subcontractor, or other local resources.
1. Cash – Cash other than program income contributed to the project from local or State funds. With the exception of Community Development Block Grants (CDBG), Federal funds cannot be used as cash match. Costs borne by the Contractor and cash contributions from any and all third parties, i.e., company/private donations, vendor general fund, are considered cash matching funds.
  2. In-Kind – Contributions from third parties are considered in-kind matching funds. Examples of in-kind match include volunteered time and use of facilities to hold meetings or conduct project activities.

- AA. Non-Matching Contributions – Local funding that does not qualify as matching contributions and/or is not being budgeted as matching contributions (e.g., federal funds, overmatch, etc.)
- BB. Nutrition Education – Informing recipients of congregate and home-delivered meals about current facts and information, which will promote improved food selection, eating habits, nutrition, health promotion, and disease prevention practices.
- CC. Nutrition Services – The procurement, preparation, transport, and service of meals, nutrition education, and nutrition screening, to eligible individuals at congregate sites or in their homes.
- DD. Older Americans Act (OAA) – Provides comprehensive, coordinated, community-based systems of services to the elderly to enable them to maintain health, personal dignity, and independence.
- EE. Older Individual – A person sixty (60) years of age or older.
- FF. Office of Management and Budget (OMB) – The business division of the Executive Office of the President of the United States that administers the United States federal budget and oversees the performance of federal agencies.
- GG. Personally Identifiable Information (PII) – Information which can be used to distinguish or trace an individual's identity, including, but not limited to, name, social security number, date of birth, address, children's names, driver's license number, and any computer-based address or identifier.
- HH. Program Income – Revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:
  1. Voluntary contributions received from a participant or responsible party as a result of services.
  2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Contract.
  3. Royalties received on patents and copyrights from contract-supported activities.
  4. Proceeds from sale of items fabricated under a contract agreement.
- II. Registered Dietitian – A person who shall be both:
  1. Qualified as specified in Sections 2585 and 2586, Business and Professions Code, and
  2. Registered by the Commission on Dietetic Registration.
- JJ. Reimbursable Item – Allowable cost and compensable item.
- KK. Schedule of Expenditures of Federal Awards (SEFA) – A document for planning and conducting an audit of an organization which include federal award expenditures, transactions, cost-reimbursements, etc.
- LL. Single Audit Entity – Non-Federal entities that expend \$750,000 or more in a fiscal year in Federal awards. Single Audit Entities must have a single or program-specific audit conducted for the year in accordance with OMB Circular A-133.
- MM. State – State of California.
- NN. Title III – Title III of the Older Americans Act.
- OO. United States Code (USC) – The official compilation and codification of the general and permanent federal statutes of the United States.
- PP. United States Department of Agriculture (USDA) – Department of the United States government that manages various programs related to food, agriculture, natural resources, rural development and nutrition.
- QQ. Volunteer – An individual who provides services without pay, but may receive reimbursement for expenses.

RR. Welfare and Institutions Code (WIC) – Codes enacted by the California State Legislature which address services relating to welfare, dependent children, mental health, handicapped, elderly, delinquency, foster care, Medi-Cal, food stamps, rehabilitation and long-term care, etc.

## II. CONTRACTOR SERVICE RESPONSIBILITIES

Contractor shall provide all services as outlined in the Scope of Work (Attachment A) and shall be compensated on a fee-for-service basis.

## III. CONTRACTOR GENERAL RESPONSIBILITIES

A. In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino. Contractor agrees to comply with the applicable federal suspension and debarment regulations, including, but not limited to 7 Code of Federal Regulations (CFR) Part 3017, 45 CFR 76, 40 CFR 32, or 34 CFR 85. By signing this Contract, Contractor certifies that:

1. Neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted of or had a judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; or a violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction or records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph (A)(2) herein; and
4. Have not within a three-year period preceding this Contract had one (1) or more public transactions (Federal, State or local) terminated for cause or default.

B. Contractor shall not be identified as suspended or debarred on the federal System for Award Management's (SAM) excluded list (<https://www.sam.gov>). If at any time during the term of this Contract, the County determines Contractor is identified as either suspended or debarred on the SAM, Contractor shall be considered in material breach of this Contract, and the County may proceed under the Correction of Performance Deficiencies at Section VII of this Contract, including immediate termination of this Contract. If Contractor becomes aware, at any point during the term of this Contract, that it is identified as suspended or debarred on the SAM excluded list, Contractor must immediately inform County. Such inclusion will be considered a material breach of the Contract and be sufficient grounds for immediate termination.

C. Without the prior written consent of the Assistant Executive Officer for Human Services, this Contract is not assignable by Contractor either in whole or in part.

D. This is not an exclusive Contract. The County reserves the right to enter into a contract with other Contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation, under the terms of this Contract.

E. Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five (5) years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County Administrative Official" is defined as a member of the Board of Supervisors or such member's staff, Chief Executive Officer of the County or member of such officer's staff, County department or group



head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

- F. If during the course of the administration of this Contract, the County determines that the Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.
- G. Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.
- H. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Director of DAAS through the HS Contracts Unit. The County may withhold such consent in its sole discretion.

At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Paragraph AA of this Section III. All approved subcontractors shall be subject to the provision of this Contract applicable to Contractor Personnel, including removal pursuant to Paragraphs W and X of this Section III.

For any subcontractor, Contractor shall:

- 1. Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions;
  - 2. Ensure that the subcontractor follows County's reporting formats and procedures as specified by County; and
  - 3. Include in the subcontractor's subcontract substantially similar terms as are provided in this Contract.
- I. Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. Said records shall be kept and maintained within the County of San Bernardino. County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.

All records relating to the Contractor's personnel, contractors, subcontractors, service/scope of work and expenses pertaining to this Contract shall be kept in generally acceptable accounting format. Records should include, but are not limited to, monthly summary sheets, sign-in sheets, and other primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must also comply with the appropriate Code of Federal Regulations (CFR) that state the administrative requirements, cost principles and other standards for accountancy. Please refer to [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) for further information.

All records shall be complete and current and comply with all contract requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of the Contract.

- J. Contractor shall notify County in writing of any change in mailing address and/or physical location within ten (10) days of the change, and shall immediately notify County of changes in telephone or fax numbers.

- K. Contractor shall notify County of any extended leave or continuing vacancies and any positions that become vacant during the term of this Contract that will result in reduction of services to be provided under this Contract. Upon notice of extended leave or vacancies, the Contractor shall apprise County of the steps being taken to provide the services and to fill the position as expeditiously as possible. Vacancies and associated problems shall be reported to County on each periodically required report for the duration of said vacancies and/or problems.
- L. Contractor shall immediately notify County of any foreseen or unforeseen events that will or may cause a disruption in services. Upon notice of a foreseen or unforeseen event that disrupts service, the Contractor shall apprise County of the steps being taken to provide and/or restore services as expeditiously as possible.
- M. Contractor shall designate an individual to serve as the primary point of contact for the Contract. Contractor shall notify the County when the primary contact will be unavailable/out of the office for one (1) or more workdays. Contractor or designee must respond to County inquiries within two (2) County business days. Contractor shall not change the primary contact without written notice to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.
- N. Contractor shall repair, or cause to be repaired, at its own cost, all damage to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.
- If the Contractor fails to make timely repairs, the County may make any necessary repairs. For such repairs, the Contractor shall repay all costs incurred by the County, but cash payment upon demand or County may deduct such costs from any amounts due to the Contractor from the County, as determined at County's sole discretion.
- O. Contractor shall provide a system, approved by the County, through which recipients of service shall have the opportunity to express and have considered their views and complaints regarding the delivery of services. The procedure must be in writing and posted in clear view of all recipients.
- P. Contractor will ensure that staff are knowledgeable on the DAAS: San Bernardino County Human Services Complaint and Grievance Procedure (Attachment B) and ensure that any complaints by recipients are referred to the County in accordance with the procedure.
- Q. Contractor shall notify the County of all upcoming meetings of the Board of Directors or other governing party and shall keep the County apprised of any and all actions taken by its Board of Directors which may impact on the Contract. Board of Directors' minutes shall be submitted to the County upon request. Further, a County representative shall have the option of attending Board meetings during the term of this Contract.
- R. Contractor shall ensure that all staff, volunteers and/or subcontractors performing services under this Contract comply with the items below prior to providing any services. Additional information concerning these requirements is specified at <http://hss.sbcounty.gov/Privacy>. The information contained thereat is hereby incorporated by this reference.
1. Read, understand and comply with the Privacy and Security Requirements Summary.
  2. Ensure employees, sub-contractors, agents, volunteers and interns who have access to PII complete the Privacy and Security Training and execute the training acknowledgement form and other training materials annually.
  3. Ensure employees, sub-contractors, agents, volunteers and interns who have access to PII sign the Confidentiality Statement annually.
  4. Report actual, suspected or potential breaches of PII immediately to the Human Services Privacy and Security Office via e-mail at: [HSPrivacySecurityOfficer@hss.sbcounty.gov](mailto:HSPrivacySecurityOfficer@hss.sbcounty.gov).

- S. Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, regulations have been promulgated governing the privacy of individually identifiable health information. The HIPAA Privacy Rule and Security Rule specify requirements with respect to contracts between a Covered Entity and its Business Associates. A Business Associate is defined as a party that performs certain services on behalf of, or provides certain services for, a Covered Entity and, in conjunction therewith, gains access to individually identifiable health information. Therefore, in accordance with the HIPAA Privacy Rule, Contractor shall comply with the terms and conditions as set forth in the attached Business Associate Addendum for Cloud Services (Attachment C), hereby incorporated by this reference. Contractor further agrees to comply with the requirements of other federal and state law that applies to the information collected and maintained by Contractor for services performed pursuant to the Contract.
- T. Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this Contract, except for statistical information not identifying any participant. The Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.
- U. Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialized and includes, but is not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.
- V. Contractor agrees to and shall comply with the County's Elder and Dependent Adult Abuse Reporting requirements: Under the terms of this Contract, as changes in the Elder and Dependent Adult Reporting Laws are enacted, the Contractor is bound to comply with the most current regulations.
1. Who Must Report: In accordance with Welfare and Institutions Code (W & I) Section 15630, all employees of the Contractor and its Subcontractors are mandated reporters of elder and dependent adult abuse. Contractor assures all employees, agents, consultants or volunteers who perform services under this Contract and are mandated to report elder and dependent adult abuse will sign a statement (SOC 341A) at <http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC341A.pdf>, upon the commencement of their employment, acknowledging their reporting requirements and their compliance with them.
  2. When to Report: Mandated reporters are required to report all instances of known or suspected abuse of the elderly and dependent adults immediately or as soon as practically possible, under the following circumstances:
    - a. When the mandated reporter has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, isolation, neglect, financial abuse, mental abuse, or sexual abuse; or
    - b. When the mandated reporter is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, neglect, financial abuse, mental abuse, or sexual abuse.
  3. To Whom to Report: Incidents of elder and dependent adult abuse must be reported to the correct agency as follows:

- a. If the abuse has occurred in a long-term care facility, except a state mental hospital or state developmental center, the report shall be made to the local Long-Term Care Ombudsman or local law enforcement;
  - b. If the abuse has occurred in a state mental hospital or state developmental center, the report shall be made to the designated investigators of the State Department of Mental Health or the State Department of Developmental Services or to the local law enforcement;
  - c. If the abuse occurred anywhere other than a long-term care facility or State mental hospital or State developmental center, the report shall be made to Adult Protective Services or local law enforcement.
- 4. How to Report: Mandated reporters are required to take the following steps in all instances of known or suspected abuse of the elderly and dependent adults:
  - a. Place an immediate telephone call to Adult Protective services (1-877-565-2020) or local law enforcement to report the incident.
  - b. Within two (2) working days of making the telephonic report to the responsible agency, complete a written "Report of Suspected Dependent Adult/Elder Abuse" (SOC 341) form, <http://www.cdss.ca.gov/Portals/9/FMUForms/Q-T/SOC341.pdf?ver=2018-11-15-132736-097>. The completed form must be submitted to the same agency to which the incident was reported by telephone.
- W. Contractor shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code section 11105.3 prior to providing any services. This includes licensed personnel who are not able to provide documentation of prior DOJ clearance. A copy of a license from the State of California, which requires a DOJ clearance, is sufficient proof. The County must be immediately notified of any records showing a conviction. The County may instruct Contractor to take action to deny/terminate employment or terminate internship and/or volunteer services where the records show the person is unsuitable for employment, internship, or volunteer services.
- X. Contractor shall notify the County of any staff member, paid intern or volunteer who is knowingly or negligently employed who has been convicted of any crime of violence or of any sexual crime. Contractor shall investigate all incidents where an applicant, employee, intern or volunteer has been arrested and/or convicted for any crime listed in Penal Code Section 11105.3 and shall notify the County. In the County's discretion, the County may instruct Contractor to take action to either deny/terminate employment or terminate internship and/or volunteer services where the investigation shows that the underlying conduct renders the person unsuitable for employment, internship, or volunteer services.
 

Contractor shall immediately notify the County concerning the arrest and/or conviction, for other than minor traffic offenses, of any paid employee, agent, consultant, intern, or volunteer staff, when such information becomes known to Contractor.
- Y. In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of this Contract, Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:
  - 1. Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
  - 2. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
  - 3. Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the

performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

- Z. Contractor shall make every reasonable effort to prevent employees, consultants or members of its governing bodies from using their positions for purposes that are or give the appearance of being motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. In the event County determines a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicants and such persons have successfully competed for employment with other applicants on a merit basis.
- AA. Contractor agrees to and shall comply with the following indemnification and insurance requirements:

- 1. Indemnification – The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Contractor's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

Contractor will indemnify, defend, and hold harmless County and its officers, employees, agents and volunteers, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement of any United States patent, copyright, trademark or trade secret (Intellectual Property Rights) by any Goods or Services. If a credible claim is made or threatened, including without limitation the filing of a lawsuit against County, or County receives a demand or notice claiming actual or potential infringement or misappropriation of any Intellectual Property Rights, County will use reasonable efforts to notify Contractor promptly of such lawsuit, claim or election. However, County's failure to provide or delay in providing such notice will relieve Contractor of its obligations only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such lawsuit or claim. County will give Contractor sole control of the defense (with counsel reasonably acceptable to County) and settlement of such claim; provided that Contractor may not settle the claim or suit absent the written consent of County unless such settlement (a) includes a release of all claims pending against County, (b) contains no admission of liability or wrongdoing by County, and (c) imposes no obligations upon County other than an obligation to stop using the Goods or Services that are the subject of the claim. In the event that Contractor fails to or elects not to defend County against any claim for which County is entitled to indemnity by Contractor, then Contractor shall reimburse County for all reasonable attorneys' fees and expenses within thirty (30) days from date of invoice or debit memo from County. After thirty (30) days, County will be entitled to deduct any unpaid invoice or debit memo amount from any

amounts owed by County to Contractor. This shall not apply to any judgment or settlement amount, which amounts County shall be entitled to notify, invoice or debit Contractor's account at any time; and County, at its sole discretion, may settle the claim or suit.

If, in Contractor's opinion, any goods or services became, or are likely to become, the subject of a claim of infringement of Intellectual Property Rights, Contractor may, at its option: (i) procure for county the right to continue using the goods or receiving the services; (ii) replace or modify the goods or services to be non-infringing, without incurring a material diminution in performance or function; or (iii) if neither of the foregoing is feasible, in the reasonable judgment of Contractor, County shall cease use of the goods or services upon written notice from Contractor, and Contractor shall provide county with a pro-rata refund of the unearned fees paid by County to Contractor for such goods or services.

2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.1185.
3. Waiver of Subrogation Rights – The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.
4. Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
5. Severability of Interests – The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.
6. Proof of Coverage – The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
7. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".
8. Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to Risk Management.
9. Failure to Procure Coverage – In the event that any policy of insurance required under this Contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the Contract or obtain insurance if it deems necessary and any premiums paid by the County will be

promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

10. Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County’s risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

11. The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- a. Workers’ Compensation/Employers Liability – A program of Workers’ Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer’s Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this Contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as “employees” under the Labor Code and the requirement for Workers’ Compensation coverage will be waived by the County’s Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers’ Compensation insurance.

- b. Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

1. Premises operations and mobile equipment.
2. Products and completed operations.
3. Broad form property damage (including completed operations).
4. Explosion, collapse and underground hazards.

- 5. Personal injury.
  - 6. Contractual liability.
  - 7. \$2,000,000 general aggregate limit.
- c. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one (1) or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- d. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.
- e. Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim or occurrence and two million (\$2,000,000) aggregate limits.

or

Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits.

or

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

- f. Abuse/Molestation Insurance – The Contractor shall have abuse or molestation insurance providing coverage for all employees for the actual or threatened abuse or molestation by anyone of any person in the care, custody, or control of any insured, including negligent employment, investigation and supervision. The policy shall provide coverage for both defense and indemnity with liability limits of not less than one million dollars (\$1,000,000) with a two million dollars (\$2,000,000) aggregate limit.
- g. Cyber (internet) and Electronic Data Processing (EDP) Insurance – Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.



- BB. Contractor shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract and shall procure all licenses and pay all fees and other charges required thereby. Contractor shall maintain all required licenses during the term of this Contract. Failure to comply with the provisions of this section may result in immediate termination of this Contract.
- CC. Contractor shall comply with all applicable local health and safety clearances, including fire clearances, for each site where services are provided under the terms of this Contract.
- DD. Contractor agrees to and shall comply with the County's Equal Employment Opportunity Program, Employment Discrimination, and Civil Rights Compliance requirements:
1. Equal Employment Opportunity Program – The Contractor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and all rules and regulations adopted pursuant thereto: Executive Orders 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250; Title VII of the Civil Rights Act of 1964; Division 21 of the California Department of Social Services Manual of Policies and Procedures; California Welfare and Institutions Code section 10000), the California Fair Employment and Housing Act; and other applicable federal, state, and county laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.
  2. Employment Discrimination – During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment or service recipient because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
  3. Civil Rights Compliance – The Contractor shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with the County Human Services Contracts Unit within thirty (30) days of awarding of the Contract. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, the County shall supply a sample of the Plan format. The Contractor shall be monitored by the County for compliance with provisions of its Civil Rights Plan. Contractor is required to maintain and provide a current Civil Rights Plan for the duration of the Contract and submit the Assurance of Compliance form (Attachment D) annually. Additionally, the Contractor shall submit to County an Assurance of Compliance with the California Department of Social Services Nondiscrimination in State and Federally Assisted Programs Statement annually.
    - a. Recognize any same-sex marriage legally entered into in a United States (U.S.) jurisdiction that recognizes their marriage, including one of the fifty (50) states, the District of Columbia, or a U.S. territory, or in a foreign country so long as that marriage would also be recognized by a U.S. jurisdiction. This applies regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. However, this does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage. Accordingly, recipients must review and revise, as needed, any policies and procedures which interpret or apply federal statutory or regulatory references to such terms as "marriage," "spouse," "family," "household member" or similar references to familial relationships to reflect inclusion of same-sex spouse and marriages. Any similar familial

terminology references in the U.S. Department of Health and Human Services' (HHS) statutes, regulations, or policy transmittals will be interpreted to include same-sex spouses and marriages legally entered into as described herein. [USC 7-Section 3 of the Defense of Marriage Act]

- b. The Contractor and its Subcontractor Vendors shall comply with Governor's Executive Order 2-18-2011, which bans expenditures on promotional and marketing items colloquially known as "S.W.A.G." or "Stuff We All Get."
- EE. Contractor agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).
- FF. Contractor shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (California Code of Regulations title 20, section 1401 et seq.).
- GG. If the amount available to Contractor under this Contract, as specified in Section V, Paragraph A, exceeds \$100,000, Contractor agrees to comply with the Clean Air Act (42 U.S.C. Section 7606), section 508 of the Clean Water Act (33 U.S.C. section 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 C.F.R. section 1.1 et seq.).
- HH. In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the County in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractors must also be able to report on environmentally preferable goods used in the provision of Services to the County, utilizing a County approved form.

- II. Contractor understands and agrees that any and all legal fees or costs associated with lawsuits concerning this Contract against the County shall be the Contractor's sole expense and shall not be charged as a cost under this Contract. In the event of any Contract dispute hereunder, each Party to this Contract shall bear its own attorney's fees and costs regardless of who prevails in the outcome of the dispute.
- JJ. Contractor shall register with 211 San Bernardino County Inland Empire United Way within thirty (30) days of contract effective date and follow necessary procedures to be included in the 211 database. The Contractor shall notify the 211 San Bernardino County Inland Empire United Way of any changes in program services, location or contact information within ten (10) days of any change. Services performed as a result of being included in the 211 database, are separate and apart from the services being performed under this Contract and payment for such services will not be the responsibility of the County.
- KK. Contractor agrees that any news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County shall not be made or used without prior written approval of the DAAS Director or their designee.
- LL. The Contractor, by signing this Contract, hereby certifies to the best of his or her knowledge and belief, that:
  - 1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities" form (Attachment E), in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in any subcontracts at all tiers, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- MM. IRAN CONTRACTING ACT 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 (<https://www.documents.dgs.ca.gov/pd/poliproc/IRAN%20CONTRACTING%20ACT.pdf>) as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205. Contractor agrees that signing the Contract shall constitute signature of this Certification.

- NN. Contractors shall complete and submit Information Sheet (Attachment F) in accordance with its instructions.
- OO. Department of Aging and Adult Services contract with California Department of Aging, Article II, Paragraph A (23), requires DAAS to provide contractors with additional resources for their customers called Community Focal Points List (Attachment G).

#### IV. COUNTY RESPONSIBILITIES

County shall:

- A. Monitor and evaluate the performance of the Contractor in meeting the terms of the Contract and the quality and effectiveness of services provided based on the criteria as determined by the County.
- B. Provide consultation and technical assistance in monitoring the terms of this Contract.
- C. Compensate the Contractor for approved expenses in accordance with Section V of this contract.

#### V. FISCAL PROVISIONS

- A. The maximum amount payable under this Contract shall not exceed \$450,000, of which \$450,000 may be federally funded, and shall be subject to availability of funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.
- B. Contract shall be compensated on a cost reimbursement basis, limited to the obligations and expenditures outlined in the Program Budget (Attachment I) annually, attached hereto and incorporated by reference into this Contract. The Program Budget (Attachment I) may be revised annually, but shall not exceed the aggregate amount over the term of the Contract.

C. Matching Contributions

1. The Contractor shall provide in-kind matching contributions of a minimum of \$49,995 per year, which is the Federal Title III portion of the Contract multiplied by 11.11%.
2. Matching contributions must be allowable costs as determined by CDA. Allowable costs may include, but are not limited to, rent, utilities, supplies, and personnel (volunteers).
3. Uncompensated indirect expense or Contractor allocated overhead expenses may be claimed as an in-kind matching expense if such expenses were determined on the basis of an approved indirect cost rate plan.
4. Contractor shall provide a Matching Funds Narrative (Attachment J) to DAAS with the submittal of the initial budget identifying the type, rates applied and, if applicable, source/location of allowable costs to be used as matching contributions for the period of the Contract. The identified matching contributions shall be reported to DAAS by the Contractor on a monthly or quarterly basis as specified in Section V, Paragraph D.
  - a. Services of volunteers shall be valued at rates consistent with those ordinarily paid for similar work by the Contractor. If the Contractor does not have similar work, the rate shall be consistent with those in the labor market.
  - b. All other in-kind contributions shall be valued at current market value.

D. Reports

1. Contractor, at such times and in such forms as DAAS may require, shall furnish statements, records, reports, data, and information requested by DAAS pertaining to the Contractor's performance of services hereunder and other matters covered by this Contract. The forms shall be reviewed for timeliness, completeness, and correctness of the information submitted, by the Program Director or his/her designee, prior to submission to DAAS. Incomplete forms shall be returned to the Contractor for completion. (In the event of changes in these forms, DAAS shall advise the Contractor via written notice.) The Contractor shall develop and implement a process for ensuring quality control. Contractor shall meet the following standards for the submission of required financial reports:
  - a. Financial Reporting – Accurate, current and complete disclosure of the financial results of the program shall be made in accordance with the financial reporting requirements of this Contract. The following reports are to be submitted to DAAS when indicated:
    - 1) Monthly
      - a) Monthly Expenditure Report (Attachment K) (Request for reimbursement) form – Due to DAAS Administration along with all back-up documentation by the 10<sup>th</sup> working day of the month following the month of services to the address stated below:

DAAS Administration  
Attention: Nutrition Program Staff Analyst  
784 E. Hospitality Lane  
San Bernardino, CA 92415-0515
    - 2) Annually – The following reports are due on an annual basis by no later than July 15:

- a) Financial Close-out Report
- b) Periodic Inventory Report
- c) Single Audit or Financial Statement
- d) Schedule of Expenditures of Federal Awards (SEFA)

3) Single Audit – If Contractor is a Single Audit entity as defined in this Contract, Contractor shall:

- a) Communicate the Catalog of Federal Domestic Assistance (CFDA) number to the independent auditor conducting the organization's Single Audit. The CFDA number for the III C Services is 93-045 and 93.053.
- b) Provide a copy of Contractor's Schedule of Expenditures of Federal Awards (SEFA) to DAAS on an annual basis.

- E. Under normal conditions, Contractors shall expect payment approximately sixty (60) days after submission of a correctly prepared invoice.
- F. Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.
- G. Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- H. Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- I. County is not liable for the payment of any taxes, other than applicable sales or use tax, resulting from this Contract however designated, levied or imposed, unless County would otherwise be liable for the payment of such taxes in the course of its normal business operations.
- J. Upon written demonstration of need by Contractor and at the option of County, funds may be advanced to Contractor by County upon approval of the Director of Aging. Any such advance will cause the amounts payable to Contractor in subsequent months to be reduced to the amount determined by dividing the balance left by the number of months remaining in the contract term. No advance will increase the amount shown in Paragraph A of this Section. In the event of early termination, the Contractor shall pay the remaining balance due to the County within thirty (30) calendar days.

If, as a result of advanced income, the project earns interest on funds awarded by DAAS, that interest shall be identified as income to the program and used for program expenditures, with full documentation on file.

Contractor shall expend all funds received hereunder in accordance with this Contract.

DAAS reserves the right to refuse payment to the Contractor or later disallow costs for any expenditure determined by DAAS and/or CDA not to be in compliance with this Contract, or inappropriate to such activities, or for which there is inadequate supporting documentation presented, or for which prior approval is required but not granted.

Contractor shall return to DAAS, immediately upon written demand, any funds provided under the Contract which are not payable for goods or services delivered prior to the termination, cancellation, or expiration of this Contract, or the dissolution of the entity.

Contractor must return any unspent funds with submittal of the final invoice.

- K. Contractor shall maintain accounting records to account for the funds received under the terms and conditions of this Contract separate from any other funds administered by the Contractor. Contractor shall maintain records in accordance with generally accepted accounting principles.
- L. General program income shall be used to increase the number of elderly served by a project, to facilitate access to such meals, and to provide supportive services directly related to nutrition as defined in the Scope of Work (Attachment A). General program income shall be used within the program in which it was earned.

## **VI. RIGHT TO MONITOR AND AUDIT**

- A. County shall have the absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract.
- B. County or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Full cooperation shall be given by Contractor in any auditing or monitoring conducted. Contractor shall repay to the County within thirty (30) days of receipt of audit findings any reimbursements made by County to Contractor that are determined by subsequent audit to be unallowable pursuant to the terms of this Contract or by law.
- C. Contractor shall cooperate with County in the implementation, monitoring and evaluation of this Contract and comply with any and all reporting requirements established by this Contract.
- D. All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by county, federal and state representatives for a period of three (3) years after final payment under the Contract or until all pending county, state, and federal audits are completed, whichever is later. Records of the Contractor which do not pertain to the services under this Contract may be subject to review or audit unless provided in this or another Contract. Technical program data shall be retained locally and made available upon the County's reasonable advance written notice or turned over to County. If said records are not made available at the scheduled monitoring visit, Contractor may, at County's option, be required to reimburse County for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time) and may be deducted from the following month's claim for reimbursement.
- E. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Contractor.
- F. Upon County request, Contractor shall hire a licensed Certified Public Accountant, approved by the County, who shall prepare and file with County, within sixty (60) days after the termination of the Contract, a certified fiscal audit of related expenditures during the term of the Contract and a program compliance audit.
- G. Pursuant to Code of Federal Regulations (CFR) – Title 2 CFR 200.501, Contractors expending \$750,000 or more in federal funds within the Contractor's fiscal year must have a single audit or program-specific audit performed. A copy of the audit performed in accordance with Code of Federal Regulations (CFR) – Title 2 CFR 200.501 shall be submitted to the County within thirty (30) days of completion, but no later than nine (9) months following the end of the Contractor's fiscal year. Please refer to [http://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200\\_1501&rqn=dv8](http://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200_1501&rqn=dv8) for further information.

- H. The following closely related programs identified by the Catalog of Federal Domestic Assistance (CFDA) number are to be considered as an "Other cluster" for purposes of determining major programs or whether a program specific audit may be elected. The Contractor shall communicate this information to the independent auditor conducting the organization's single audit.

US Department of Health and Human Services:  
 Number 93.045 Older Americans Title III Grants for State and  
 Community Programs on Aging

Number 93.053 Older Americans Act Section 311 – Nutrition  
 Services Incentive Program

- I. County is required to identify the Contractor Data Universal Numbering System (DUNS) numbers and Federal Award Identification Number (FAIN) in all County contracts that include Federal funds or pass through of Federal funds. This information is required in order for the County to remain in compliance with 2CFR Section 200.331, and remain eligible to receive Federal funding. The Contractor shall provide the Contractor name as registered in DUNS, as well as the DUNS number to be included in this Contract. Related FAIN will be included in this Contract by the County.

Contractor Name as registered in DUNS	City of Montclair
DUNS	84976919
FAIN	20AACAT3CM/20AACAT3HD

**VII. CORRECTION OF PERFORMANCE DEFICIENCIES**

- A. In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Contract, Contractor shall notify the County within one (1) working day, in writing and by telephone.
- B. Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
- C. In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract.
1. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at sole discretion of County; and/or
  2. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
  3. Withhold funds pending duration of the breach; and/or
  4. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "2" of this paragraph; and/or
  5. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.
- D. Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provision of the Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one (1) or more remedies by either Party shall not constitute a waiver of the right to pursue other available remedies.

## VIII. TERM

This Contract is effective as of July 1, 2019 and expires June 30, 2022, but may be terminated earlier in accordance with provisions of Section IX of the Contract. The Contract term may be extended for two (2) additional one-year periods by mutual agreement of the parties.

## IX. EARLY TERMINATION

- A. The County may terminate the Contract immediately under the provisions of Section VII, Paragraph C, Item 5 of the Contract. In addition, the Contract may be terminated without cause by the County by serving a written notice to the Contractor thirty (30) days in advance of termination. The Assistant Executive Officer for Human Services is authorized to exercise the County's rights with respect to any termination of this Contract.
- B. Contractor shall only be reimbursed for costs and uncancelable obligations incurred prior to the date of termination. Contractor shall not be reimbursed for costs incurred after the date of termination.
- C. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

## X. GENERAL PROVISIONS

- A. When notices are required to be given pursuant to this Contract, the notices shall be in writing and mailed to the following respective addresses listed below.

Contractor: City of Montclair  
5111 Benito Street  
Montclair, CA 91763

County: County of San Bernardino  
Human Services  
Attn: Contracts Unit  
150 S. Lena Road  
San Bernardino, CA 92415-0515

- B. Nothing contained in this Contract shall be construed as creating a joint venture, partnership or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.
- C. Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate any contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

- D. Time is of the essence in performance of this Contract and each of its provisions. Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within



twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

- E. Contractor shall sign and return a Contractor/Vendor Confidentiality Statement (Attachment M) with this Contract to ensure Contractor is aware of, and agrees to comply with, their obligations to protect CDA information assets from unauthorized access and disclosure.
- F. Contractor shall complete the Security Incident Report (Attachment N) when CDA information assets are accessed, modified, destroyed, or disclosed without proper authorization, or are lost or stolen. The Contractor must report all security incidents to DAAS immediately upon detection. The Security Incident Report must be submitted to DAAS within five (5) business days of the date the incident was detected.
- G. Equipment – All equipment, materials, supplies or property of any kind (including vehicles, publications, copyrights, etc.) which has a single unit cost of five hundred dollars (\$500) or more, including tax, purchased with funds received under the terms of this Contract and not fully consumed in one (1) year shall be the property of the County, unless otherwise required by Funding Source, and shall be subject to the provisions of this paragraph. The disposition of equipment or property of any kind shall be determined by County when the Contract is terminated. Additional terms are as follows:
  - 1. The purchase of any furniture or equipment which exceeds a single unit cost of five hundred dollars (\$500) and/or was not included in Contractor's approved budget, shall require the prior written approval of County, and shall fulfill the provisions of this Contract which are appropriate and directly related to Contractor's services or activities under the terms of the Contract. County may refuse reimbursement for any cost resulting from such items purchased, which are incurred by Contractor, if prior written approval has not been obtained from County.
  - 2. Before equipment purchases made by Contractor are reimbursed by County, Contractor must submit paid vendor receipts identifying the purchase price, description of the item, serial numbers, model number and location where equipment will be used during the term of this Contract.
  - 3. Contractor shall submit an inventory of equipment purchased under the terms of this Contract as part of the monthly activity report for the month in which the equipment is purchased.
  - 4. At the termination of this Contract, Contractor shall provide a final inventory to County and shall at that time query County as to requirements, including the manner and method in returning said equipment to County. Final disposition of such equipment shall be in accordance with instructions from County.
- H. The State and County shall have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation. The Federal Government (Department of Health and Human Services) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use and to authorize others to use for Federal Government purposes, such software modification, and documentation. Proprietary software packages that are sold or leased to the general public are not subject to the ownership provisions.
- I. County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under the Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of the Contract shall acknowledge San Bernardino County as the funding agency and Contractor as the creator of the publication. No such materials or properties produced in whole or in part under the Contract shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express written consent of

County. Copies of all educational and training materials, curricula, audio/visual aids, printed material, and periodicals, assembled pursuant to the Contract must be filed with County prior to publication. Contractor shall receive written permission from County prior to publication of said training materials.

- J. All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Section VIII, Term. Unless otherwise directed by County, Contractor may retain copies of such items.
- K. No waiver of any of the provisions of the Contract shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the Contract shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- L. Any alterations, variations, modifications, or waivers of provisions of the Contract, unless specifically allowed in the Contract, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this Contract. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- M. If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.
- N. This Contract shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The Parties agree to the exclusive jurisdiction of the federal court located in the County of Riverside and the state court located in the County of San Bernardino, for any and all disputes arising under this Contract, to the exclusion of all other federal and state courts.
- O. In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.
- P. The parties actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall remain in full effect.
- Q. In the event that a subpoena or other legal process commenced by a third party in any way concerning the services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise proceed herein in connection with defense obligations by Contractor for County.

**XI. CONCLUSION**

- A. This Contract, consisting of twenty-five (25) pages and Attachments A through N, is the full and complete document describing services to be rendered by Contractor to County, including all covenants, conditions, and benefits.
- B. The signatures of the Parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.
- C. IN WITNESS WHEREOF, the Board of Supervisors of the County of San Bernardino has caused this Contract to be subscribed to by the Clerk thereof, and Contractor has caused this Contract to be subscribed in its behalf by its duly authorized officers, the day, month, and year written.

BOARD OF SUPERVISORS

►  
 \_\_\_\_\_  
 Curt Hagman, Chairman, Board of Supervisors

Dated: \_\_\_\_\_  
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Laura H. Welch  
 Clerk of the Board of Supervisors  
 of the County of San Bernardino

By \_\_\_\_\_  
 Deputy

City of Montclair  
 (Print or type name of corporation, company, contractor, etc.)

By ► \_\_\_\_\_  
 (Authorized signature - sign in blue ink)

Name J. John Dutrey  
 (Print or type name of person signing contract)

Title Mayor, City of Montclair  
 (Print or Type)

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

Address 5111 Benito Street  
 \_\_\_\_\_  
 Montclair, CA 91763

**FOR COUNTY USE ONLY**

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► Jacqueline Carey-Wilson, Deputy County Counsel	► Jennifer Mulhall-Daudel, Contracts Manager	► Sharon Nevins, Director
Date _____	Date _____	Date _____

San Bernardino County  
Elderly Nutrition Program  
Scope of Work  
July 1, 2019 through June 30, 2022

This Scope of Work contains the measurable objectives mandated by the Department of Aging and Adult Services (DAAS) and the California Department of Aging (CDA) required of the Elderly Nutrition Program (ENP) Contractor. The Scope of Work specifies and establishes monthly, quarterly, and annual time frames, and constitutes the primary document for ongoing monitoring and annual Program and Fiscal monitoring. It will be used to measure the Contractor's efforts towards providing quality nutrition services.

Contractor: City of Montclair  
Service Area: West Valley

**I. Program Description:**

- A. Purpose – The purpose of the ENP is to provide nutrition services as described in the Older Americans Act (OAA) of 1965, as amended, and to assist older individuals in California to live independently, by promoting better health through improved nutrition and reduced isolation through programs coordinated with nutrition-related supportive services.
- B. Definition – Nutrition Services means the procurement, preparation, transport, and service of meals, nutrition education, and nutrition screening to eligible individuals at congregate sites or in their homes.
- C. Goals – To maintain or improve the physical, psychological, and social well-being of older individuals by providing or securing appropriate nutrition services.
- D. Objectives:
  - 1. Give preference to older individuals age 60 and older, in greatest economic and social need with particular attention to low-income minority older individuals and older individuals residing in rural areas.
  - 2. Serve meals that provide one-third (1/3) of the Dietary Reference Intakes (DRIs) and are safe and of good quality.
  - 3. Promote and maintain high food safety and sanitation standards.
  - 4. Promote good health behaviors through nutrition education and nutrition screening of participants.
  - 5. Promote or maintain coordination with other nutrition-related supportive services for older individuals.
- E. Target Population – The ENP Contractor shall target individuals who are sixty (60) years of age or older, minorities, low-income and living in rural areas of the County of San Bernardino.

**II. Eligibility for Nutrition Services:**

- A. Congregate Meals – Individuals eligible to receive a meal at a congregate nutrition site are:
  - 1. Any older individual 60 or older.
  - 2. The spouse of any older individual 60 or older.
  - 3. A person with a disability, under age sixty (60) who resides in housing facilities occupied primarily by older individuals (60 or older) at which congregate nutrition services are provided.
  - 4. A disabled individual who resides at home with, and accompanies, an older individual who participates in the program.

- B. Volunteer Meals:  
A volunteer under age sixty (60) may be offered a meal if doing so will not deprive an older individual who is 60 or older of a meal.
- C. Home-Delivered Meals – Individuals eligible to receive a home-delivered meal are:
  - 1. Any older individual who is frail, as defined below, and homebound by reason of illness, disability, or isolation:
    - a. “Frail” means that an older individual is determined to be functionally impaired because the individual either:
      - 1) Is unable to perform at least two (2) activities of daily living, including bathing, toileting, dressing, feeding, breathing, transferring and mobility and associated tasks, without substantial human assistance, including verbal reminding, physical cueing or supervision.
      - 2) Due to a cognitive or other mental impairment, requires substantial supervision because the older individual behaves in a manner that possesses a serious health or safety hazard to the individual or to others.
  - 2. A spouse of a person in Section II, Paragraph C, Item 1 above, regardless of age or condition, if an assessment concludes that it is in the best interest of the homebound older individual.
  - 3. An individual with a disability who resides at home with older individuals if an assessment concludes that it is in the best interest of the homebound older individual who participates in the program.
  - 4. Priority shall be given to older individuals in Section II, Paragraph C, Item 1 above.

**III. Requirements for Nutrition Services:**

- A. Congregate Meals:
  - 1. Each Congregate Meal Contractor shall:
    - a. Include procedures for obtaining the views of participants about the services received.
    - b. Not preclude the service of a meal to a participant who has failed to make a reservation when food is available.
    - c. Ensure each Congregate Meal participant completes the Client Intake Sheet (provided by DAAS) on the first day of service and annually thereafter.
    - d. Maintain appropriate documentation on each client. Documentation shall be kept on file to be monitored by DAAS.
  - 2. Each Congregate Meal site shall meet all of the following:
    - a. Have a paid staff or volunteer designated to be responsible for the day-to-day activities at each site, and physically be on-site during the time that ENP activities are taking place.
    - b. Have restrooms, lighting, and ventilation, which meet the requirements of the California Retail Food Code (CRFC).
    - c. Have equipment, including tables and chairs that are sturdy and appropriate for older individuals. Tables shall be arranged to assure ease of access and encourage socialization.
- B. Home-Delivered Meals:
  - 1. Develop and implement criteria to assess the level of need for home-delivered nutrition services of each eligible participant.

- a. An initial determination of eligibility may be accomplished by telephone. This initial contact with the participant shall include completion of sections 1, 2 and 3 of the Client Intake Sheet (provided by DAAS).
  - b. A written assessment shall be done in the home within two (2) weeks of beginning meal service, and shall include an assessment of the type of meal appropriate for the participant in their living environment.
  - c. An older individual eligible for receiving home-delivered meals shall be assessed for need of nutrition-related supportive services, and referred as necessary.
  - d. Re-assessment of need shall be determined every quarter. Such re-assessment shall be done in the home of the participant at least every other quarter. Each re-assessment shall include completion of sections 1, 2, and 3 of the Client Intake Sheet (provided by DAAS).
2. Provide written instructions, in the language of the majority of the participants, for handling and re-heating of the meals. Instructions must be legible.
  3. Clearly label individual meals to indicate at least the entrée and primary protein source. Examples: "Chicken Enchilada," "Beef Lasagna."
  4. Establish a waiting list for home-delivered meals whenever the home-delivered meal Contractors are unable to provide meals to all eligible individuals. The decision to place eligible recipients of a home-delivered meal on a waiting list, and their position on such a list, shall be based on greatest need and/or in accordance with policy established by the home-delivered meal Contractor, in consultation with DAAS.
  5. Provide home-delivered meals in pre-packaged divided trays (hot or frozen meals).
  6. Maintain appropriate documentation on each client. Documentation shall be kept on file to be monitored by DAAS.

**IV. Program Outcomes:**

Total Number of Meals to be served: 20,561

A minimum of 95% of the total number of meals is to be provided to receive 100% of available funding. The Director of DAAS must approve requests to serve less than 95% of the total number of meals to be provided. All such requests must be in writing.

Program: C-1 (Congregate Meals)	Program C-2 (Home-Delivered Meals)
# of Days of Service: 252	# of Days of Service: N/A
Number of Meals: 20,561	Number of Meals: N/A
Sites to be Served: The City of Montclair Senior Center	Areas to be Served: N/A

**V. Staffing:**

**A. Manager or Director:**

1. The ENP Contractor shall have a manager on staff who shall conduct the day-to-day management and administrative functions of the ENP, and either have (a), (b), or (c):
  - a. Possess an associate degree in institutional food service management, or a closely related field, such as, but not limited to, restaurant management, plus two (2) years' experience as a food service supervisor, or
  - b. Demonstrate experience in food service, such as, but not limited to, cooking at a restaurant, and within twelve (12) months of hire successfully complete a minimum of

twenty (20) hours specifically related to food service management, business administration, or personnel management at a college level. Prior to completion of meeting the hours, this individual's performance shall be evaluated through quarterly monitoring by a registered dietitian, or

- c. Two years' experience managing food services. Such experience shall be verified and approved by a registered dietitian prior to hire.
2. The ENP Contractor shall maintain documentation on file of the qualifications of the Program Manager or staff.
3. If the Contractor has more than one site, the Manager/Director shall monitor the sites on a bi-monthly basis. The bi-monthly visit shall be for the purpose of monitoring the food service practices of the employees and the implementation of the program requirements at the site level. Documentation of each visit shall be maintained on file for DAAS review.

B. Personnel - Paid Staff/Volunteers:

1. There shall be sufficient qualified paid staff or volunteer staff with the appropriate education and experience to carry out the requirements of the ENP. The total number of staff should be based on the method and level of services provided and size of the service area.
2. Contractor is encouraged to hire multi-lingual/multi-cultural staff to increase low-income and ethnic minority program participation in accordance with federal mandates.
3. Contractor shall recruit for vacant positions in an open and competitive application process free of discriminatory questions. Written job descriptions for all paid and volunteer staff shall be maintained.
4. Contractor shall complete a written work performance evaluation on all paid and volunteer staff at least annually.
5. All staff, paid and volunteer, that will be involved in food service operation or clean-up, except home-delivered meal drivers, must be in possession of a current San Bernardino County-issued Food Worker Card and Certificate.
6. Volunteers shall be recruited and used in any phase of the program operation where qualified.
7. Volunteers shall be screened and selected through a formal process that assesses their capabilities.
8. Volunteers shall receive the same training as paid staff.
9. Volunteers that are paid through other job training programs are not considered volunteers and must be paid the agreed upon rate charged for regular paid staff.
10. The ENP Contractor shall maintain a written Volunteer Policy that describes how volunteers are recruited, screened, what topics they are taught at orientation, and how often their performance is evaluated.

B. Registered Dietitian:

1. Each ENP Contractor shall establish and administer nutrition services with the advice of a Registered Dietitian in accordance with Section 339 of the OAA, and follow the general requirements in Title 22, Division 1.8, Section 7500.
2. The Registered Dietitian will provide the following activities to meet the mandated requirements:
  - a. At a minimum, quarterly monitor food facilities or safe food handling, sanitation, and physical safety practices, menu fulfillment, and, if applicable, home delivered meals processes.
  - b. Review and approve the content of staff training prior to presentation.
  - c. Develop, or review and approve the cycle menus.
  - d. Provide input, review, and approve the Nutrition Education Plan prior to presentation.
  - e. Provide technical support and assistance as needed.

## **VI. Staff Training Activities:**

- A. A yearly written Staff Training Plan shall be developed, implemented, and maintained on file by the ENP Contractor, as required in Title 22, Division 1.8, Section 7636.7(c).
- B. The Contractor's Registered Dietitian shall review and approve the content of the Plan prior to presentation.
- C. The Staff Training Plan must identify who is to be trained, who will conduct the training, content of the training, and when it is scheduled.
- D. A copy of the Staff Training Plan that has been approved by the Contractor's Registered Dietitian must be submitted to DAAS by July 31 of the Fiscal Year (FY) in which it is being provided. The DAAS Registered Dietitian will review and approve the Staff Training Plan and return it to the Contractor. The DAAS approved Staff Training Plan must be kept on file.
- E. A minimum of four (4) hours of staff training shall be provided annually for paid and volunteer food service staff, including congregate and home-delivered meal staff.
- F. Training sessions shall be evaluated by those receiving the training.
- G. The ENP Contractor shall maintain documentation of each training session on file. Documentation includes, but is not limited to, sign-in sheets, agendas, handouts, and completed evaluations.
- H. All staff, paid and volunteer, shall be oriented and trained to perform their assigned responsibilities and tasks. Training, at a minimum, shall include:
  - 1. Food safety, prevention of food borne illness, and Hazard Analysis Critical Control Points (HACCP) principles.
  - 2. Accident prevention, instruction on fire safety, first aid, choking, earthquake preparedness, and other emergency procedures.
  - 3. Elder Abuse Law and reporting procedures.
  - 4. CDA Security Awareness Training (annually).

## **VII. Senior Participants:**

- A. Satisfaction Survey:
  - 1. The ENP Contractor shall conduct a Client Satisfaction Survey at least annually. The Survey instrument must be approved by DAAS prior to its use, and all findings from the Survey must be used to improve services. The Contractor must keep the completed Surveys and the tabulated results on file. A copy of the tabulated results must be submitted to DAAS by March 7<sup>th</sup> of the FY in which it is being conducted.
- B. Complaint Procedures:
  - 1. Each Contractor shall have a written Complaint Procedure.
  - 2. The Complaint Procedure will be available for the participants and will provide them the opportunity to provide positive as well as negative feedback to the Program Manager.
  - 3. The Contractor shall have an assessment tool readily accessible for the seniors attending the congregate site or receiving a home-delivered meal.
- C. Nutrition Education Services for Participants:
  - 1. Nutrition Education shall be provided a minimum of four (4) times per year to participants in congregate and home-delivered meal programs.
    - a. Nutrition Education for congregate sites is defined as demonstrations, presentation, lectures or small group discussions, all of which may be augmented with printed materials.



- b. Nutrition Education for home-delivered meal participants may consist solely of printed material that is in conjunction with a congregate meal Nutrition Education presentation.
- 2. Nutrition Education shall be based on the particular need of congregate and home-delivered meal participants. An annual Needs Assessment shall be performed by the ENP Contractor to make this determination.
- 3. The Nutrition Education Plan and annual Needs Assessment must be submitted to the DAAS Registered Dietician and the DAAS Program Analyst by July 31st of the fiscal year in which it is being provided.
- 4. Nutrition Education sessions must be reported monthly to DAAS using the Nutrition Education Monthly Service Unit Report.

Nutrition Education Units of Service:

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

**VIII. Menu Planning Guidelines/Menu Requirements:**

- A. A minimum of a 3-month cycle shall be planned and submitted to the DAAS Registered Dietician.
- B. Menu cycles shall include the availability of seasonal foods.
- C. Health, cultural, ethnic, and regional dietary practices shall be considered in menu planning, food selection, and meal preparation.
- D. The menu cycle shall be approved by the Contractor's Registered Dietitian and upon approval forwarded to the DAAS Registered Dietitian for certification. Menus shall be submitted to the DAAS Registered Dietitian forty-five (45) days prior to the beginning of the quarter containing the menu start date. Allow thirty (30) days for the menu certification process. Menus submitted in a timely manner will be returned to the Contractor at least fifteen (15) days prior to the menu start date. ENP Contractors are required to have menus certified prior to the menu start date. All signatures on the menu shall be original signatures.
- E. A copy of the certified menu must be posted in a spot conspicuous to clients at each congregate site.
- F. Copies of the menus shall be made available to the participants upon request.
  - 1. When planning the menus, the current California Food Guide and the Dietary Guidelines for Americans (DGA) are to be considered. The criteria below are based on the sources mentioned, such as the most current DRIs and the USDA Food Guide, as well as the most recent CDA Program Memo and other guidance published by the CDA. Menus shall conform to these criteria and any updates issued by CDA. Provide an average of 550 to 750 calories per meal.
  - 2. Limit total fat to no more than 25 to 35% of the calories averaged for the week.
  - 3. Choose and prepare foods with low amounts of salt, soy sauce, and other high sodium items.
  - 4. Include good sources of dietary fiber such as whole grains and cooked dry beans at least four times a week.
  - 5. Include a variety of foods and preparation methods with consideration to color, combinations, texture, size, shape, taste, and preference of the participants served.
  - 6. Dietary Reference Intake Values:
    - a. Table one (1) represents the most current Dietary Reference Intakes (DRI) values and daily compliance range for target nutrients. The values provided are based on the United States Department of Agriculture (USDA) Food Guide calculated for one (1) meal for a woman over seventy (70) years of age whose activity level is sedentary.

This example represents a majority of the older adult population served by the ENP statewide.

- 1) The nutrients selected for this Table are based on the target nutrients to:
  - a) Promote health and prevent disease
  - b) Prevent deficiencies
  - c) Indicate diet quality
  - d) Manage disease

**Table 1**  
Target Nutrients

<b>Nutrient</b>	<b>Target Value *</b> <b>per meal</b>	<b>Daily Compliance Range</b>
Calories (Kcal)	>550 Kcal	≥550 Kcal
Protein	15 gm	15 gm (in the primary protein source)
Fat (% of total calories)	20-35%	<35% weekly average
Saturated Fat (% of total calories)	<10%	<10%
Trans Fat	<0.5g	CRFC Chapter 12.6 section 114377**
A (µg RAE)	233 µg	> 233 µg 3 out of 5 days /wk or 4 out of 7 days/wk
Vitamin C (mg)	25 mg	25 mg
Vitamin B6 (mg)	0.5 mg	>0.5 mg
Vitamin B12 (µg)	0.8 µg	0.8 µg (may average over a week)
Calcium (mg)	400 mg	>400 mg (may average over a week)
Magnesium (mg)	105 mg	>105 mg (may average over a week)
Sodium (mg)	<500-750 mg	<1,000 mg (over 1,000 mg place an icon on the menu)
Fiber (gm)	>7 gm	>7 gm (may average over a week)
Potassium (gm)	1565 mg	1565 mg(may average over a week)
Vitamin D	200 IU	200 IU (may average over a week)

\*Target Value: This value represents one-third of the DRI for a 1600-calorie range. The 1600-calorie range was chosen based on the requirements for a 70-year-old sedentary female. If a majority of the senior population served by the AAA ENP Program differs from the above example, use your ENP predominate demographic characteristics to calculate target nutrient values.

\*\*California Retail Food Code: Commencing January 1, 2011, no food containing artificial trans-fat, including oil and shortening that contains artificial trans-fat for use in the deep frying of yeast dough or cake batter, maybe storage, distributed, served by, or used in the preparation of any food within a food facility.

\*\*\*RAE = Retinol Activity Equivalent.

NOTE: Fortified foods should be used to meet Vitamin B12 needs.

A. Component Meal Pattern Requirements:

1. The California 1600-calorie component meal pattern has been developed to reflect the new DGA requirements for those programs that are not using computerized nutrient analysis.
2. The ENP Contractor has the discretion to allow occasional flexibility in planning meals that may not meet the meal pattern but does meet the nutrient value requirements. Fortified food products and combination dishes used in a menu may not match the meal pattern but may provide for the required nutrient values. For example, a fortified snack bar as a dessert could be used to boost the nutrient value of a boxed lunch or special occasion meal.

3. Items that provide the following target nutrients should be identified on the menu when using a component meal pattern template:
  - a. Vitamin C – Provide one-third (1/3) of the DRI for vitamin C each meal – 25 mg (for a 1600-calorie menu).
  - b. Vitamin A – Provide one-third (1/3) of the DRI for vitamin A at least three (3) times per week, 250 µg (for a 1600-calorie menu).
  - c. Sodium – Meals that contain over 1,000 mg of sodium must be noted on the menu as a high sodium meal.
  - d. Fiber – Provide seven grams of fiber per meal. Programs may choose to average fiber content over a week.
4. Table 2 below describes the elements in the California 1600-calorie meal pattern. Serving sizes are based on the USDA My Plate initiative (<http://www.ChooseMyPlate.gov>), which replaced the Food Guide Pyramid. This sample component meal pattern does not assure that meals meet one-third (1/3) of the DRIs and the DGA. Meals will require specific types of fruits and vegetables, whole grains, and high fiber foods in order to assure the target nutrients are provided. The component meal pattern may be deficient in vitamins E, B12, requiring additional nutrition education for participants on the selection of foods that are good sources of these nutrients.
  - a. The meal pattern in Table 2 below is based on the minimum requirements for a sedentary female 70 years of age. If the majority of the population served by a Contractor falls within another requirement range (e.g., active 60 year old men), the serving sizes and minimum number of servings required can be adjusted to meet the service population. ENP Contractors should verify the population served and develop menu criteria accordingly.

**Table 2**

California 1600-Calorie per Day Component Meal Pattern  
Minimum Recommended Elements

<b>Food Group</b>	<b>*Required servings for 550 calories per meal</b>	<b>**Serving sizes for 1600 calorie level</b>
Lean meat or beans	1 serving 2 ounces per meal	2 ounces = 1 serving
Vegetable	1 – 2 servings	½ cup = 1 serving
Fruit	1 serving	½ cup = 1 serving
Bread or Grain At least ½ whole grain	1 – 2 servings	1 slice Bread = 1 serving ½ cup of rice or pasta = 1 serving
Low-fat milk or milk alternate	1 serving	1 cup or equivalent measure
***Fat	Optional	7 grams
Dessert	Optional - limit sweets use fruit	Select foods high in fiber and low in fat and sugar

\*The number of servings per meal estimates provision of one-third of the DRIs.

\*\*Caloric value (1,600 Kcal/day) based on a 70 year-old female, "sedentary" physical activity level using Table Estimated Caloric Requirements in Each Gender and Age Group at Three Levels of Physical Activity, from the Dietary Guidelines for Americans 2010.

\*\*\*Oils and soft margarines include vegetable, nut and fish oils, and soft vegetable oil spreads that have no trans-fats.

- B. Meal Components – Required for both computerized and component menus:
1. Protein – Meat, fish, poultry, legumes, eggs, and cheese:
    - a. A minimum of 2.0 ounces of cooked, edible portions of meat, fish, poultry, legumes, eggs, cheese (or a combination thereof), providing at least 15 grams of protein. Programs should consider the preferences of the participants they serve.
    - b. Legumes should not be counted as both vegetable and protein. ENP Contractors may use other protein sources to provide the occasional vegetarian meal.
  2. Vegetables (1-2 ½ cup servings):
    - a. Vegetables as a primary ingredient in soups, stews, casseroles, or other combination dishes should total ½ cup per serving.
    - b. Raw leafy vegetables (salads) should equal 1 cup if they are to be considered a serving.
  3. Fruit (1 serving):
    - a. A serving of fruit equals:
      - 1) 1 medium sized whole fruit
      - 2) ½ cup fresh, chopped, cooked, frozen, or canned drained fruit
      - 3) ½ cup 100% fruit juice
    - b. Fresh, frozen, or canned fruit should be packed in juice, light syrup, or without sugar. Fruit packed in high sugar content syrup may be rinsed before using.
  4. Breads/Grains (1 ounce equivalent serving):
    - a. One-half of the daily intake of grains should be from whole grains. Grains that are processed (not whole) must be fortified. Fifty-fifty mixtures of white and brown rice meet the requirement for whole grain and have demonstrated acceptance amount.
    - b. ENP participants. For variety, consider serving other grains such as corn, millet, oats, or quinoa.
  5. Milk (8 fl. oz.):
    - a. Each meal shall contain eight (8) fluid ounces of fortified skim, low fat, or buttermilk. If religious preference precludes the acceptance of milk with the meal, it may be omitted from the menu (however, an equivalent substitute must be used).
  6. Fat (Optional):
    - a. Replace solid fats with plant based oils to improve diet quality without added calories.
    - b. Choose plant based oils which have a high percentage of beneficial monounsaturated and polyunsaturated fatty acids.
    - c. The DGAs encourage using oils as they contribute essential fatty acids to the diet. No food containing artificial trans-fat may be stored, distributed, served, or used in the preparation of any food within a food facility [CRFC114377].
    - d. Limit the consumption of solid fats. Solid fats are those that are solid at room temperature and have a high concentration of trans and saturated fats. Common sources of solid fats include butter, beef, chicken, port, stick margarine, and shortening.
  7. Dessert (Optional):
    - a. Dessert may be provided as an option to satisfy the caloric requirements or for additional nutrients. Use fruit as a dessert as often as possible and limit sweets. The fruit, grains, and dairy products served as dessert can count towards the fruit, grain, or dairy requirements. Desserts that are low in fat and/or low in sugar are encouraged.

- b. When a dessert contains ½ cup of fruit per serving, it may be counted as a serving of fruit.
  - c. When a dessert contains the equivalent of 1 serving (1 ounce) starches/grains per serving, it may be counted as a serving of starches/grains (example: rice pudding or oatmeal cookie).
  - d. When a dessert contains the equivalent of ½ cup of milk per serving, it may be counted as ½ serving of milk.
8. Condiments and Product Substitutes:
- a. Sugar substitutes, pepper, herbal seasonings, lemon, vinegar, non-dairy coffee creamer, salt, and sugar may be provided, but should not be counted as fulfilling any part of the nutritive requirements.
  - b. Condiments such as salad dressings, ketchup, soy sauce, mustard, and mayonnaise do not need to be counted in a menu analysis if they are served “on the side” and are not combined with the food.
9. Sodium:
- a. The DGAs encourage reducing daily sodium intake to 1,500 mg per day for persons aged 51 or older, African Americans, persons who have hypertension, diabetes, or chronic kidney disease.
  - b. The target value for sodium is 500 mg per meal. The acceptable range is 500 to 750 mg per meal. However, the ENP meal provides 40 to 50 percent of the nutrient intake for the day for more than half of its participants. This fact provided the basis for establishing an acceptable ENP sodium range that is slightly higher than the DGAs recommend.
  - c. A potassium rich diet blunts the effect of sodium on blood pressure. Research suggests that the general population does not consume sufficient amounts of potassium and would benefit from increasing potassium intake from foods.
  - d. Menu planners should take steps to reduce the levels of sodium in meals over time, including the following:
    - 1) Focus on a stepwise reduction of sodium over time.
      - a) Set a goal to reduce sodium content of meals each year. For example:
        - “The local ENP will reduce the sodium level of the meals by 5 percent over this Fiscal Year” or
        - The ENP will provide not more than two high sodium meals per month.
      - b) Maintain documentation of the reduction of sodium content of meals.
      - c) Place potassium rich foods on the menu consistently.
      - d) Provide nutrition education on the health impacts of high sodium intake on older adults.
      - e) Prepare foods without adding salt in the cooking process.
      - f) Use herbal seasoning to replace salt.
  - e. Avoid potassium chloride salt substitutes. Individuals should only use these products under the supervision of a healthcare professional. Encourage using oil and vinegar as the preferred salad dressing. Provide at least one low-sodium salad dressing option. Use an icon, such as a salt shaker, to identify a high sodium meal or clearly state on the menu that this meal contains more than 1,000 mg of sodium.
  - f. ENPs should establish policies and procedures for purchasing healthful foods that incorporate the DGAs’ sodium recommendations.

- g. ENPs can participate in transforming the food service industry by creating a demand for products that are lower in sodium and working with food purveyors to purchase lower sodium foods. Responsibility to reduce the amount of sodium in the diet of all Americans falls on both the food industry and consumers.
10. Meal Component/Nutrient Analysis:  
A meal component/nutrient analysis of the entire menu cycle conducted and/or approved by a Registered Dietitian shall be done to ensure compliance with Title 22, Division 1.8, Chapter 4, Article 5.

**Computerized Nutrient Analysis Requirements**

- a. Although not required, use of computerized nutrient analysis is strongly recommended and will help ensure and verify the nutritional adequacy of meals. The goal of assessing nutrient intakes of groups is to determine the prevalence of inadequate or excessive nutrient intakes within a particular group of individuals. While meal patterns serve as a basic framework for menu planning, Contractors are encouraged to use computerized nutrient analysis because it provides specific information on nutrients the menu may **not** be providing. The information that a menu is not supplying all of the desired nutrients will guide the development of future menus. As required menu elements are expanded, it is more difficult to meet all of the requirements on a daily basis. ENP Contractors should focus on:
  - 1) Vitamin A
  - 2) Vitamin C
  - 3) Protein
  - 4) Fat
  - 5) Sodium
  - 6) Fiber
- b. Not all nutrient guidelines will be met with each meal. However, areas that do not meet the requirements should be the focus of future menu revisions and nutrition education.
- c. The following nutrients should be included in the analysis when the computerized nutrient analysis method is used: calories; protein; carbohydrates; total fat; saturated fat; total fiber; vitamins A, C, D, E, K, thiamin, riboflavin, niacin, B6, folate, B12, calcium, chromium, copper, iron, magnesium, sodium, and zinc. In addition to meeting one-third of the DRIs, the menus should also follow the DGA.

**IX. Food Procurement:**

- A. Food procurement procedures shall comply with Title 22, CRFC standards, and HACCP best practices guidelines.
- B. All food shall be of good quality and shall be obtained from sources that conform to Federal, State, and local regulatory standards for quality, sanitation, and safety.
- C. To the extent possible, Contractors are encouraged to participate in group food purchasing.
- D. A comparative cost analysis shall be performed either by the ENP Contractor or its group purchasing organization on an on-going basis to obtain the highest quality food for the lowest price available.

**X. Food Storage:**

- A. Food storage procedures shall comply with Title 22, CRFC standards, and HACCP best practices guidelines.
- B. Adequate and suitable space free from vermin, dirt, and contamination or adulteration shall be provided for the storage of food and beverages, and cooking, serving, and eating supplies.

**XI. Food Production:**

- A. Food production procedures shall comply with Title 22, CRFC standards, and HACCP best practices guidelines.
- B. Food production and meal service shall be under the supervision of a trained staff in food service management to ensure food service sanitation and the practice of hygienic food handling techniques are followed. This person shall function with the advice of the Contractor's Registered Dietitian
- C. Meals shall be served as indicated on the certified menus. In the event that a menu substitution must occur, the following procedure must be followed:
  - 1. The Contractor's Registered Dietitian must approve all menu substitutions.
  - 2. A Menu Substitution Form must be completed and signed by the Contractor's Registered Dietitian.
  - 3. The completed Menu Substitution form shall be kept on file for DAAS review.
- D. Production Control:
  - 1. Production schedules or worksheets must be available in the food preparation area.
  - 2. Food shall be prepared in sufficient quantities to serve all participants. Careful planning shall minimize the leftover food and prevent waste.
  - 3. Standardized recipes shall be used to ensure consistency of quality and quantity and adherence to menu guidelines.
  - 4. Appropriate utensils for correct and consistent portion control shall be available and used at each site.
- E. Meal Service/Temperature Monitoring:
  - 1. All food for congregate sites shall be packaged and transported and held before and during serving in a manner in which it is protected from potential contamination and maintains appropriate hot and cold food temperatures.
  - 2. Meals shall be served to seniors "offer versus serve" – meaning participants are to be given an opportunity to decline a menu item. Food trays shall not be served ahead of time.
  - 3. Temperature checks:
    - b. All hot, cold, and frozen potentially hazardous meal components, including milk, shall be checked **daily** immediately prior to dispatch from the central kitchen. All hot, cold, and frozen potentially hazardous meal components, including milk, shall be checked at satellite congregate sites upon delivery and at all congregate sites immediately before meal service.
    - c. The ENP Contractor must have written procedures for monitoring food temperature.
    - d. The ENP Contractor must use a form to document food temperatures **daily**, (i.e., Food Temperature Log). The ENP Contractor shall have a staff member review the completed Food Temperature Logs at random a minimum of every other month. If problems are discovered, an action plan must be developed to resolve the issue.
    - e. All completed Food Temperature Logs must be maintained on file for DAAS review.
  - 4. To maintain quality in prepared foods, holding times shall be kept to a minimum. Long periods of holding hot foods at required temperatures diminishes the nutrient content and palatability of foods.

5. Holding time shall not exceed 2 hours between the end of production and the beginning of food service at the congregate site.
6. Milk and milk products shall be provided in individual, commercially filled containers, or shall be poured by a staff member directly from commercially filled bulk containers into the clean glass or cup from which they are to be consumed.
7. Cool water shall be offered with each meal to encourage fluid intake and lower the risk of dehydration—a risk that is higher for older adults.
8. Single service utensils and tableware shall be used one time only and then discarded.
9. Safety of the food after it has been served at the congregate site and then removed by the participant from the congregate site is the sole responsibility of the participant and may be consumed by the participant as he/she deems it appropriate.
10. The Contractor shall have a sign posted in the congregate site stating, “Food removed from the congregate site is consumed at your own risk.”

## **XII. Food Service Requirements:**

- A. The ENP Contractor shall ensure that the following forms are available, completed **daily**, and maintained at each nutrition site for a minimum of 12 months:
  1. Food Temperature Logs – Separate logs shall be available for congregate meals, home delivered meals, and individual meals chilling process.
  2. Cleaning Schedule.
  3. Equipment Temperature Log – For all dish machines, refrigerators, and freezers.
  4. Production Schedule – Applicable only if food is cooked at the site.
  5. The current Environmental Health inspection detailed report shall be available at the site for review.
  6. Staff and volunteers who are involved in any part of food service operation or clean-up, except home-delivered meals drivers, shall possess a current San Bernardino County-issued Food Worker Card, and Certificate that shall be available for review.

## **XIII. Program Requirements:**

- A. Client Intake Sheets:
  1. The ENP Contractor will ensure that each participant completes the Client Intake Sheet form (provided by DAAS) to determine his or her level of nutritional risk. Forms shall be completed for:
    - a. Congregate Meal Participants – At the beginning of service and then annually thereafter for clients who remain on the program.
      - 1) All bold and asterisked fields are required to be filled out for congregate meals.
    - b. Home-Delivered Participants – At the beginning of service and then quarterly thereafter for clients who remain on the program.
      - 1) Sections 1, 2, and 3 are required for home-delivered meals.
  2. ENP Contractors who are required to complete their own data entry into the Social Assistance Management System (SAMS) must enter the annual and quarterly Client Intake Sheets into the database in a timely manner.
  3. ENP Contractors who are not required to complete their own data entry must send the Client Intake Sheets to DAAS for data entry into the SAMS System.
- B. Outreach/Marketing Activities:



1. ENP Contractors are required to provide outreach in the community through community organizations and other groups. All outreach and marketing activities shall be documented and kept on file for the annual monitoring visit conducted by DAAS.
  2. ENP Contractors shall develop and have handouts, brochures, and/or signs available in languages other than English and posted in locations such as churches, community service locations, and small stores serving the minority communities.
- C. Emergency Procedures:
1. ENP Contractors shall have a written Emergency/Disaster Plan.
  2. Each nutrition site shall have an evacuation plan posted identifying the emergency exits and assembly areas.
  3. Staff must be knowledgeable of emergency procedures.
  4. Where feasible and appropriate, ENP Contractors shall make arrangements for the availability of meals to participants during a major disaster, as defined in 42 U.S.C., Chapter 68, Section 5122 (2). Such arrangements shall be included in the Emergency/Disaster Plan.
- D. Donations and Confidentiality:
1. An Eligible individual who receives a meal shall be given the opportunity to contribute to the cost of the meal.
  2. The ENP Contractor shall develop a suggested contribution/donation amount. When developing this contribution/donation amount, the income ranges of the older individuals in the community and the Contractor's other sources of income shall be considered.
  3. A sign indicating the suggested contribution for eligible individuals and the fee for guests shall be posted near the contribution container at each congregate meal site. A guest fee shall cover all meal costs.
  4. No eligible individual shall be denied participation because of failure or inability to contribute.
  5. The Contractor shall ensure that the amount of the eligible participant's contribution is kept confidential.
  6. The ENP Contractor shall establish written procedures to protect contributions and fees from loss, mishandling, and theft (i.e., Contribution/Donation Procedures). Such Procedures shall be kept on file for DAAS review.
  7. All contributions and fees shall be identified as program income and used to increase the number of meals served, to facilitate access to such meals, and to provide nutrition-related supportive services.
- E. "No Soliciting" Sign:
1. The ENP Contractor shall ensure that a "No Soliciting" sign is posted on the door leading to the congregate nutrition site. No soliciting of any kind is permitted on the premises during the lunch hours for services or goods promoted by businesses.
- F. Coordination:
1. If applicable, develop a fair and equitable policy and procedure for referring participants to the appropriate transportation Contractor for securing public transportation to and from nutrition sites and have the policy available for review by DAAS.
  2. Include the following statement on all advertising, brochures, poster, etc., "Funding for this service has been provided by the San Bernardino County Department of Aging and Adult Services through a grant award from the California Department of Aging."
  3. Coordinate service with other County departments and local agencies by providing time for presentations or special activities that promote a community based system of care for the participants attending nutrition sites.

G. Reporting:

1. All fiscal and program data must be reported monthly (e.g., Request for Reimbursement, Rosters, Monthly Service Unit Report, etc.). All reports are due to DAAS by the 10<sup>th</sup> business day of the month following the month of service. DAAS will provide training as needed.
2. The Contractor shall maintain support files, including, but not limited to, invoices, payroll, Client Intake Sheets, and any other supporting documents to substantiate monthly reports and expenditures.
3. ENP Contractors are required to report all known or suspected cases of elder abuse to DAAS Adult Protective Service or law enforcement immediately by telephone. A written report must be sent within two (2) working days. Abuse of an elder or dependent adult means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, isolation, or other treatment resulting in physical harm or pain or mental suffering or the deprivation by a care custodian of goods or services which are necessary to avoid physical harm or mental suffering.
4. Maintain records, by month, that support claimed in-kind expenditures.
5. Report expenditures funded with Deferred Income by September 30<sup>th</sup> of the FY in which it is being claimed.
6. Develop and have on hand for review by DAAS, a cost allocation plan which explains the methods used to allocate costs between congregate and home-delivered meals or any other program funded by DAAS.
7. In the event additional funds become available, the Contractor will use the funds to increase the number of meals being provided to participants by either increasing the number of individuals attending its present sites, or by opening new sites in communities not already served by the Contractor. Exceptions to this requirement must be fully documented in writing and submitted to the Director of DAAS for prior approval.
8. Other Reporting Requirements:
  - a. SAMS:
    - 1) The following reports are to be completed and submitted to DAAS by the 10<sup>th</sup> business day of the month following the month of service if the Contractor is serving less than 500 clients per month:
      - a) Client Intake Sheets for any new clients or any annual or quarterly assessments completed in the month.
      - b) Meal Rosters
    - 2) Contractors that are serving more than 500 clients shall secure the appropriate licensing, have a dedicated staff responsible for maintaining the client tracking software, obtain and maintain an Internet Service Contractor and the appropriate hardware that can support the program. These Contractors shall be responsible for entering the following data into SAMS by the 10<sup>th</sup> business day of the month following the month of service:
      - a) Client Intake Sheets for any new clients or any annual or quarterly assessments completed in the month.
      - b) Rosters
      - c) Routes (if applicable)
9. Nutrition Education Monthly Service Unit Report
  - a. The Nutrition Education Monthly Service Unit Report is a tool that is used to report the number of Nutrition Education service units that have been provided to participants. This report is to be completed and submitted to DAAS by the 10<sup>th</sup> business day of the month following the month of service. Copies of any handouts presented to the

participants as a component of the Nutrition Education shall be attached to the Nutrition Education Monthly Service Unit Report.

- H. Disposal of Equipment:
  - 1. If the Contractor wishes to dispose of equipment purchased with Nutrition grant funding, they must submit a request, in writing, to DAAS. The request shall state the equipment description, the location of the equipment, and the reason for disposal.
  - 2. Contractor shall submit a list of equipment purchased with grant funding by location.
- I. Mandatory Meetings
  - 1. Contractor is required to attend all Nutrition Contractor meetings hosted by DAAS.

**CLIENT COMPLAINT AND GRIEVANCE PROCEDURES  
Older Americans Act Programs**

**(Instructions: The service recipient is to read, sign, and receive a copy of this form. The original of the form is to be filed in the service recipient’s case file maintained by contractor. The reverse side of this form may be used to file a complaint or grievance with the contractor/service Contractor.)**

If you believe you have been discriminated against, or that there has been a violation of any laws or regulations, or if you have a problem regarding services received, you have the right to file a grievance. The following procedures are to be followed when filing a grievance:

- 1. Identify the complaint/grievance in writing and discuss it with the contractor/service Contractor.  
Time frame: Within 1 week of discrimination/violation/problem.

If resolved at this level, no further action is required. If no resolution is apparent within 15 business days, proceed with Step 2.

- 2. Forward the written complaint/grievance to the **Deputy Director of Administration** at the following address:  
Department of Aging and Adult Services  
784 East Hospitality Lane  
San Bernardino, CA 92415-0640  
ATTN: **Deputy Director**

Time frame: Within 1 week of Step 1.

If resolved at this level, no further action is required. If no resolution is apparent within 15 business days, proceed with Step 3.

- 3. If no solution is apparent after Steps 1-2 have been exhausted, forward copy of written grievance to:

Human Services Group, Contract Administrator  
150 S. Lena Road  
San Bernardino, CA 92415-0515

You will be contacted within 15 business days of any actions being taken.

Please note: Each of these steps must be completed in the sequence shown.

**If you believe that your civil rights have been violated, please contact:**

**Deputy Director, Administration**  
Department of Aging and Adult Services  
784 East Hospitality Lane  
San Bernardino, CA 92415-0640

**GRIEVANCE PROCEDURE CERTIFICATION**

This is to certify that I have read, understood, and received a copy of the Client Complaint and Grievance Procedures for Older Americans Act Programs.

\_\_\_\_\_  
Signature of Service Recipient

\_\_\_\_\_  
Date

GRIEVANCE NOTICE

<b>Your Name:</b>
<b>Date of Occurrence:</b>
<b>Approximate Time of Occurrence:</b>
<b>Name of Service Contractor:</b>
<b>Address of Service Contractor:</b>
<b>Nature of Grievance:</b>
<b>Resolution:</b>

Resolved by: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Service Recipient

\_\_\_\_\_  
Date

**CLIENT COMPLAINT AND GRIEVANCE PROCEDURE  
Older Americans Act Programs**

**Purpose:** To provide an orderly procedure for reviewing and resolving grievances promptly and to facilitate the resolution of grievances informally at the lowest level possible. Recipients of services provided by the Older Americans Act programs or persons authorized to act on their behalf can file a complaint against contractors, volunteers, and employees of programs administered by the local Area Agency on Aging (San Bernardino County Department of Aging and Adult Services – DAAS).

**Reference: Title 22, Article 5. Grievance Process**

Note: You have a right to confidentiality and your right to privacy will be respected to the extent possible. Only information relevant to your complaint will be released to the responding party unless you consent otherwise.

**Complaints**

May involve, but are not limited to, any or all of the following:

- Amount or duration of a service.
- Denial or discontinuance of a service
- Dissatisfaction with the service provided or with the service provider.
- If your complaint involves an issue of professional conduct that is under the jurisdiction of another entity, you will be referred to the appropriate organization to pursue your complaint.
- Failure of the service provider to comply with any of the requirements in the contract or regulations.
- If you believe you have been discriminated against or that there has been a violation of any laws or regulations.

**Instructions**

Complete the attached form and provide the requested information:

- Name, mailing address, and telephone number of complainant or person authorized to act on behalf of the complainant.
- Date and time of occurrence and names of individuals involved.
- Name of Service Provider, and type of service involved.
- Description of the grievance. Be as specific as possible.
- Names of witnesses and contact information, if any.
- If applicable, cite the alleged violation of regulation, law or policy.
- Requested remedy or resolution.
- Signature

### **First Level of Grievance**

The service provider (Contractor) is the first administrative level of resolution for complaints from recipients of services or persons authorized to act on their behalf. If the service is provided without a contractor and directly by DAAS, the complaint will be investigated and responded to by DAAS Administration at this level.

### **Time Frame**

- Within one (1) week of alleged violation complete the grievance form and notify the contract provider.
- If possible, discuss issue with contract provider and make a good faith effort to resolve. Contractor will issue a written response no later than ten (10) business days after receipt of grievance or from date of discussion.
- If resolved at this level no further action is required. If your complaint is not resolved, you may appeal the decision of the provider to the Second Level.

### **Second Level Grievance**

The provisions of this section shall apply to both of the following:

- When the AAA (DAAS) is the service provider and the subject of the complaint.
- When the complaint from older individuals or persons authorized to act on their behalf are dissatisfied with the contractor's response at the first level of review.

### **Time Frame**

If the contract provider at the first level of the grievance procedure does not resolve your complaint, you may appeal their decision to the second level of review within fifteen (15) business days of their written decision.

Note the following:

- All Complaints must be in writing and contain the information referenced in the "First Level of Grievance."
- If a complainant cannot submit a written complaint at this level, the complainant may request DAAS to verbally accept the complaint or assistance in writing out the complaint.
- If DAAS writes out the complaint, the complainant must review and sign the written complaint.

Complaints maybe hand delivered or mailed to the following address:

Department of Aging and Adult Services (DAAS)  
Attention: Deputy Director  
784 East Hospitality Lane  
San Bernardino, CA 92408-3501

Or fax to: 909-891-3940

**Second Level Grievance Processing:**

- A good faith effort will be made to resolve the complaint.
- The Deputy Director or designee will conduct an impartial investigation of the written complaint.
- A written response will be prepared and issued no later than fifteen (15) business days after receipt of the complaint.
- The written response will address the merits of the complaint and will either resolve the issues at dispute or deny the complaint with an explanation.
- If the complainant is not satisfied with the decision at this level, they may exercise their right to request an administrative hearing pursuant to Section 7406 of Title 22.

**Final Grievance Resolution**

- Any complainant dissatisfied with the results of the review conducted at the second level grievance step may appeal the decision within 30 days from the receipt of their written report and request a hearing to present his/her complaint orally before an impartial hearing officer/panel.
- The request for a hearing can be made either orally or in writing to the Director of San Bernardino County, Department of Aging and Adult Services.
- No later than 45 days from the receipt of the hearing request, a hearing will be scheduled.
- The complainant will be notified of the following:
  - The date, time, and location of the hearing.
  - The complainant's and other party's right to be present at the hearing and/or to have another person act on their behalf, including the right to have legal counsel present.

**Hearing Procedure**

- An impartial hearing officer or panel will chair manage the hearing.
- All persons testifying at the hearing will be placed under oath or affirmation
- The hearing will be informal with testimony being restricted to the issues requiring resolution.
- Technical rules of evidence and procedure will not apply at the hearing.
- During the hearing all parties will have the right to:
  - Present evidence and witnesses;
  - Examine witnesses and other sources of relevant information and evidence;
  - Be recorded verbatim, either electronically or stenographically.

**Conclusion of the Hearing**

- No later than 30 days after the date of the hearing was held, the hearing officer/panel will prepare a proposed decision based upon all relevant evidence presented and will consider applicable policies, procedures, regulations, and laws governing the program in reaching a decision.
- The proposed decision will include the following:
  - A description of each issue.



**ATTACHMENT B  
PART B**

- A statement indicating the complaint was upheld or denied. In the case of complaints that are upheld, an explanation of the remedy will be included.
- A citation of applicable laws and regulations.
- The proposed decision will be forwarded to either the Director of DAAS for the issuance of a final decision.
- If the complaint is against the Director of DAAS, the proposed decision will be forwarded to the Chairperson of the Governing Board for the issuance of a final decision.
- No later than 30 days after receipt of the proposed decision, the director or the chairperson shall either adopt the proposed decision as the final decision or write a new final decision.
- The decision will be mailed to the parties involved.
- The decision is final and not subject to appeal
- The decision will include procedures for ensuring that the remedies, if any, specified in the final decision are implemented.

**Civil Rights**

If you believe that your civil rights have been violated, please contact:

Deputy Director, Administration  
Department of Aging and Adult Services  
784 East Hospitality Lane  
San Bernardino, CA 92415-0640

**GRIEVANCE PROCEDURE CERTIFICATION**

This is to certify that I have read, understood, and received a copy of the Client Complaint and Grievance Procedures for Older Americans Act Programs.

\_\_\_\_\_  
Signature of Service Recipient

\_\_\_\_\_  
Date

**Grievance/Complaint Form  
Older Americans Act  
Programs**

**ATTACHMENT B  
PART B**

\_\_\_\_\_  
Grievant Name

\_\_\_\_\_  
Name of Service Provider

\_\_\_\_\_  
Home Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date of Action Causing Grievance

\_\_\_\_\_  
Date of Meeting with Contract Provider

Grievance Description (Clear concise statement. Attach additional sheets if necessary)

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\_\_\_\_\_  
Grievant Signature

\_\_\_\_\_  
Date Filed

**Grievance Review - Level I**

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Date Received                      Level I Reviewer Signature                      Response Date

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Reviewers Printed  
Name

Level I Decision (Attached on separate sheet)

I concur and do not appeal to  
the 2nd Level

I do not concur and appeal to the 2nd level

Reason for  
Appeal

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**Grievance Review - Level II**

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Date Received                      Level II Reviewer Signature                      Response Date

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Reviewers Printed  
Name

**Level II Decision (Attached on separate sheet)**

I concur and do not appeal for  
Hearing

I do not concur and request a Hearing

Reason for Appeal For  
Hearing

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\_\_\_\_\_  
Date  
Received

## Business Associate Addendum for Cloud Services Software as a Service (SaaS)

This Business Associate Addendum for Cloud Services is entered into by and between the County of San Bernardino (County) and Business Associate (Contractor) for the purposes of establishing terms and conditions applicable to the provision of services by Business Associate to the County involving the use of hosted cloud computing services. County and Business Associate agree that the following terms and conditions will apply to the services provided under this addendum and the associated Business Associate Agreement as applicable.

### 1. DEFINITIONS:

- a) **“Software as a Service (SaaS)”** - The capability provided to the consumer is to use applications made available by the provider running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a web browser or application. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- b) **“Data”** - means any information, formulae, algorithms, or other content that the County, the County’s employees, agents and end users upload, create or modify using the SaaS pursuant to this Contract. Data also includes user identification information, Protected Health Information (as defined by the Health Insurance Portability and Accountability Act (HIPAA)) and metadata which may contain Data or from which the Data may be ascertainable.
- c) **“Data Breach”** - means any access, destruction, loss, theft, use, modification or disclosure of Data by an unauthorized party or that is in violation of Contract terms and/or applicable state or federal law.

### 2. SaaS AVAILABILITY: Unless otherwise stated in the Statement of Work (SOW),

- a) The SaaS shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) If SaaS monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), the County shall be entitled to recover damages, apply credits or use other contractual remedies as set forth in the SOW.
- c) If SaaS monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the County may terminate the contract for material breach.
- d) Contractor shall provide advance written notice to the County in the manner set forth in the SOW of any major upgrades or changes that will affect the SaaS availability.

### 3. DATA AVAILABILITY: Unless otherwise stated in the SOW,

- a) The Data shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) If Data monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), the County shall be entitled to recover damages, apply credits or use other contractual remedies as set forth in the SOW if the County is unable to access the Data as a result of:
  - 1) Acts or omissions of Contractor;

- 2) Acts or omissions of third parties working on behalf of Contractor;
  - 3) Network compromise, network intrusion, hacks, introduction of viruses, disabling devices, malware and other forms of attack that can disrupt access to Contractor's server, to the extent such attack would have been prevented by Contractor taking reasonable industry standard precautions;
  - 4) Power outages or other telecommunications or Internet failures, to the extent such outages were within Contractor's direct or express control.
- c) If Data monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the County may terminate the contract for material breach.

**4. DATA SECURITY:**

- a) In addition to the provisions set forth in the Business Associate Agreement, Contractor shall certify to the County:
  - 1) The sufficiency of its security standards, tools, technologies and procedures in providing SaaS under this Contract;
  - 2) Compliance with the following:
    - i. The California Information Practices Act (Civil Code Sections 1798 et seq.);
    - ii. Undergo an annual Statement on Standards for Attestation Engagements (SSAE) 16 Service Organization Control (SOC) 2 Type II audit. Audit results and Contractor's plan to correct any negative findings shall be made available to the County within thirty (30) business days of Contractor's receipt of such results.
- b) Contractor shall implement and maintain all appropriate administrative, physical, technical and procedural safeguards in accordance with section a) above at all times during the term of this Addendum to secure such Data from Data Breach, protect the Data and the SaaS from hacks, introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the County's access to its Data.
- c) Contractor shall allow the County reasonable access to SaaS security logs, latency statistics, and other related SaaS security data that affect this Addendum and the County's Data, at no cost to the County.
- d) Contractor assumes responsibility for the security and confidentiality of the Data under its control.
- e) No Data shall be copied, modified, destroyed or deleted by Contractor other than for normal operation or maintenance of SaaS during the Addendum period without prior written notice to and written approval by the County.
- f) Contractor shall provide access to Data only to those employees, contractors and subcontractors who need to access the Data to fulfill Contractor's obligations under this Agreement. Contractor will ensure that, prior to being granted access to Data, staff who perform work under this agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Addendum and the associated Business Associate Agreement; and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of the Data they will be handling.

**5. ENCRYPTION:** Contractor warrants that all Data will be encrypted in transmission (including via web interface) using Transport Layer Security (TLS) version 1.2 or equivalent and in storage at a level equivalent to or stronger than Advanced Encryption Standard (AES) 128-bit level encryption.

**6. DATA LOCATION:** All Data will be stored on servers located solely within the Continental United States.

**7. RIGHTS TO DATA:** The parties agree that as between them, all rights, including all intellectual property rights, in and to Data shall remain the exclusive property of the County, and Contractor has a limited, non-exclusive license to access and use the Data as provided to Contractor solely for performing its obligations under the Contract. Nothing herein shall be construed to confer any license or right to the Data, including user tracking and exception Data within the system, by implication, or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of Data by Contractor or third parties is prohibited. For the purposes of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery analysis that is not explicitly authorized.

**8. TRANSITION PERIOD:**

- a) For ninety (90) days prior to the expiration date of this Contract, or upon notice of termination of this Contract, Contractor shall assist the County in extracting and/or transitioning all Data in the format determined by the County ("Transition Period").
- b) The Transition Period may be modified in the SOW or as agreed upon in writing by the parties in a contract amendment.
- c) During the Transition Period, SaaS and Data access shall continue to be made available to the County without alteration.
- d) Contractor agrees to compensate the County for damages or losses the County incurs as a result of Contractor's failure to comply with this section.
- e) Unless otherwise stated in the SOW, the Contractor shall permanently destroy or render inaccessible any portion of the Data in Contractor's and/or subcontractor's possession or control following the expiration of all obligations in this section. Within thirty (30) days, Contractor shall issue a written statement to the County confirming the destruction or inaccessibility of the County's Data.
- f) The County at its option, may purchase additional transition services as agreed upon in the SOW.

**9. DISASTER RECOVERY/BUSINESS CONTINUITY:** Unless otherwise stated in the Statement of Work,

- a) In the event of disaster or catastrophic failure that results in significant Data loss or extended loss of access to Data, Contractor shall notify the County by the fastest means available and also in writing. Contractor shall provide such notification within twenty-four (24) hours after Contractor reasonably believes there has been such a disaster or catastrophic failure. In the notification, Contractor shall inform the County of:
  - 1) The scale and quantity of the Data loss;
  - 2) What Contractor has done or will do to recover the Data and mitigate any deleterious effect of the Data loss; and
  - 3) What corrective action Contractor has taken or will take to prevent future Data loss.
- b) If Contractor fails to respond immediately and remedy the failure, the County may exercise its options for assessing damages or other remedies.
- c) Contractor shall restore continuity of SaaS, restore Data, restore accessibility of Data, and repair SaaS as needed to meet the Data and SaaS Availability requirements under this Addendum. Failure to do so may result in the County exercising its options for assessing damages or other remedies.

- d) Contractor shall conduct an investigation of the disaster or catastrophic failure and shall share the report of the investigation with the County. The County and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the County, its agents and law enforcement.

**10. EXAMINATION AND AUDIT:** Unless otherwise stated in the Statement of Work:

- a) Upon advance written request, Contractor agrees that the County or its designated representative shall have access to Contractor's SaaS operational documentation and records, including online inspections that relate to the security of the SaaS product purchased by the County.
- b) Contractor shall allow the County, its authorized agents, or a mutually acceptable third party to test that controls are in place and working as intended. Tests may include, but not be limited to, the following:
  - 1) Operating system/network vulnerability scans,
  - 2) Web application vulnerability scans,
  - 3) Database application vulnerability scans, and
  - 4) Any other scans to be performed by the County or representatives on behalf of the County.
- c) After any significant Data loss or Data Breach or as a result of any disaster or catastrophic failure, Contractor will at its expense have an independent, industry-recognized, County-approved third party perform an information security audit. The audit results shall be shared with the County within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor will provide the County with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract.

**11. DISCOVERY:** Contractor shall promptly notify the County upon receipt of any requests which in any way might reasonably require access to the Data of the County or the County's use of the SaaS. Contractor shall notify the County by the fastest means available and also in writing, unless prohibited by law from providing such notification. Contractor shall provide such notification within forty-eight (48) hours after Contractor receives the request. Contractor shall not respond to subpoenas, service of process, Public Records Act requests, and other legal requests directed at Contractor regarding this Contract without first notifying the County unless prohibited by law from providing such notification. Contractor agrees to provide its intended responses to the County with adequate time for the County to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at the County unless authorized in writing to do so by the County.

**13. INSURANCE REQUIREMENTS:** Contractor shall, at its own expense, secure and maintain for the term of this contract, Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall cover breach response cost as well as any regulatory fines and penalties.

**14. DATA SEPARATION:** Data must be partitioned from other data in such a manner that access to it will not be impacted or forfeited due to e-discovery, search and seizure or other actions by third parties obtaining or attempting to obtain Service Provider's records, information or data for reasons or activities that are not directly related to Customer's business.



**ASSURANCE OF COMPLIANCE  
ASSURANCE OF COMPLIANCE WITH ALL APPLICABLE LAWS  
RELATING TO  
NONDISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS**

\_\_\_\_\_  
CONTRACTOR

HEREBY AGREES THAT it will comply with Title VI and VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975; the Food Stamp Act of 1977 as amended and in particular section 272.6; the Americans with Disabilities Act of 1990; Government Code (GC) section 11135; California Code of Regulations (CCR) Title 22 section 98000-98413; Title 24 of the California Code of Regulations section 3105A(e); and other applicable federal and state laws, as well as their implementing regulations (including 45 CFR, Parts 80, 84, and 91, 7 CFR Part 15, and 28 CFR Part 42), by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall because of race, color, national origin, political affiliation, religion, marital status, sex, age or disability be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state assistance; and HEREBY GIVES ASSURANCE THAT, it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal and state assistance; and THE AGENCY HEREBY GIVES ASSURANCE THAT administrative methods/procedures which have the effect of subjecting individuals to discrimination will be prohibited.

BY ACCEPTING THIS ASSURANCE, the agency agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of the aforementioned laws and regulations and permit authorized County, state and/or federal government personnel, during normal working hours, to review such records, books and accounts as needed to ascertain compliance. If there are any violations of this assurance, County shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code section 10605, or Government Code section 11135-39, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this assurance.

THIS ASSURANCE is binding on the agency directly or through contract, license, or other Contractor services, as long as it receives federal or state assistance; and shall be submitted annually with the required Civil Rights Plan Update.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
ORGANIZATION

\_\_\_\_\_  
ADDRESS

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

0348-0046

(See reverse for public burden disclosure.)

<p><b>1. Type of Federal Action:</b></p> <p><input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance</p>	<p><b>2. Status of Federal Action:</b></p> <p><input type="checkbox"/> a. bid/offer/application  <input type="checkbox"/> b. initial award  <input type="checkbox"/> c. post-award</p>	<p><b>3. Report Type:</b></p> <p><input type="checkbox"/> a. initial filing  <input type="checkbox"/> b. material change</p> <p><b>For Material Change Only:</b>  year _____ quarter _____  date of last report _____</p>
<p><b>4. Name and Address of Reporting Entity:</b></p> <p><input type="checkbox"/> Prime                      <input type="checkbox"/> Subawardee</p> <p style="text-align: center;">Tier _____, if known:</p> <p>Congressional District, if known:</p>	<p><b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b></p> <p>Congressional District, if known:</p>	
<p><b>6. Federal Department/Agency:</b></p>	<p><b>7. Federal Program Name/Description:</b></p> <p>CFDA Number, if applicable: _____</p>	
<p><b>8. Federal Action Number, if known:</b></p>	<p><b>9. Award Amount, if known:</b></p> <p>\$ _____</p>	
<p><b>10. a. Name and Address of Lobbying Entity</b>  <i>(if individual, last name, first name, MI):</i></p> <p style="text-align: center;"><i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i></p>	<p><b>b. Individuals Performing Services</b> (including address if different from No. 10a)  <i>(last name, first name, MI)</i></p>	
<p><b>11. Amount of Payment (check all that apply):</b></p> <p>\$ _____ <input type="checkbox"/> actual    <input type="checkbox"/> planned</p>	<p><b>13. Type of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. retainer  <input type="checkbox"/> b. one-time fee  <input type="checkbox"/> c. commission  <input type="checkbox"/> d. contingent fee  <input type="checkbox"/> e. deferred  <input type="checkbox"/> f. other; specify: _____</p>	
<p><b>12. Form of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. cash  <input type="checkbox"/> b. in-kind; specify: nature _____  value _____</p>		
<p><b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:</b></p> <p style="text-align: center;"><i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i></p>		
<p><b>15. Continuation Sheet(s) SF-LLLA attached:</b>                      <input type="checkbox"/> Yes                      <input type="checkbox"/> No</p>		
<p><b>16.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		<p>Signature: _____  Print Name: _____  Title: _____  Telephone No.: _____ Date: _____</p>
<p><b>Federal Use Only:</b></p>		<p>Authorized for Local Reproduction  Standard Form LLL (Rev. 7-97)</p>

**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the Information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
 (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**INFORMATION SHEET**  
*(one Information Sheet per Vendor)*

CONTRACTOR SHALL COMPLETE SECTION I OF THIS FORM AND RETURN  
TO:

SAN BERNARDINO COUNTY  
Department of Aging and Adult Services  
Attn: CONTRACTS

<b>SECTION I: CONTRACTOR INFORMATION</b>			
Contractor Name:			
Address (including City, State and Zip Code):			Phone:
Web Site:	Email:	Fax:	
Site Name for Services (if Different from Contractor):			
Address (including City, State and Zip Code):			Phone:
Web Site:	Email:	Fax:	
Clinic Contact:		Title:	
<b>Contract Signature Authority:</b>			
Name:		Name:	
Title:		Title:	
Signature:		Signature:	
Phone #: (    )	E-Mail:	Phone #: (    )	E-Mail:
<b>Claim Signature Authority:</b>			
Name:		Name:	
Title:		Title:	
Signature:		Signature:	
Phone #: (    )	E-Mail:	Phone #: (    )	E-Mail:
<b>SECTION II: DAAS INFORMATION</b>			
<b>Contract Mailing Address:</b>		<b>Contracts Unit:</b>	
San Bernardino County Department of Aging and Adult Services Contracts Unit 784 E. Hospitality Lane San Bernardino, CA 92415-0920		<i>Unit Fax #: 909-891-9150</i>	

## COMMUNITY FOCAL POINTS LIST

Name	Address	City/Community	Phone
Adelanto Senior Club	11565 Cortez Avenue	Adelanto, CA 92301	(760) 605-0549
Apple Valley Senior Club	13188 Central Road	Apple Valley, CA 92308	(760) 247-3155
Barstow Senior Citizens Club	555 Melissa Avenue	Barstow, CA 92311-3031	(760) 256-5023
Big Bear Valley Senior Center	42651 Big Bear Blvd.	Big Bear Lake, CA 92315	(909) 584-0323
Bloomington Senior Center	18317 Valley Blvd.	Bloomington, CA 92316	(909) 546-1399
Bonnie Baker Senior Citizens Club	149350 Ukiah Trail	Big River, CA 92242	(760) 665-2667
Chemehuevi Indian Tribal Center	1990 Palo Verde	Havasu Lake, CA 92363	(760) 858-4219
Chino Senior Center	13170 Central Avenue	Chino, CA 91710	(909) 334-3453
Crest Forest Senior Citizens Club	24658 San Moritz Drive	Crestline, CA 92325	(909) 338-5036
Delmann Heights Senior Center	2969 N. Flores St.	San Bernardino, CA 92407	(909) 887-2115
Dino Papavero Senior Center	16707 Marygold Avenue	Fontana, CA 92335	(909) 350-0575
El Mirage Senior Club	1488 Milton	El Mirage, CA 92301	(760) 559-7683
Fontana Community Senior Center	16710 Ceres Avenue	Fontana, CA 92335	(909) 854-5151
Ft. Mohave Tribal Senior Nutrition Program	700 Harrison Street	Needles, CA 92363	(760) 629-2371
George M. Gibson Senior Center	250 N. Third Avenue	Upland, CA 91786	(909) 981-4501
George White Senior Center	8565 Nuevo Avenue/8572 Sierra Ave.(Main Ofc)	Fontana, CA 92335	(909) 822-4493
Grand Terrace Senior Center	22627 Grand Terrace Road	Grand Terrace, CA 92313	(909) 824-1491
Helendale Senior Center	15350 Riverview Rd., Bldg. 2	Helendale, CA 92342	(760) 243-5690
Hesperia Leisure League	9122 Third Avenue	Hesperia, CA 92345	(760) 244-3223
Percy Baaker Community Center	9333 "E" Avenue/PO Box 104055	Hesperia, CA 92340	(760) 244-5488
Highland Senior Center	3102 E. Highland Avenue	Patton, CA 92369	(909) 862-8104
Hinkley Community and Senior Center	35997 Mountain View Road	Hinkley, CA 92347	(760) 253-4677
Hutton Senior Center	660 Colton Avenue	Colton, CA 92324	(909) 370-6168
James L. Brulte Senior Center	11200 Baseline Road	Rancho Cucamonga, CA 91701	(909) 477-2780
Joshua Tree Community Center	6171 Sunburst	Joshua Tree, CA 92252	(760) 366-2471

Name	Address	City/Community	Phone
Joslyn Senior Center	21 Grant Street	Redlands, CA 92373	(909) 798-7550
Loma Linda Senior Center	25571 Barton Road	Loma Linda, CA 92354	(909) 799-2820
Lucerne Valley Senior Club	10431 Allen Way	Lucerne Valley, CA 92356	(760) 248-2248
Luque Senior Center	292 East "O" Street	Colton, CA 92324	(909) 370-5087
Lytle Creek Senior Center	P.O. Box 182/14082 Center Road	Lytle Creek, CA 92358	(909) 880-8659
Mentone Senior Center	1331 Opal Avenue	Mentone, CA 92359	(909) 794-5280
Montclair Senior Center	5111 Benito Street	Montclair, CA 91763	(909) 625-9483
Morongo Basin Senior Support Center	57121 Sunnyslope Drive	Yucca Valley, CA 92284	(760) 365-9661
Mountain Communities Senior Center	675 Grandview Road	Twin Peaks, CA 92391	(909) 337-1824
Needles Senior Center	1699 Bailey Avenue	Needles, CA 92363	(760) 326-4789
Newberry Springs Senior Family Center	33383 Newberry Road	Newberry Springs, CA 92365	(760) 257-3284
Ontario Senior Center	225 East "B" Street	Ontario, CA 91764	(909) 395-2021
Perris Hill Senior Center	780 E. 21st Street	San Bernardino, CA 92404	(909) 384-5436
Phelan Senior Club	4128 Warbler Rd. #A	Phelan, CA 92371	(760) 868-8067
Pinon Hills Senior Club	10433 Mountain Road	Pinon Hills, CA 92372	(760) 868-8637
Redlands Community Senior Center	111 W. Lugonia	Redlands, CA 92374	(909) 798-7579
Rialto Senior Center	1411 S. Riverside Avenue	Rialto, CA 92376	(909) 877-9706
San Bernardino 5th St Senior Center	600 W 5th Street	San Bernardino, CA 92410	(909)-384-5430
San Moritz Lodge	24658 San Moritz Dr	Crestline, CA 92325	(909)-338-5036
Trona Community Senior Center	13187 Market Street	Trona, CA 93562	(760) 372-5889
Twenty Nine Palms Senior Center	6539 Adobe Road	Twenty Nine Palms, CA 92277	(760) 367-3891
Victorville Senior Center	14874 Mojave Road	Victorville, CA 92392	(760) 245-5018
Wrightwood Community Center	1543 Barbara Street	Wrightwood, CA 92397	(760) 249-3205
Yucaipa Senior Center	12202 First Street	Yucaipa, CA 92399	(909) 797-1177
Yucca Valley Senior Center	57088 29 Palms Highway	Yucca Valley, CA 92284	(760) 228-5453

Payments, Budgets, Closeout, and Audits

July 1, 2019 through June 30, 2022

I. FUNDS

A. Expenditure of Funds

1. Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with California Department of Human Resources' rules and regulations. This is not to be construed as limiting Contractor from paying any differences in costs between the rates specified above and any rates the Contractor is obligated to pay under other contractual agreements from funds other than those provided pursuant to this Agreement.
3. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from County.
4. Contractor agrees to include these requirements in all contracts it enters into with subcontractors or vendors to provide services pursuant to this Agreement.
5. County reserves the right to refuse payment to Contractor or disallow costs for any expenditure, when determined by the County to be out of compliance with this Agreement, unrelated or inappropriate to the contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.

B. Accountability for Funds

1. Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by Contractor, and shall be maintained in accordance with Generally Acceptable Accounting Principles and Procedures, and the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
2. Contractor shall promptly forward payroll taxes, insurances and contributions, including State Disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and Federal and State income taxes withheld, to designated governmental agencies.
3. Adequate source documentation of each transaction shall be maintained relative to the allow ability of expenditures reimbursed by DAAS under this Contract. If the allow ability of expenditures cannot be determined because records or documentation of Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures may be disallowed by DAAS.
4. Financial Management Systems  
Contractor shall meet the following standards for its financial management systems, as stipulated in 45 CFR Section 92.20 (governmental) or 45 CFR Section 74.21 (not for profit organizations):
  - a. Financial Reporting
  - b. Accounting Records
  - c. Internal Control

- d. Budgetary Control
- e. Allowable Costs
- f. Source Documentation
- g. Cash Management

C. Unexpended Funds

Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the Contractor shall return to County immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation or expiration of this Agreement or dissolution of the entity.

D. Availability of Funds

1. It is understood by the parties that this Agreement may have been written before ascertaining the availability or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if sufficient funds are made available to the County by the United States Government or State of California for the fiscal years appropriate for the purpose of the services described herein.
3. Funding Reduction(s)
  - a. If funding for any County fiscal year is reduced or deleted for the purposes of this program, the County shall have the option to either:
    - 1) Terminate the Agreement
    - 2) Amend the agreement to reflect the reduced funding that will be available.
  - b. In the event that County elects to offer an amendment, it shall be mutually understood by both parties that 1) County reserves the right to determine which contracts, if any, under this program shall be reduced; 2) some contracts may be reduced by a greater amount than others; 3) the County shall determine in its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

E. Program Income

1. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated.
2. Program Income must be used to pay for current allowable costs of the program in the same fiscal year that the income was earned (except as noted below).
3. Program Income must be spent before contract funds and may reduce the amount of contract funds payable to Contractor.
4. If Program Income is earned in excess of the amount reported by County in the Contractor's approved budget, the excess amount may be deferred for use in the first quarter of the following contract period, which is the last quarter of the federal fiscal year, if approved by County.
5. If Program Income is deferred for use it must be used by the last day of the federal fiscal year and reported when used.
6. Program Income may not be used to meet any requirements for matching contributions specified in this Agreement.



7. Program Income must be used to expand baseline services.

**F. One Time Only (OTO) Funds:**

OTO funds shall be only be used for the following purposes:

1. The purchase of equipment that enhances the delivery of services to the eligible service population. Home and community-based projects that are approved by County in advance.
2. Innovative pilot projects that are approved in advance by County, and are designed for the development of a comprehensive and coordinated system of care as defined in [45 CFR 1321.53(a) & (b).
3. OTO funds may be used to maintain or increase baseline services; however, it is understood by the parties that such use of OTO funds creates no expectation of service delivery beyond the current contract period.

**G. Matching Contributions**

1. Cash and/or in-kind contributions may be counted as match if such contributions are used to meet program requirements.
2. Matching contributions (cash or in-kind) must be verifiable from the records of the Contractor or its subcontractors. Only allowable costs as established by Office of Management and Budget (OMB) cost principles may be reported as matching contributions.
3. Services of volunteers or other costs reported as “in-kind” matching contributions shall be valued at rates consistent with those of similar work or services paid by Contractor. If Contractor does not offer similar work or purchase similar services, rates shall be consistent with those in local market area.

**H. Budget and Budget Revision**

1. Contractor shall be compensated for expenses only as itemized in the approved budget that is incorporated by reference into this Agreement. The Contractor shall not be entitled to payment for expenses related to this Agreement until the budget has been reviewed and approved by the County.
2. No budget revision may result in an increase of the maximum dollar amount stated in Section V, Paragraph A. The written request must specify the line item or Service Category changes requested, and must include justification for the requested changes.

For the purposes of this section,

- a. “Service Category” shall be defined as that classification of activities defined in the Older Americans Act (OAA) that is specific to each OAA funded grant program; and
- b. “Service” shall be defined as the activities that are defined within a Service Category.

Examples of Service Categories include Supportive Services, Congregate and Home-delivered Nutrition Services, Disease Prevention/Health Promotion Services, and Family Caregiver or Grandparent Support Services. Examples of services include nutrition education, transportation, information assistance, senior center staffing, respite care, access assistance, and supplemental services.

County shall notify the Contractor in writing of the status of the budget revision request within fourteen (14) calendar days of receipt of the Contractor's written request. The County reserves the right to deny the Contractor's invoice for expenditures in excess of the approved budgeted line item amount.

3. Contractor shall submit a budget revision to the County, in advance of expenditures when:
  - a. Changes to line item expenditures are expected to exceed the amount of the approved budgeted line item by more than ten (10%) of the amount specified in Section V, Paragraph A.
  - b. New budget line items are to be added.
  - c. When the changes being requested involve the transfer of funds between Service Category.
  - d. When otherwise requested by the County.
4. Contractor shall maintain a written record of all budget changes including line item or service category changes. This record shall be available to the Department upon request and shall be maintained in the same manner as all other financial records.
5. The final date to submit to a budget revision is March 30 of the contract period unless otherwise specified by the County.
- I. Indirect Costs
  1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.
  2. Examples of indirect cost may include depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.
  3. The maximum reimbursement amount allowable for indirect costs is ten (10) percent of Contractor's direct costs, excluding in-kind contributions and non-expendable equipment. Indirect costs exceeding the ten (10) percent maximum may be budgeted as cash match and be used to meet the minimum matching contribution requirements.
  4. Contractor agrees to include the above requirement in all contracts it enters into with subcontractors or vendors to provide services pursuant to this agreement.
  5. Reimbursement for indirect costs shall be on the basis of an indirect cost rate plan documenting the methodology used to determine the indirect cost rate, which shall be submitted by Contractor to the Federal government for approval. After Federal approval the plan will submitted to DAAS and be approved by DAAS.
- J. Financial Closeout
  1. Contractor shall submit a final statement of expenditures and income (Financial Closeout – Attachment H) to County within thirty days of the end of contract period, unless otherwise specified by County.

2. Federal funds otherwise payable to Contractor by County may be reduced proportionately by County to maintain the required matching contributions ratio if amount of matching contributions reported by Contractor is less than minimum required matching contribution amount specified in Section V, Paragraph A, Fiscal Provisions of this Contract .

**K. Subcontracts or Vendor Agreements**

1. Without the prior written consent of the Director of DAAS or his/her designee through the HS Contracts Unit, this Contract is not assignable by Contractor either in whole or in part.
2. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Director of DAAS or his/her designee. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor.
3. Contractor shall include language in all subcontracts that require subcontractor to comply with all applicable State and Federal Laws.
4. Contractor shall have no authority to contract for, on behalf of, or incur obligations on behalf of County or State.
5. Copies of subcontracts, vendor agreements, Memoranda, and/or Letters of Understanding shall be on file with the Contractor and shall be made available to DAAS upon request.
6. Contractor shall monitor the insurance requirements of its subcontractors and/or vendors.
7. Contractor shall ensure that the subcontractor and/or vendor will complete all reporting and expenditure documents requested by DAAS. These reporting and expenditure documents shall be sent to Contractor in a timely manner and at intervals as determined by DAAS.
8. Contractor shall monitor the budget, expenditures, and performance of its subcontractors and/or vendors.
9. Contractors shall provide support and technical assistance to subcontractors and respond in writing to all written request for direction, guidance, and interpretation of instructions to include client and service data.

**L. Audits**

1. Contractors that expend \$750,000 or more in Federal awards shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1996, Public Law 104-156, and Office of Management and Budget [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133].
2. A copy of audit report shall be submitted to DAAS within 30 days after receipt of the auditor's report or nine months after the audit period, whichever occurs first, unless a longer period is agreed to in advance by the recognized or oversight federal agency.
3. Contractor shall ensure that State-funded expenditures are displayed discretely along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under the appropriate Catalog of Federal Domestic Assistance (CFDA) number as referenced herein. In addition, should contractor's SEFA totals be reported on the basis of a fiscal year period other than County's fiscal year (July 1 through June 30), a supplemental schedule shall be provided that reconciles Contractor's reported expenditures to County fiscal year periods.
4. For state contracts that do not have CFDA numbers, Contractor shall ensure that State-funded expenditures are discretely identified in the SEFA by the appropriate program

name, identifying grant/contract number and as passed through the California Department of Aging.

5. The following closely related programs identified by CFDA number are to be considered as an “Other Cluster” for purposes of determining major programs or whether a program specific audit may be elected. Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization’s single audit as well to each of Contractor’s sub-recipients.
6. The Federal Grantor for the following programs is the U.S Department of Health and Human Services, Administration on Aging:

93.044	Special Programs for the Aging – Title III, Part B = Grants for Supportive Services and Senior Centers (Title III-B).
93.045	Special Programs for the Aging – Title III, Part C – Nutrition Services (Title III-C)
93.052	National Family Caregiver Support – Title III, Part E
93.053	Nutrition Services Incentive Program (NSIP)

7. The Federal Grantor for the following program is the U.S Centers for Medicare and Medicaid Services:

93.779	State Health Insurance Assistance Program (HICAP)
93.071	MIPPA: MSP, LIS & Prescription Drug Enrollment Assistance through the Aging Network, SHIP, and ADRCs
93.626	SHIP Options Counseling for Medicare/Medicaid (FA)

8. The Federal Grantor for the following program is the Administration for Community Living grants:

93.071	MIPPA: Priority Area 2 AAAs
--------	-----------------------------

9. Cluster of programs means a grouping of closely-related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA) and other clusters. “Other Clusters” are defined by the OMB in the Compliance Supplement or as designated by a State for federal awards provided to its sub recipients that meet the definition of cluster of programs. When designating an “other cluster”, a State shall identify the federal awards included in the cluster and advise the sub-recipients of compliance requirements applicable to the cluster, consistent with S.400 (d) (1) and S.400 (d) (2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in S.520, and with the exception of R&D as described in S.200 (c), whether a program-specific audit may be elected. (Federal Office of Management and Budget, (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Corporations).

10. Contractor shall perform a reconciliation of its “Financial Closeout Report” to the audited financial statements. The reconciliation shall be maintained and be made available to DAAS for review.
11. Contractor shall ensure that subcontractor single audit reports for Contractor meet [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133] requirements, including, but not limited to:
  - a. Performed timely – Not less frequently than annually and a report submitted timely. The audit is required to be submitted within 30 days after receipt of the auditor’s report or nine months after the end of the audit period, whichever occurs first.
  - b. Properly procured – Use procurement standards provided for in OMB Circular A-133 and provide maximum opportunities to small and minority audit firms.
  - c. Performed in accordance with Generally Accepted Government Auditing Standards – Shall be performed by an independent auditor and be organization-wide
  - d. All inclusive – Includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements; and the schedule of findings and questioned costs.
  - e. Performed in accordance with provisions applicable to this program as identified in [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133 Compliance Supplement].
12. Requirements identified in the provision above shall be included by Contractor in all subcontracts.
13. Contractor shall include in its contract with the independent auditor that the auditor will comply with all applicable requirements/standards, that the County shall have access to all audit reports and supporting work papers, and that the County shall have the option to perform additional work if needed.
14. Unless prohibited by law, the cost of audits completed in accordance with provisions of the Single Audit Act Amendments of 1996 is allowable charges to Federal awards. Contractor may not charge to Federal awards the cost of any audit under the Single Audit Act Amendments of 1996 not conducted in accordance with the Act. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has Federal Awards expended of less than \$750,000 per year, and is thereby exempted under OMB Circular A-133, Subsection \_\_200 (d).
15. Contractor shall cooperate with and participate in any additional audits which may be required by State or County.

COUNTY OF SAN BERNARDINO NUTRITION SERVICES  
NUTRITION PROGRAM BUDGET

Provider: City of Montclair

Fiscal Year/Period: 2019-20

Orig  Amend

Match Requirement: \$ 13,781.73

SERVICE	C-1 Meals		C-1 Nutrition Education		C-2 Meals		C-2 Nutrition Education		Total
	Cash	In-Kind	Cash	In-Kind	Cash	In-Kind	Cash	In-Kind	
1 Personnel	\$ 58,437	\$ 51,328							\$ 109,765
2 Staff Travel & Training	\$ 300								\$ 300
3 Equipment									\$ -
4 Non-Inventoriable Equipment	\$ 8,100								\$ 8,100
5 Consultants	\$ 111,250		\$ 2,000						\$ 113,250
7 Raw Food	\$ 7,042								\$ 7,042
8 Other Expenses:									
a Supplies	\$ 8,042								\$ 8,042
b Insurance									\$ -
c Repair & Maintenance									\$ -
d Rent/Building Space									\$ -
e Utilities									\$ -
f Vehicle Operations									\$ -
g Miscellaneous	\$ 2,000								\$ 2,000
9 Indirect Cost									\$ -
<b>Total Expenditures (add lines 1-7)</b>	<b>\$ 195,171</b>	<b>\$ 51,328</b>	<b>\$ 2,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 248,499</b>

Revenue Sources:	Cash	In-Kind	Total
Federal Funds	\$ 109,248	\$ 2,000	\$ 111,248
State Funds			\$ -
NSIP	\$ 12,800		\$ 12,800
State Special Nutrition Funds			\$ -
County Funds			\$ -
Program Income	\$ 41,000		\$ 41,000
Deferred Income			\$ -
Matching Cash	\$ 32,123		\$ 32,123
Matching In-Kind		\$ 51,328	\$ 51,328
Non-Match Cash			\$ -
Non-Match In-Kind			\$ -
<b>Total Revenue</b>	<b>\$ 195,171</b>	<b>\$ 51,328</b>	<b>\$ 246,499</b>

Submitted by:

Marcia Richter, Director of Human Services  
Printed Name

*M. Richter*  
Signature

5/20/2019  
Date

DAAS Approval:

*K. Van*  
Printed Name

*Kimberly E. Van*  
Signature

05/21/19  
Date

COUNTY OF SAN BERNARDINO NUTRITION SERVICES  
NUTRITION PROGRAM BUDGET

Provider: City of Montclair

Fiscal Year/Period: 2020-21

Orig  Amend

Match Requirement: \$ 13,781.73

SERVICE	C-1 Meals		C-1 Nutrition Education		C-2 Meals		C-2 Nutrition Education		Total
	Cash	In-Kind	Cash	In-Kind	Cash	In-Kind	Cash	In-Kind	
Expenditure Category:									
1 Personnel	\$ 58,437	\$ 51,328							\$ 109,765
2 Staff Travel & Training	\$ 300								\$ 300
3 Equipment	\$ -	\$ -							\$ -
4 Non-Inventoriable Equipment	\$ 8,100	\$ -							\$ 8,100
5 Consultants	\$ -	\$ -	\$ 2,000						\$ 2,000
6 Catered Food	\$ 111,250	\$ -							\$ 111,250
7 Raw Food	\$ 7,042	\$ -							\$ 7,042
8 Other Expenses:									
a Supplies	\$ 8,042	\$ -							\$ 8,042
b Insurance	\$ -	\$ -							\$ -
c Repair & Maintenance	\$ -	\$ -							\$ -
d Rent/Building Space	\$ -	\$ -							\$ -
e Utilities	\$ -	\$ -							\$ -
f Vehicle Operations	\$ -	\$ -							\$ -
g Miscellaneous	\$ 2,000	\$ -							\$ 2,000
9 Indirect Cost	\$ -	\$ -							\$ -
<b>Total Expenditures (add lines 1-7)</b>	<b>\$ 195,171</b>	<b>\$ 51,328</b>	<b>\$ 2,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 248,499</b>

Revenue Sources:	Cash	In-Kind							Total
Federal Funds	\$ 109,248		\$ 2,000						\$ 111,248
State Funds	\$ -								\$ -
NSIP	\$ 12,800								\$ 12,800
State Special Nutrition Funds	\$ -								\$ -
County Funds									\$ -
Program Income	\$ 41,000								\$ 41,000
Deferred Income	\$ -								\$ -
Matching Cash	\$ 32,123								\$ 32,123
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Non-Match Cash									\$ -
Non-Match In-Kind									\$ -
<b>Total Revenue</b>	<b>\$ 195,171</b>	<b>\$ 51,328</b>	<b>\$ 2,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 248,499</b>

Submitted by:  
 Marcia Richter, Director of Human Services  
 Printed Name  
  
 Signature  
 5/20/2019  
 Date

DAAS Approval:  
  
 Printed Name  
  
 Signature  
 05/21/19  
 Date

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COUNTY OF SAN BERNARDINO NUTRITION SERVICES  
NUTRITION PROGRAM BUDGET

Provider: City of Montclair

Fiscal Year/Period: 2021-22



Orig  Amend

Match Requirement: \$ 13,781.73

SERVICE	C-1 Meals		C-3 Nutrition Education		C-2 Meals		C-2 Nutrition Education		Total
	Cash	In-Kind	Cash	In-Kind	Cash	In-Kind	Cash	In-Kind	
1 Personnel	\$ 58,437	\$ 51,328							\$ 109,765
2 Staff Travel & Training	\$ 300								\$ 300
3 Equipment	\$ -	\$ -							\$ -
4 Non-Inventoriable Equipment	\$ 8,100	\$ -							\$ 8,100
5 Consultants	\$ -	\$ -	\$ 2,000						\$ 2,000
6 Catered Food	\$ 111,250	\$ -							\$ 111,250
7 Raw Food	\$ 7,042	\$ -							\$ 7,042
8 Other Expenses:									
a Supplies	\$ 8,042	\$ -							\$ 8,042
b Insurance	\$ -	\$ -							\$ -
c Repair & Maintenance	\$ -	\$ -							\$ -
d Rent/Building Space	\$ -	\$ -							\$ -
e Utilities	\$ -	\$ -							\$ -
f Vehicle Operations	\$ -	\$ -							\$ -
g Miscellaneous	\$ 2,000	\$ -							\$ 2,000
9 Indirect Cost	\$ -	\$ -							\$ -
<b>Total Expenditures (add lines 1-7)</b>	<b>\$ 195,171</b>	<b>\$ 51,328</b>	<b>\$ 2,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 248,499</b>

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Non-Match In-Kind			\$ -
<b>Total Revenue</b>	<b>\$ 195,171</b>	<b>\$ 51,328</b>	<b>\$ 248,499</b>

Submitted by:  
Marcia Richter, Director of Human Services  
Printed Name  
  
Signature

DAAS Approval:  
  
Printed Name  
  
Signature

5/20/2019  
Date

05/21/19  
Date

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COUNTY OF SAN BERNARDINO NUTRITION SERVICES  
Matching Funds Narrative

Contractor: City of Montclair  
Fiscal Year: 07/01/19-06/30/20

ORIG  X  Amend    

CONGREGATE SITES C-1

HOME DELIVERED MEALS C-2

Provide justification, rates, comments, descriptions, etc. for the required 11.11% of the total proposed contract amount in matching funds whether in cash or in-kind. Matching funds may not be fees for services, client donations or program income as defined by 45 CFR 74.41 match.

**CONGREGATE MEALS C-1**

Line Item	Rate	Annual Amount	Description/Justification
In Kind - Personnel	\$12.00/hr	\$51,328	Elderly Nutrition Program Volunteer Hours for the year based on \$12.00 per hour (minimum wage) x an average of 1,069.33 hours per quarter or 4,277.33 hours per year. Consistent with current program figures.
Matching Cash	\$17.65/hr	\$32,123	Part-Time Staff Wages for the Senior Recreation Specialist at the Montclair Senior Center. That is \$17.65 per hour x an average of 35 hours per week. Note: Since it exceeds the 11.11% requirement, the amount of proposed Matching Cash may change and is subject to actual funding available for the fiscal year.

COUNTY OF SAN BERNARDINO NUTRITION SERVICES  
 Matching Funds Narrative

Contractor: City of Montclair  
 Fiscal Year: 07/01/20-06/30/21

ORIG X Amend     

CONGREGATE SITES C-1

HOME DELIVERED MEALS C-2

Provide justification, rates, comments, descriptions, etc. for the required 11.11% of the total proposed contract amount in matching funds whether in cash or in-kind. Matching funds may not be fees for services, client donations or program income as defined by 45 CFR 74.41 match.

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COUNTY OF SAN BERNARDINO NUTRITION SERVICES  
 Matching Funds Narrative

Contractor: City of Montclair  
 Fiscal Year: 07/01/21-06/30/22

ORIG  X  Amend    

CONGREGATE SITES C-1

HOME DELIVERED MEALS C-2

Provide justification, rates, comments, descriptions, etc. for the required 11.11% of the total proposed contract amount in matching funds whether in cash or in-kind. Matching funds may not be fees for services, client donations or program income as defined by 45 CFR 74.41 match.

**CONGREGATE MEALS C-1**

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**MONTHLY EXPENDITURE REPORT**

(Due 10th working day of the following month)

FY

2019-2020

COUNTY OF SAN BERNARDINO  
DEPARTMENT OF AGING & ADULT SERVICES

**CONTRACTOR NAME AND ADDRESS:**

CFDA #:

Month:

MONTHLY NUTRITION PROGRAM EXPENDITURE REPORT/REQUEST FOR REIMBURSEMENT  
(due on the 10th working day of the following month)

CONGREGATE SITES C 1

HOME DELIVERED MEALS C 2

# of meals served

EXPENDITURES:	COST TO PROVIDER		TOTAL MONTHLY EXPENSE
	A CASH	B IN-KIND	
1. Personnel	\$ -	\$ -	\$ -
2. Staff Travel and Training	\$ -	\$ -	\$ -
3. Equipment (including One-Time-Only purchases)	\$ -	\$ -	\$ -
4. Consultants	\$ -	\$ -	\$ -
5. Catered Food	\$ -	\$ -	\$ -
6. Raw Food	\$ -	\$ -	\$ -
7. Other Expenses			
a. Consumable Supplies	\$ -	\$ -	\$ -
b. Insurance	\$ -	\$ -	\$ -
c. Repair & Maintenance	\$ -	\$ -	\$ -
d. Rent/Building Space	\$ -	\$ -	\$ -
e. Utilities	\$ -	\$ -	\$ -
f. Vehicle Operations	\$ -	\$ -	\$ -
g. Miscellaneous	\$ -	\$ -	\$ -
8. Indirect Costs	\$ -	\$ -	\$ -
9. Total Expenditures (add lines 1-8)	\$ -	\$ -	\$ -

DEDUCTIONS FROM EXPENDITURES:	D CASH	E IN-KIND	F TOTAL DEDUCTIONS:
	10. Program Income (income not from DAAS)	\$ -	\$ -
11. Deferred Income	\$ -	\$ -	\$ -
12. Matching Cash	\$ -	\$ -	\$ -
13. Matching In-Kind	\$ -	\$ -	\$ -
14. Non-Match Cash	\$ -	\$ -	\$ -
15. Non-Match In-Kind	\$ -	\$ -	\$ -
16. Total Deductions (add lines 10-15)	\$ -	\$ -	\$ -

REQUEST FOR REIMBURSEMENT  
(line 9 less line 16)

\$ -

PROGRAM FUNDING: (For DAAS use only)	
Repayment of Advance (10% of advance if paid)	\$ -
NSIP	
NSIP (OTO)	
Federal Funds	
Federal OTO (Baseline)	
Federal OTO (Equipment)	
State Funds	
State OTO	
CDBG	
County Funds	
Repayment of funds from prior period (specify):	
Other funding source (specify):	
<b>TOTAL REIMBURSEMENT</b>	<b>\$ -</b>

Approved by:

Date

SAN BERNARDINO COUNTY  
DEPARTMENT OF AGING AND ADULT SERVICES

**REQUEST TO PURCHASE PROPERTY/EQUIPMENT**

This form is to be completed whenever a contractor is requesting to purchase property or equipment under a California Department of Aging (CDA) grant. Contractor must obtain a minimum of three (3) bids and attach a Property/Equipment Bid Form for each item requested.

Date: \_\_\_\_\_

FY: \_\_\_\_\_

Contractor Name:		
Address:	Contact:	Phone No:

**Item(s) Requested (attach additional sheet if required):**

QTY	DESCRIPTION	AMOUNT	FUNDING SOURCE

**Explain how requested item(s) will be used to carry out the objectives related to the funding to be received (attach additional sheet if required):** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

<b>Administrative Use Only:</b>			
Approved	Denied	Value over \$5000/unit: Yes	No
		Inventory: Yes	No
Program Review by: Name _____ Title _____ Date _____			
Director Approval : _____ Date _____			

Revised 10/25/11

SAN BERNARDINO COUNTY  
DEPARTMENT OF AGING AND ADULT SERVICES

PROPERTY/EQUIPMENT BID FORM

Fund Source:

Contractor Name:

Contact:

Address:

Phone:

Item Description:

Date of Bid:	Date of Bid:	Date of Bid:
Vendor: _____ _____ _____	Vendor: _____ _____ _____	Vendor: _____ _____ _____
Contact	Contact	Contact
Phone:	Phone:	Phone:
Cost per unit: Number of units: Total Cost:	Cost per unit: Number of units: Total Cost:	Cost per unit: Number of units: Total Cost:
Comments:	Comments:	Comments:

DEPARTMENT OF AGING

**CONTRACTOR/VENDOR CONFIDENTIALITY STATEMENT**

CDA 1024 (REV 1/07)

<b>CERTIFICATION</b>	
I hereby certify that I have reviewed this Confidentiality Statement and will comply with the following Statements.	
<b>CONTRACTOR/VENDOR NAME:</b>	<b>CONTRACT NUMBER:</b>
<b>AUTHORIZED SIGNATURE:</b>	<b>PRINTED NAME AND TITLE OF PERSON SIGNING:</b>
<p><b>In compliance with Government Code 11019.9, Civil Code 1798 Et. Seq., Management Memo 06-12 and Budget Letter 06-34 the California Department of Aging (CDA) hereby requires the Contractor/Vendor to certify that:</b></p> <ul style="list-style-type: none"> <li>• confidential information shall be protected from disclosure in accordance with all applicable laws, regulations and policies.</li> <li>• all access codes which allow access to confidential information will be properly safeguarded.</li> <li>• activities by any individual or entity that is suspected of compromising confidential information will be reported to CDA by completing a Security Incident Report, CDA 1025A and CDA 1025B.</li> <li>• any wrongful access, inspection, use, or disclosure of confidential information is a crime and is prohibited under State and federal laws, including but not limited to California Penal Code Section 502; California Government Code Section 15619, California Civil Code Section 1798.53 and 1798.55, and Health Insurance Portability and Accountability Act.</li> <li>• any wrongful access, inspection, use, disclosure, or modification of confidential information may result in termination of this Contract/Agreement.</li> <li>• obligations to protect confidential information obtained under this Contract/Agreement will continue after termination of the Contract/Agreement with CDA.</li> <li>• all employees/subcontractors of the Contractor/Vendor will complete the required Security Awareness Training module located at <a href="http://www.aging.ca.gov">www.aging.ca.gov</a>, within 30 days of the start date of this Contract/Agreement or within 30 days of the start date of any new employee or subcontractor. Contractor/Vendor may substitute CDA's Security Awareness Training program with its Security Training provided such training meets or exceeds CDA's training requirement.</li> <li>• all employees/subcontractors of the Contractor/Vendor will be notified of CDA's confidentiality and data security requirements.</li> <li>• CDA or its designee will be granted access by the Contractor or Vendor to any computer-based confidential information within the scope of the Contract.</li> <li>• I agree to protect the following types of confidential information which include but not limited to:             <ul style="list-style-type: none"> <li>- Social Security number</li> <li>- Medical information</li> <li>- Claimant and employer information</li> <li>- Driver License information</li> <li>- Information about individuals that relate to their personal life or identifies or describes an individual</li> <li>- Other agencies' confidential and proprietary information</li> <li>- Criteria used for initiating audit selection</li> <li>- Methods agencies use to safeguard their information (computer systems, networks, server configurations, etc.)</li> <li>- Any other information that is considered proprietary, a copyright or otherwise protected by law or contract.</li> </ul> </li> <li>• I agree to protect confidential information by:             <ul style="list-style-type: none"> <li>- Accessing, inspecting, using, disclosing or modifying information only for the purpose of performing official duties</li> <li>- Never accessing, inspecting, using, disclosing, or modifying information for curiosity, personal gain, or any non-business related reason</li> <li>- Securing confidential information in approved locations</li> <li>- Never removing confidential information from the work site without authorization.</li> </ul> </li> </ul>	



<b>AGENCY/CONTRACTOR</b>	
1. Business Name:	
2. Business Address:	
<b>CONTACT INFORMATION</b>	
3. Incident Manager:	4. Telephone Number:
5. Email Address:	
<b>INCIDENT DISCOVERED BY</b>	
6. Name:	7. Telephone Number:
8. Email Address:	
<b>INCIDENT DETAILS</b>	
9. Date/Time of Incident:	10. Date Incident Detected:
11. Incident Description:	
12. Address Where Incident Occurred:	
13. County Where Incident Occurred:	
14. Reported to Law Enforcement? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Provide the Law Enforcement Agency and the Report Number. Agency: _____ Report Number: _____	
15. Media Device Type, If Applicable:	16. Was the Device Encrypted? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown





<b>17. Type of Personally Identifiable Information (Check all that apply):</b>		
<input type="checkbox"/> <b>No Personal Information</b>	<input type="checkbox"/> <b>Social Security Number</b>	
<input type="checkbox"/> <b>Health or Medical Information</b>	<input type="checkbox"/> <b>Financial Account Number</b>	
<input type="checkbox"/> <b>Driver's License/State ID Number</b>	<input type="checkbox"/> <b>Name</b>	
Other (Specify): _____		
<b>18. Is a Privacy Disclosure Notice Required?</b>		<b>19. Number of Individuals Affected:</b>
<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>		
<b>SIGNATURES</b>		
<b>20. Agency/Contractor Information Security Officer:</b>	<b>Signature:</b>	<b>Date:</b>
<b>21. Agency/Contractor Privacy Officer:</b>	<b>Signature:</b>	<b>Date:</b>
<b>22. Authorized Signature/Director:</b>	<b>Signature:</b>	<b>Date:</b>
<b>CDA USE ONLY</b>		
<b>CDA Incident Number:</b>	<b>CAL-CSIRS Report Number:</b>	

STATE OF CALIFORNIA  
CALIFORNIA DEPARTMENT OF AGING  
**SECURITY INCIDENT REPORT PART B**  
CDA 1025b (REV 02/2018)



AGENCY/CONTRACTOR	
1. Business Name:	
2. Business Address:	
CONTACT INFORMATION	
3. Incident Manager:	4. Telephone Number:
5. Email Address:	
INCIDENT INFORMATION	
6. CDA Incident Number:	CAL-CIRS Number:
7. Is there an Update to Form 1025A? <input type="checkbox"/> Yes <input type="checkbox"/> No Comments:	
8. Has there been a Change of Scope? <input type="checkbox"/> Yes <input type="checkbox"/> No Explanation:	
9. Is a Privacy Disclosure Notice Required? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, has a Sample Notification been Submitted for Approval? <input type="checkbox"/> Yes <input type="checkbox"/> No	
INCIDENT ROOT CAUSE	
10. What was the Root Cause of the Incident?	



**CORRECTIVE ACTION PLAN**

**11. Corrective Action Plans Attached?**       Yes       No

**12. Date Corrective Actions will be Fully Implemented:**

**INCIDENT COSTS**

**13. Describe the Costs Associated with Resolving this Incident:**

**Incident Response:**            \$ \_\_\_\_\_

**Communications:**            \$ \_\_\_\_\_

**Notices:**                        \$ \_\_\_\_\_

**Individual Questions:**        \$ \_\_\_\_\_

**Investigation:**                \$ \_\_\_\_\_

**Lost or Stolen Items:**        \$ \_\_\_\_\_

**Total:**                            \$ \_\_\_\_\_

**SIGNATURES**

<b>14. Agency/Contractor Information Security Officer:</b>	<b>Signature:</b>	<b>Date:</b>
<b>15. Agency/Contractor Privacy Officer:</b>	<b>Signature:</b>	<b>Date:</b>
<b>16. Authorized Signature/Director:</b>	<b>Signature:</b>	<b>Date:</b>



# AGENDA REPORT

---

**DATE:** JUNE 3, 2019

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

**SECTION:** RESOLUTIONS

**DEPT.:** ADMIN. SVCS.

**ITEM NO.:** 1

**PREPARER:** C. GRAVES

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 19-3236 AUTHORIZING PLACEMENT OF LIENS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH CHARGES

---

**REASON FOR CONSIDERATION:** Staff has identified 173 sewer and trash accounts in the even-numbered-month billing cycle that are more than three billing periods delinquent. Pursuant to Montclair Municipal Code Chapter 1.12, these properties are subject to lien.

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

The 173 liens presented for approval are for accounts that are at least 90 days delinquent.

**FISCAL IMPACT:** Recoverable amount is \$52,014.92, plus \$1,384.00 for release of lien fees, plus \$8,650.00 in lien fees, for a total of \$62,048.92.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 19-3236 authorizing placement of liens on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

RESOLUTION NO. 19-3236

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

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

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

WHEREAS, it has been determined that there are 173 sewer and/or trash accounts on which there are delinquencies in excess of 90 days; and

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

WHEREAS, the owners of these properties were notified on May 2, 2019, that their delinquent accounts are subject to causing a lien to be placed on their properties for settlement of such delinquencies; and that such liens would be considered for approval by the Montclair City Council on Monday, June 3, 2019.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair approves the placement of liens on the properties and in the amounts specified in Exhibit A, entitled *Report of Delinquent Civil Debts - June 2019*, attached hereto.

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

APPROVED AND ADOPTED this XX day of XX, 2019.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3236 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2019, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_

Andrea M. Phillips  
City Clerk

Exhibit A to Resolution No. 19-3236  
Report of Delinquent Civil Debts - June 2019

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
11171	Ada Avenue	Residential	265.29	8.00	50.00	323.29
11225	Ada Avenue	Residential	265.32	8.00	50.00	323.32
10186	Amherst Avenue	Senior	248.43	8.00	50.00	306.43
10360	Amherst Avenue	Multifamily	877.50	8.00	50.00	935.50
11141	Amherst Avenue	Residential	265.32	8.00	50.00	323.32
11142	Amherst Avenue	Residential	210.50	8.00	50.00	268.50
11151	Amherst Avenue	Residential	265.31	8.00	50.00	323.31
4306	Appaloosa Way	Residential	274.08	8.00	50.00	332.08
5002	Arrow Hwy	Residential	284.49	8.00	50.00	342.49
4624	Bandera Street	Multifamily	1,170.00	8.00	50.00	1,228.00
4667	Bandera Street	Residential	244.79	8.00	50.00	302.79
4983	Bandera Street	Residential	242.43	8.00	50.00	300.43
5079	Bandera Street	Residential	277.12	8.00	50.00	335.12
5081	Bandera Street	Residential	236.17	8.00	50.00	294.17
5207	Bandera Street	Residential	277.12	8.00	50.00	335.12
5215	Bandera Street	Residential	277.12	8.00	50.00	335.12
5217	Bandera Street	Residential	277.12	8.00	50.00	335.12
5231	Bandera Street	Residential	275.67	8.00	50.00	333.67
5235	Bandera Street	Residential	276.37	8.00	50.00	334.37
5598	Bandera Street	Residential	280.58	8.00	50.00	338.58
5663	Bandera Street	Residential	236.17	8.00	50.00	294.17
4432-34	Bandera Street	Multifamily	530.62	8.00	50.00	588.62
5221	Barrington Way	Residential	265.32	8.00	50.00	323.32
10145	Bel Air Avenue	Residential	265.32	8.00	50.00	323.32
10205	Bel Air Avenue	Residential	260.44	8.00	50.00	318.44
10551	Belgian Place	Residential	372.25	8.00	50.00	430.25
5219	Belvedere Way	Residential	401.53	8.00	50.00	459.53
5196	Benito Street	Commercial	298.10	8.00	50.00	356.10
5206	Benito Street	Commercial	299.99	8.00	50.00	357.99
5208	Berkshire Way	Residential	265.32	8.00	50.00	323.32
5214	Berkshire Way	Residential	372.25	8.00	50.00	430.25
11339	Brunswick Lane	Residential	290.02	8.00	50.00	348.02
10401	Camarena Avenue	Residential	372.25	8.00	50.00	430.25
10407	Camarena Avenue	Residential	265.33	8.00	50.00	323.33
10437	Camarena Avenue	Residential	217.27	8.00	50.00	275.27
8944	Camulos Avenue	Residential	236.17	8.00	50.00	294.17
10234	Camulos Avenue	Residential	267.27	8.00	50.00	325.27
10259	Camulos Avenue	Residential	265.32	8.00	50.00	323.32
11409	Cannery Row	Residential	290.02	8.00	50.00	348.02
4924	Canoga Street	Residential	265.32	8.00	50.00	323.32
4949	Canoga Street	Residential	271.58	8.00	50.00	329.58
5014	Canoga Street	Residential	265.32	8.00	50.00	323.32
11158	Carriage Avenue	Residential	265.32	8.00	50.00	323.32
11168	Carriage Avenue	Residential	289.09	8.00	50.00	347.09
11239	Carriage Avenue	Senior	238.94	8.00	50.00	296.94

Exhibit A to Resolution No. 19-3236  
Report of Delinquent Civil Debts - June 2019

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
11178	Carrillo Avenue	Residential	265.32	8.00	50.00	323.32
8790	Central Avenue	Commercial	409.52	8.00	50.00	467.52
9802	Central Avenue	Commercial	828.58	8.00	50.00	886.58
4337	Clair Street	Residential	292.58	8.00	50.00	350.58
5230	Clair Street	Residential	265.32	8.00	50.00	323.32
10164	Coalinga Avenue	Residential	264.87	8.00	50.00	322.87
10231	Coalinga Avenue	Residential	265.32	8.00	50.00	323.32
10988	Coalinga Avenue	Residential	264.98	8.00	50.00	322.98
10989	Coalinga Avenue	Residential	265.03	8.00	50.00	323.03
11148	Coalinga Avenue	Residential	372.25	8.00	50.00	430.25
5216	Coventry Way	Residential	264.45	8.00	50.00	322.45
11469	Cumberland Lane	Residential	290.02	8.00	50.00	348.02
11476	Cumberland Lane	Residential	331.02	8.00	50.00	389.02
10190	Del Mar Avenue	Residential	265.32	8.00	50.00	323.32
10236	Del Mar Avenue	Residential	265.32	8.00	50.00	323.32
4506	Donner Court	Residential	423.12	8.00	50.00	481.12
11159	Essex Avenue	Residential	277.12	8.00	50.00	335.12
4664	Evert Street	Residential	265.32	8.00	50.00	323.32
4705	Evert Street	Residential	265.32	8.00	50.00	323.32
4790	Evert Street	Residential	372.25	8.00	50.00	430.25
5036	Evert Street	Residential	265.31	8.00	50.00	323.31
4219	Fauna Street	Residential	274.69	8.00	50.00	332.69
4244	Fauna Street	Residential	292.61	8.00	50.00	350.61
4267	Fauna Street	Residential	214.51	8.00	50.00	272.51
4291	Fauna Street	Residential	265.32	8.00	50.00	323.32
4456	Fauna Street	Senior	250.84	8.00	50.00	308.84
4703	Fauna Street	Residential	265.32	8.00	50.00	323.32
4738	Fauna Street	Residential	259.79	8.00	50.00	317.79
4849	Fauna Street	Residential	235.70	8.00	50.00	293.70
8912	Felipe Avenue	Residential	222.25	8.00	50.00	280.25
10232	Felipe Avenue	Residential	272.10	8.00	50.00	330.10
10242	Felipe Avenue	Residential	265.28	8.00	50.00	323.28
8947-49	Felipe Avenue	Multifamily	472.33	8.00	50.00	530.33
8919-21	Felipe Avenue	Multifamily	530.62	8.00	50.00	588.62
10444	Felipe Lane	Residential	372.25	8.00	50.00	430.25
4730	Flora Street	Residential	281.02	8.00	50.00	339.02
4932	Flora Street	Residential	292.39	8.00	50.00	350.39
10166	Fremont Avenue	Residential	308.89	8.00	50.00	366.89
10253	Fremont Avenue	Residential	265.32	8.00	50.00	323.32
10287	Fremont Avenue	Residential	409.73	8.00	50.00	467.73
10945	Fremont Avenue	Multifamily	200.38	8.00	50.00	258.38
11049	Fremont Avenue	Residential	265.32	8.00	50.00	323.32
11163	Fremont Avenue	Residential	372.25	8.00	50.00	430.25
10161	Geneva Avenue	Residential	265.32	8.00	50.00	323.32
4125	Grand Avenue	Residential	254.50	8.00	50.00	312.50

Exhibit A to Resolution No. 19-3236  
Report of Delinquent Civil Debts - June 2019

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
11335	Halifax Lane	Residential	290.02	8.00	50.00	348.02
3760	Hampton Drive	Residential	291.46	8.00	50.00	349.46
3792	Hampton Drive	Residential	290.02	8.00	50.00	348.02
11418	Hartford Lane	Residential	290.02	8.00	50.00	348.02
5007	Holt Blvd	Residential	270.29	8.00	50.00	328.29
4103	Howard Street	Residential	265.32	8.00	50.00	323.32
4597	Howard Street	Residential	406.44	8.00	50.00	464.44
4780	Howard Street	Residential	265.32	8.00	50.00	323.32
4910	Howard Street	Residential	292.58	8.00	50.00	350.58
4992	Howard Street	Senior	208.33	8.00	50.00	266.33
5245	Howard Street	Residential	264.85	8.00	50.00	322.85
10244	Kimberly Avenue	Residential	443.55	8.00	50.00	501.55
11065	Kimberly Avenue	Residential	388.72	8.00	50.00	446.72
4671	Kingsley Street	Multifamily	524.29	8.00	50.00	582.29
4724	Kingsley Street	Residential	265.33	8.00	50.00	323.33
4909	Kingsley Street	Residential	270.70	8.00	50.00	328.70
5003	Kingsley Street	Residential	265.32	8.00	50.00	323.32
5019	Kingsley Street	Residential	265.32	8.00	50.00	323.32
5476	Kingsley Street	Residential	236.17	8.00	50.00	294.17
5173-75	Kingsley Street	Multifamily	224.92	8.00	50.00	282.92
10360-62	Lehigh Avenue	Multifamily	530.63	8.00	50.00	588.63
10390-92	Lehigh Avenue	Multifamily	530.62	8.00	50.00	588.62
4414	Mane Street	Residential	305.60	8.00	50.00	363.60
4543	Mane Street	Residential	265.32	8.00	50.00	323.32
4839	Mane Street	Residential	372.25	8.00	50.00	430.25
4846	Mane Street	Residential	283.86	8.00	50.00	341.86
4855	Mane Street	Residential	265.32	8.00	50.00	323.32
4979	Manzanita Street	Residential	284.04	8.00	50.00	342.04
8875	Maple Avenue	Residential	260.36	8.00	50.00	318.36
11154	Marion Avenue	Residential	250.81	8.00	50.00	308.81
11188	Marion Avenue	Residential	236.17	8.00	50.00	294.17
11442	Marquette Lane	Residential	260.90	8.00	50.00	318.90
10231	Mills Avenue	Residential	265.32	8.00	50.00	323.32
3788	Millstone Lane	Residential	279.03	8.00	50.00	337.03
3818	Millstone Lane	Residential	230.35	8.00	50.00	288.35
11475	Millstone Lane	Residential	251.64	8.00	50.00	309.64
5239	Monte Verde Street	Residential	265.32	8.00	50.00	323.32
10235	Monte Vista Avenue	Residential	264.76	8.00	50.00	322.76
10290	Monte Vista Avenue	Senior	301.21	8.00	50.00	359.21
11236	Monte Vista Avenue	Residential	280.75	8.00	50.00	338.75
10163	Oak Glen Avenue	Residential	237.86	8.00	50.00	295.86
10241	Oak Glen Avenue	Residential	209.89	8.00	50.00	267.89
4595	Oakdale Street	Residential	265.34	8.00	50.00	323.34
5171	Orchard Street	Senior	238.03	8.00	50.00	296.03
5392	Orchard Street	Residential	372.25	8.00	50.00	430.25



Exhibit A to Resolution No. 19-3236  
Report of Delinquent Civil Debts - June 2019

Street No.	Street	Account Type	Delinquency	Release of Lien Fee	Lien Fee	Total Lien Amount
5422	Orchard Street	Residential	265.31	8.00	50.00	323.31
3765	Peachwood Drive	Residential	289.39	8.00	50.00	347.39
3971	Peachwood Drive	Residential	295.69	8.00	50.00	353.69
10154	Poulsen Avenue	Residential	265.33	8.00	50.00	323.33
11210	Poulsen Avenue	Residential	262.15	8.00	50.00	320.15
10206	Pradera Avenue	Residential	265.32	8.00	50.00	323.32
4668	Rawhide Street	Residential	265.32	8.00	50.00	323.32
5272	Saddleback Street	Residential	277.02	8.00	50.00	335.02
11052	San Juan Way	Residential	265.32	8.00	50.00	323.32
11014	San Miguel Way	Residential	265.32	8.00	50.00	323.32
11000	San Pasqual Avenue	Residential	265.12	8.00	50.00	323.12
11017	San Pasqual Avenue	Residential	411.59	8.00	50.00	469.59
11020	San Pasqual Avenue	Residential	277.12	8.00	50.00	335.12
10163	Santa Anita Avenue	Residential	277.12	8.00	50.00	335.12
10221	Santa Anita Avenue	Residential	265.32	8.00	50.00	323.32
10233	Santa Anita Avenue	Residential	249.37	8.00	50.00	307.37
10298	Santa Anita Avenue	Residential	252.24	8.00	50.00	310.24
10170	Saratoga Avenue	Residential	262.17	8.00	50.00	320.17
10270	Saratoga Avenue	Residential	265.39	8.00	50.00	323.39
11054	Stagecoach Avenue	Residential	266.04	8.00	50.00	324.04
11011	Stallion Avenue	Residential	265.32	8.00	50.00	323.32
10289	Tudor Avenue	Residential	265.33	8.00	50.00	323.33
10445	Tudor Avenue	Residential	264.73	8.00	50.00	322.73
10151	Vernon Avenue	Residential	372.25	8.00	50.00	430.25
10192	Vernon Avenue	Residential	273.41	8.00	50.00	331.41
10431	Vernon Avenue	Residential	236.17	8.00	50.00	294.17
5533	Vernon Court	Residential	236.17	8.00	50.00	294.17
5555	Vernon Court	Residential	264.98	8.00	50.00	322.98
4230	Via Amore	Residential	323.85	8.00	50.00	381.85
4183	Via Dante	Residential	286.06	8.00	50.00	344.06
10438	Via Palma	Residential	469.23	8.00	50.00	527.23
4231	Via Riviera	Residential	271.39	8.00	50.00	329.39
4237	Via Riviera	Residential	266.12	8.00	50.00	324.12
11053	Wesley Avenue	Residential	265.32	8.00	50.00	323.32
11178	Whitewater Avenue	Residential	265.32	8.00	50.00	323.32
11263	Whitewater Avenue	Residential	268.98	8.00	50.00	326.98
4515	Yosemite Drive	Residential	265.32	8.00	50.00	323.32
10472	Yosemite Drive	Residential	276.39	8.00	50.00	334.39
		TOTAL:	\$52,014.92	\$1,384.00	\$8,650.00	\$62,048.92



# AGENDA REPORT

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<b>DATE:</b>	JUNE 3, 2019	<b>FILE I.D.:</b>	GRT225
<b>SECTION:</b>	RESOLUTIONS	<b>DEPT.:</b>	HUMAN SVCS./PUBLIC WORKS
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER ADOPTION OF RESOLUTION NO. 19-3239 AUTHORIZING THE APPLICATION FOR STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM GRANT FUNDS TO DEVELOP REEDER RANCH PARK		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 19-3239 authorizing the application for statewide park development and community revitalization program grant funds to develop Reeder Ranch Park.

**BACKGROUND:** The California Department of Parks and Recreation released the request for applications for the statewide park development and community revitalization program (SPP) grant funds in January 2019. SPP is funded by proposition 68, which was approved by state voters in the June 2018 election. The SPP competitive grants will create new parks and new recreation opportunities in critically underserved communities across California.

The City Council authorized grant-writing services from Blais & Associates in March 2019 through Agreement No. 19-22. Staff discussed all possible current and potential park locations in the City with Blais & Associates. It was determined through the SPP evaluation criteria an application to develop a new park at Reeder Ranch park will give the City the highest scores and best opportunity to receive funds. Residents in the City lack adequate access to parks and open space; 99 percent of residents in the City live in areas with less than 3 acres of parks and open space per thousand residents compared to 66 percent in San Bernardino County and 62 percent of residents in the state, according to California State Parks. Increasing the City's park acreage will have multiple long-term benefits including encouraging physical activity, reducing chronic diseases, improving mental health, fostering community connections, and supporting community resilience to climate change and pollution, according to the California Healthy Places index.

City staff will develop this park plan with the community. The SPP grant requires the City to have five opportunities for community input on recreation and safety features at different days and times that are convenient for the community.

The SPP application is due August 5, 2019. If awarded, the park must be completed and open to the public on or before March 1, 2022.

**FISCAL IMPACT:** Adoption of proposed Resolution No. 19-3239 would have no direct fiscal impact on the City's General Fund at this time; however, this may result in a maximum award of \$8,500,000 to a minimum award of \$200,000 for Reeder Ranch Park development.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 19-3239 authorizing the application for statewide park development and community revitalization program grant funds to develop Reeder Ranch Park.

RESOLUTION NO. 19-3239

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING THE APPLICATION FOR STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM GRANT FUNDS**

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Development and Community Revitalization Grant Program, setting up necessary procedures governing the application; and

**WHEREAS**, the City Council of the City of Montclair deems it necessary for authorized representatives of the City to examine confidential transactions and use tax records of the State Board of Equalization pertaining to transactions and use taxes collected by the Board for the City pursuant to that contract; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of the application before submission of said application to the State; and

**WHEREAS**, successful Applicants will enter into a contract with the State of California to complete the Grant Scope project.

**NOW THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby approves the filing of an application for Reeder Ranch Park; and

(a) Certifies that said Applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project; and

(b) Certifies that if the project is awarded, the Applicant has or will have sufficient funds to operate and maintain the project, and

(c) Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and

(d) Delegates the authority to the City Manager to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Grant Scope; and

(e) Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

(f) Will consider promoting inclusion per Public Resources Code §80001(b)(8 A-G).

**APPROVED AND ADOPTED** this XX day of XX, 2019.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3239 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2019, and that it was adopted by the following vote, to-wit:

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

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

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON MONDAY, MAY  
20, 2019, AT 7:45 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Pro Tem Raft called the meeting to order at 7:45 p.m.

**II. ROLL CALL**

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

**III. APPROVAL OF MINUTES**

**A. Minutes of the Regular Personnel Committee Meeting of May 6, 2019.**

Moved by Council Member Ruh, seconded by Mayor Pro Tem Raft, and carried unanimously to approve the minutes of the Personnel Committee meeting of May 6, 2019.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**


At 7:46 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 8:00 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Raft stated that no announcements would be made at this time.

**VI. ADJOURNMENT**

At 8:00 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,

  
\_\_\_\_\_  
Edward C. Starr  
City Manager