

**NOTICE OF TEMPORARY MEETING  
RELOCATION DURING CONSTRUCTION**

**THIS MEETING WILL BE HELD IN THE  
MONTCLAIR SENIOR CENTER**

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

To be held in the Montclair Senior Center  
5111 Benito Street, Montclair, California

August 19, 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 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.*

**VII. PUBLIC HEARINGS**

Page No.

- A. First Reading** — Consider Ordinance No. 19-986 Amending Chapter 6.22 of the Montclair Municipal Code to Permit the Use of Certain Wheeled Recreational Devices in Designated Skateboarding/Skating Areas [CC]

Consider Setting a Public Hearing for Second Reading and Adoption of Ordinance No. 19-986 for Tuesday, September 3, 2019, at 7:00 p.m. in the Montclair Senior Center (5111 Benito Street, Montclair) [CC]

5

**VIII. CONSENT CALENDAR**

- A. Approval of Minutes**

1. Regular Joint Meeting — August 5, 2019 [CC/SA/MHC/MHA/MCF]

<b>B. Administrative Reports</b>	
1. Consider Receiving and Filing of Treasurer’s Report [CC]	11
2. Consider Approval of Warrant Register and Payroll Documentation [CC]	12
3. Consider Receiving and Filing of Treasurer’s Report [SA]	13
4. Consider Approval of Warrant Register [SA]	14
5. Consider Receiving and Filing of Treasurer’s Report [MHC]	15
6. Consider Approval of Warrant Register [MHC]	16
7. Consider Receiving and Filing of Treasurer’s Report [MHA]	17
8. Consider Approval of Warrant Register [MHA]	18
9. Consider Approval of the Filing of a Notice of Completion with the San Bernardino County Recorder for Completion of Contract by R Dependable Construction, Inc., for Construction of the Transcenter Canopy Repair Project [CC]	
Consider Authorizing Release of Retention of Payment Bond 30 Days After Recordation of Notice of Completion [CC]	19
10. Consider Approval of the Filing of a Notice of Completion with the San Bernardino County Recorder for Completion of Contract by Hardy & Harper, Inc., for Construction of the Moreno Street Rehabilitation Project [CC]	
Consider Authorizing Release of Retention of Payment Bond 30 Days After Recordation of Notice of Completion [CC]	21
11. Consider Authorizing an Additional \$5,587 Appropriation from SB 1 and Pavement Impact Fee Funds for Construction of the San Jose Street Rehabilitation Project [CC]	
Consider Approval of the Filing of a Notice of Completion with the San Bernardino County Recorder for Completion of Contract by Gentry Brothers, Inc., for Construction of the San Jose Street Rehabilitation Project [CC]	
Consider Authorizing Release of Retention of Payment Bond 30 Days After Recordation of Notice of Completion [CC]	23
12. Consider Approving a Debt Policy as Required by Government Code §8855(i) for New Debt Issuances After January 1, 2017 [CC/SA/MHC/MHA]	26
13. Consider Approval of a Request by Mills Family Housing Partners, L.P. (National Community Renaissance) Regarding Use of Construction Savings for Project Improvements at 10319 Mills Avenue (Vista Del Cielo) [MHA]	33
<b>C. Agreements</b>	
1. Consider Approval of Agreement No. 19-66 with Ontario-Montclair School District to Administer the Immunization Program at the Montclair Medical Clinic [CC]	36
2. Consider Approval of Agreement No. 19-72, a Memorandum of Understanding with the Montclair City Confidential Employees’ Association (MCCEA) for the Period of July 1, 2019 to June 30, 2021 [CC]	45

3. Consider Approval of Agreement No. 19-73 with Matrix Audio Visual Designs, Inc., for the Purchase and Installation of Audio and Video Equipment in the City Council Chambers [CC]  
Consider Approval of Agreement No. 19-74 with Matrix Audio Visual Designs, Inc., for the Purchase and Installation of Audio and Video Equipment in the Montclair Senior Center [CC]  
Consider Authorizing a Transfer of \$92,534.60 from the PEG Fund for Audio-Video Technology Upgrades in the City Council Chambers and \$66,734.36 from the Technology Reserve Fund for Audio-Video Technology Upgrades in the Montclair Senior Center [CC]  
Consider Authorizing City Manager Edward C. Starr to Execute All Documents on Behalf of the City of Montclair in Relation to Agreement Nos. 19-73 and 19-74 with Matrix Audio Visual Designs, Inc. [CC] 47
4. Consider Approval of Agreement Nos. 19-75, 19-76, 19-77, and 19-78 with Montclair Little League, Golden Girls Softball League, and All Cities Youth Baseball for Use of Ball Field Facilities [CC] 75
5. Consider Approval of Agreement No. 19-79 Extending Agreement No. 19-68 with West Coast Arborists for Tree Maintenance Services Through October 15, 2019 [CC] 102

D. Resolutions

1. Consider Adoption of Resolution No. 19-3248 Adopting a Measure I Five-Year Capital Project Needs Analysis (CPNA) for Fiscal Years 2020-21 through 2024-25 [CC]  
Consider Adoption of Resolution No. 19-3249 Adopting the Measure I Five-Year Local Street Capital Improvement Plan (CIP) for Fiscal Years 2019-20 Through 2023-24 [CC] 105
2. Consider Adoption of Resolution No. 19-3250 in Support of and in Partnership with the United States Census Bureau to Ensure a Complete and Accurate Count for the 2020 US Census [CC] 111
3. Consider Adoption of Resolution No. 19-3251 in Support of Balanced Energy Solutions and Local Control of Energy Choices [CC] 115
4. Consider Adoption of Resolution No. 19-3252 Delegating Authority to the City Manager to Make Applications, Determine Disability Status, Authorize Reinstatements, and Certify Such Determinations on Behalf of the City for Disability Retirements with the California Public Employees' Retirement System (CalPERS) [CC] 118
5. Consider Adoption of Resolution No. 19-01 Approving the Issuance of Refunding Bonds in Order to Refund Certain Outstanding Bonds of the Dissolved City of Montclair Redevelopment Agency, Approving the Execution and Delivery of an Indenture of Trust Relating Thereto, Requesting Oversight Board Approval of the Issuance of the Refunding Bonds, Requesting Certain Determinations by the Oversight Board, and Providing for Other Matters Properly Relating Thereto [SA] 121

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. RESPONSE**

- A. Consider Approval of the Plans and Specifications for the City of Montclair Office Remodel Expansion Project (City Hall Phase 2 Remodel Project) [CC]  
 Consider Authorizing Staff to Advertise for Bid Proposals for Construction of the Project [CC]

128

**XI. COUNCIL WORKSHOP**

- A. Overview of Safe Routes to School and Active Transportation Plan [CC]  
*(The City Council may consider continuing this item to an adjourned meeting on Tuesday, September 3, 2019, at 5:45 p.m. in the Theater Room)*

**XII. COMMUNICATIONS**

- A. City Department Reports
  - 1. Public Works Department —Project Updates
    - SBCTA I-10 Corridor Project — Status
    - Monte Vista Avenue/UPRR Grade Separation Project — Status and Tentative Scheduling of Ribbon Cutting Ceremony
  - 2. Human Services Department — KaBOOM! Project at MacArthur Park Update

B. City Attorney

- 1. Request to Meet in Closed Session Pursuant to GC §54957.6 Regarding Conference with City’s Designated Labor Negotiator Edward C. Starr [CC]

Agency: City of Montclair

Employee Assocs.: Management, Montclair City Confidential Employees Association, Montclair General Employees Association, Montclair Fire Fighters Association, and Montclair Police Officers Association

C. City Manager/Executive Director

D. Mayor/Chairperson

E. Council Members/Directors

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

- 1. Public Works Committee Meeting— March 21, 2019 [CC] 138
- 2. Personnel Committee Meeting— August 5, 2019 [CC] 143

**XIII. CLOSED SESSION**

**XIV. CLOSED SESSION ANNOUNCEMENTS**

**XV. ADJOURNMENT**

*The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Tuesday, September 3, 2019, at 7:00 p.m. in the Montclair Senior Center (location changed due to ongoing construction in the City Council Chambers).*

*Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Acting Bodies after publication 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 2 business days 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 August 15, 2019.*



# AGENDA REPORT

---

**DATE:** AUGUST 19, 2019

**FILE I.D.:** PRK200-C

**SECTION:** PUBLIC HEARINGS

**DEPT.:** CITY MGR.

**ITEM NO.:** A

**PREPARER:** M. FUENTES

**SUBJECT:** FIRST READING — CONSIDER ORDINANCE NO. 19-986 AMENDING CHAPTER 6.22 OF THE MONTCLAIR MUNICIPAL CODE TO PERMIT THE USE OF CERTAIN WHEELED RECREATIONAL DEVICES IN DESIGNATED SKATEBOARDING/SKATING AREAS

CONSIDER SETTING A PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 19-986 FOR TUESDAY, SEPTEMBER 3, 2019, AT 7:00 P.M. IN THE MONTCLAIR SENIOR CENTER (5111 BENITO STREET, MONTCLAIR)

---

**REASON FOR CONSIDERATION:** The Montclair Skate Park is a popular attraction in the City. Since the passage of AB 1146 in 2015, which expanded protections to public entities with skateboard parks from additional liability claims, the City has received requests from several members of the community to allow the use of other non-motorized recreational devices besides skateboards and skates, such as BMX (Bicycle Motocross) bicycles and scooters, in the Montclair Skate Park.

The proposed Ordinance would amend Chapter 6.22 of the Montclair Municipal Code related to Regulation of Skateboard/Skating to allow for the use of “other wheeled recreational devices” such as non-motorized bicycles, scooters, or wheelchairs.

A copy of proposed Ordinance No. 19-986 is attached for City Council review and consideration.

**BACKGROUND:** California Health & Safety Code Section 115800 provides immunity to public agencies that adopt ordinances regulating skateboard parks which comply with the requirements of Section 115800.

Assembly Bill 1146 (AB 1146)(Skateboard Park) expanded the immunity previously applicable to skateboard riders to include skate park users operating “other wheeled recreational devices” such as non-motorized bicycles, inline skates, roller skates, scooters, and wheelchairs.

Government Code Section 831.7 provides that a public entity is not liable to a person who participates in a hazardous recreational activity for injury or damage to property or persons. AB 1146 amended previous law (Health and Safety Code Section 115800) to include riders of “wheeled recreational devices” in addition to skateboard riders as engaging in a hazardous recreational activity in certain circumstances.

Health and Safety Code Section 115800(a) requires that the operator of a skateboard park prohibit a person from riding a skateboard or other wheeled recreational device in the skateboard park, unless that person is wearing a helmet, elbow pads, and knee pads.

Health and Safety Code Section 115800(b) provides that, for a skateboard facility owned or operated by a local public agency that is not supervised on a regular basis, the requirements of Section 115800(a) may be satisfied if a public agency:

- Adopts an ordinance requiring riders of skateboards and other wheeled recreational devices to wear a helmet, elbow pads, and knee pads at the skate park; and
- Posts signs at the skate park facility which affords reasonable notice that a person riding a skateboard or other wheeled recreational device must wear a helmet, elbow pads, and knee pads, and that failing to do so will subject the skateboard or wheeled recreational device rider to citation under the ordinance.

Currently, Chapter 6.22 of the Montclair Municipal Codes allows for the use of the following wheeled recreational devices in the Montclair Skate Park:

- Roller skates or in-line skates, including rollerblades: Any shoe, boot, or other footwear to which one or more wheels are attached.
- Skateboard: Any platform of any composition or size to which two or more wheels four inches or less in diameter are attached, which is intended to be ridden or propelled by one or more persons standing or kneeling upon it and to which there is not affixed any seat or any other device or mechanism.

Adoption of proposed Ordinance No. 19-986 would amend Section 6.22.010 of the Montclair Municipal Code to include "other wheeled recreational devices," which includes non-motorized bicycles and scooters, among the types of wheeled recreational devices allowed for use at the Montclair Skate Park.

**FISCAL IMPACT:** Adoption of Ordinance No. 19-986 would have an undetermined positive fiscal impact on the City's General Fund in relation to decreases in liability insurance for the City.

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

1. Conduct First Reading of Ordinance No. 19-986 amending Chapter 6.22 of the Montclair Municipal Code to permit the use of certain wheeled recreational devices in designated skateboarding/skating areas; and
2. Set a public hearing for Tuesday, September 3, 2019, at 7:00 p.m. in the Montclair Senior Center (5111 Benito Street, Montclair) to consider adoption of Ordinance No. 19-986.

ORDINANCE NO. 19-986

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTER 6.22 ("REGULATION OF SKATEBOARDING/SKATING") OF THE MONTCLAIR MUNICIPAL CODE PERMITTING THE USE OF CERTAIN WHEELED RECREATIONAL DEVICES IN THE MONTCLAIR SKATE PARK AND OTHER DESIGNATED SKATEBOARD/SKATING AREAS**

**WHEREAS**, the City of Montclair, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

**WHEREAS**, the Legislature has designated certain conditions under which the use of skate boards and other wheeled recreational devices at public skate board parks is deemed to be a hazardous recreational activity that creates a substantial risk of injury to participants and spectators; and

**WHEREAS**, the Legislature, in 2015, adopted Assembly Bill 1146 (Jones)(Skateboard Park) which expanded the immunity available to municipalities operating skateboard parks previously applicable to skateboard riders to include skate park users operating "other wheeled recreational devices" such as non-motorized bicycles, in-line skates, roller skates, scooters, and wheel chairs; and

**WHEREAS**, AB 1146 amended Health and Safety Code Section 115800 to include riders of "other wheeled recreational devices" in addition to skateboard riders as engaging in a hazardous recreational activity in certain circumstances; and

**WHEREAS**, Government Code Section 831.7 provides that a public entity is not liable to a person who participates in a hazardous recreational activity for injury or damage to property or persons; and

**WHEREAS**, the City Council considers any use of skate boards, roller skates, in-line skates, non-motorized wheelchairs, bicycles, and scooters at a public skateboard park to be a hazardous recreational activity; and

**WHEREAS**, the City of Montclair owns a skate park that is not supervised by the City on a regular basis; and

**WHEREAS**, all participants and spectators at such facility voluntarily assume the risk of substantial injury.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR HEREBY ORDAINS AS FOLLOWS:**

**SECTION I.** Chapter 6.22 ("Regulation of Skateboarding/Skating") is re-titled Chapter 6.22 ("Regulation of Skateboards and Other Wheeled Recreational Devices")

**SECTION II.** All Sections of Chapter 6.22 ("Regulation of Skateboards and Other Wheeled Recreational Devices") are hereby repealed and replaced as follows:

**6.22.010 - Definitions.**

For the purposes of this chapter, words, phrases, and terms used in this chapter shall have their ordinary meaning, unless otherwise provided as follows:

**Other wheeled recreational devices** means non-motorized bicycles, scooters, in-line skates, roller skates, or wheelchairs.

**Roller skates or in-line skates**, including rollerblades, means any shoe, boot, or other footwear to which one or more wheels are attached.

**Skate or skating** means the use of a skateboard or other wheeled recreational device in a recreational manner.

**Skateboard** means any platform of any composition or size to which two or more wheels four inches or less in diameter are attached, which is intended to be ridden or propelled by one or more persons standing or kneeling upon it and to which there is not affixed any seat or any other device or mechanism.

**Skateboard/skating area** means a public skateboard park as that term is used in California Health and Safety Code Section 115800(d)(1) or any successor provision thereto and includes any facility, structure, or area designated by resolution of the City Council as a skateboard/skating area in which skateboarding and/or use of other wheeled recreational devices is permitted pursuant to the provisions of this chapter

**Unauthorized wheeled devices** means any motorized wheeled devices or other wheeled recreational device including, but not limited to, unicycles, go-carts, and wagons.

**6.22.020 – Purpose.**

It is the purpose of this chapter to establish regulations for the safe use of designated skateboard/skating area within the City of Montclair.

**6.22.030 – Designated skateboard/skating areas.**

The City Council may designate certain areas as a skateboard/skating area by resolution.

**6.22.040 – Liability.**

The use of any skateboard/skating area is a hazardous recreational activity within the meaning of California Government Code Sections 831.7(a) and (b). Subject to the provisions of that code section, the City of Montclair may not be held liable for any injury incurred by any person participating in any hazardous recreational activity. Skateboard/skating areas are not supervised on a regular basis and all users assume all risks of injury in utilizing the areas.

**6.22.050 – Regulations applicable to the use of designated skateboard/skating areas.**

A. No person shall skate or otherwise be present within any skateboard/skating areas at any time other than during the established as the hours of operation. Hours of operation shall be posted. The hours are subject to change without prior notice.

B. No person shall use any skateboard/skating area for any use other than skating.

C. Each person using the skateboard/skating area must wear a shirt and proper safety equipment including a helmet, elbow pads and knee pads. All such safety equipment must be functional and protective, properly sized, and designed for skating.

D. The use of any other wheeled devices including, but not limited to unicycles, go-carts or wagons is prohibited. No person shall ride or use any unauthorized wheeled device within any skateboard/skating area.

E. No person shall possess or be under the influence of alcohol or drugs of any kind within a skateboard/skating area or in surrounding park areas. Tobacco products are prohibited in the skateboard/skating area and surrounding park areas.

F. No person shall use, consume, or have in his/her possession or control food or beverages within the skateboard/skating area.

G. No person shall litter in any skateboard/skating areas. All persons using a skateboard/skating area must place any trash created or brought to the skateboard/skating area in refuse containers provided by the City. If no refuse container is provided, each person shall be responsible for removing and disposing of such items in an appropriate manner.

H. Spectators are not allowed in the skateboard/skating area.

I. No person shall have a dangerous weapon in his/her possession in the skateboard/skating area. Deadly weapons shall include, but are not limited to guns, knives, bats/clubs or martial arts weapons.

J. No person shall graffiti, tag, or attach any stickers or unauthorized signs



in or upon the skateboard/skating area or anywhere in the surrounding park areas.

K. No person shall use or engage in profanity, reckless or boisterous behavior (including, but not limited to, tandem riding, punching, horseplay and bullying), or any other activity that could endanger the safety of persons using the skateboard/skating area.

L. No person shall ride, or permit to be ridden, any skateboard, roller skates, or other wheeled recreational device in a skateboard/skating area in a reckless manner or with willful disregard for the safety of other persons or property.

M. No person shall skate on curbs, sidewalks, fences, railings, and/or driveways of any City-owned property surrounding or adjoining a skateboard/skating area.

N. No person shall skate, run, stand on, jump from, or otherwise employ any exterior wall or fence surface in the skateboard/skating area.

O. Glass containers or other glass products are prohibited within a skateboard/skating area.

P. No person shall ride, operate, or use a skateboard or other wheeled recreational device unless such equipment is in good repair at all times during use.

Q. No obstacles of any kind, including, but not limited to, ramps or jumps may be placed in the skateboard/skating area.

R. No portion of the skateboard/skating area shall be modified, altered, or added to in any manner.

S. The skateboard/skating area shall not be used if any hazardous conditions exist, including, but not limited to, wet pavement, debris, and/or significant cracks, breaks, or other irregularities in the skating surface of the skateboard/skating area.

T. All organized events utilizing the skateboard/skating area are prohibited without the prior written approval of the Community Development Director or his/her designee.

U. No animals are allowed in the skateboard/skating area.

V. Only one person is permitted to use a skateboard, roller skate, or other wheeled recreational device at any given time. By way of clarification and without limitation, tandem riding is expressly prohibited.

W. The City is not responsible for items that are lost or stolen within the skateboard/skating area.

X. Any person suffering an injury within the skateboard/skating area must promptly report the injury to the City of Montclair.

**6.22.060 - Signs required.**

In order to provide reasonable notice to the public, signs referring to this chapter shall be posted in one or more conspicuous areas at or near the entrance to the skateboard/skating area, setting forth the rules and regulations established in this chapter, including prohibited activities, and stating that any person failing to comply with any provision of this chapter shall be subject to citation (Chapter 1.12 of the Montclair Municipal Code).

**6.22.070 - Ejection and exclusion from designated skateboard/skating area.**

A. Any person who causes or aids and abets in the commission of any of the following at any area designated by the City Council as a skateboard/skating area may be ejected from said area and public parks within the City of Montclair in accordance with the provisions of Section 9.12.250:

1. Interference with any City employee in the performance of the employee's duties;

2. Interference with the use and enjoyment by any other person of the designated skateboard/skating area; or

3. Commission of any public offense within a designated skateboard/skating area.

**6.22.080 – Closure of skateboard/skating area.**

Upon order of the City Manager, Chief of Police, or designee, any area designated by the City Council as a skateboard/skating area may be closed on a temporary basis when violations of this Chapter occur.

**SECTION III. 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 IV. Effective Date.** This Ordinance shall be in full force and effect thirty (30) days after passage.

**SECTION V. 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. 19-986 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

\_\_\_\_\_  
Andrea M. Phillips  
City Clerk



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN520
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	ADMIN. SVCS.
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	J. KULBECK
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending July 31, 2019, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2019.

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

**RECOMMENDATION:** Staff recommends the City Council receive and file the Treasurer's Report for the month ending July 31, 2019.



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 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		

---

**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 August 19, 2019; and the Payroll Documentation dated July 21, 2019; and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated August 19, 2019, totals \$1,460,310.25; and the Payroll Documentation dated July 21, 2019, totals \$623,850.28 gross, with \$442,011.56 net being the total cash disbursement.

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



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN510
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	SUCCESSOR RDA
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

---

**REASON FOR CONSIDERATION:** City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending July 31, 2019, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending July 31, 2019.

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

**RECOMMENDATION:** Staff recommends the City Council acting as Successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending July 31, 2019.



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN530
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	SUCCESSOR RDA
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

---

**REASON FOR CONSIDERATION:** The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending July 31, 2019, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 07.01.19-07.31.19 in the amounts of \$9,045.54 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending July 31, 2019.



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	5	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

---

**REASON FOR CONSIDERATION:** Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending July 31, 2019, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2019.

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

**RECOMMENDATION:** Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending July 31, 2019.



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	6	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

---

**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending July 31, 2019, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 07.01.19-07.31.19 in the amount of \$40,075.31 for the Montclair Housing Corporation and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending July 31, 2019.





# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	7	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

---

**REASON FOR CONSIDERATION:** The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending July 31, 2019, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2019.

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

**RECOMMENDATION:** Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending July 31, 2019.



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	8	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

---

**REASON FOR CONSIDERATION:** The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending July 31, 2019, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 07.01.19-07.31.19 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the Montclair Housing Authority Board of Directors approve the Warrant Register for the period ending July 31, 2019.



# AGENDA REPORT

**DATE:** AUGUST 19, 2019

**FILE I.D.:** TRN365

**SECTION:** ADMIN. REPORTS

**DEPT.:** PUBLIC WORKS

**ITEM NO.:** 9

**PREPARER:** S. STANTON

**SUBJECT:** CONSIDER APPROVAL OF THE FILING OF A NOTICE OF COMPLETION WITH THE SAN BERNARDINO COUNTY RECORDER FOR COMPLETION OF CONTRACT BY R DEPENDABLE CONSTRUCTION, INC., FOR CONSTRUCTION OF THE TRANSCENTER CANOPY REPAIR PROJECT

CONSIDER AUTHORIZING RELEASE OF RETENTION OF PAYMENT BOND 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION

**REASON FOR CONSIDERATION:** State law requires that Notices of Completion be recorded with the County Recorder upon completion and acceptance of a public works project. The City Council is requested to consider approval of the filing of a Notice of Completion with the San Bernardino County Recorder and related actions concerning the Transcenter Canopy Repair Project.

**BACKGROUND:** On June 3, 2019, R Dependable Construction, Inc., was awarded a construction contract for the Transcenter Canopy Repair Project and entered into Agreement No. 19-45 with the City. The repair project repaired damaged metal roofing, concrete pillars, and porcelain tile due to the bus accident.

All work included in the scope of work has been completed to the satisfaction of City staff, and it is now recommended that the project be accepted by the City Council.

**FISCAL IMPACT:** R Dependable Construction, Inc. was awarded the construction contract for \$24,800 and the City Council authorized a construction contingency of \$3,500, bringing the total award authority to \$28,300. The project was completed on budget without the use of the contingency funds.

The Transcenter Canopy Repair Project is entirely funded with Contingency Reserve funds with reimbursement coming from the driver's automobile insurance.

**RECOMMENDATION:** Staff recommends that the City Council take the following actions related to the Transcenter Canopy Repair Project:

1. Approve the filing of a Notice of Completion with the San Bernardino County Recorder for completion of contract by R Dependable Construction, Inc., for construction of the Project.
2. Authorize releasing retention of the payment bond 30 days after recordation of Notice of Completion.

RECORDING REQUESTED BY:

**City of Montclair**

AND WHEN RECORDED MAIL DOCUMENT AND  
TAX STATEMENT TO:

NAME: **City of Montclair**

STREET ADDRESS: **5111 Benito Street**

CITY, STATE & ZIP  
CODE: **Montclair, CA 91763**

Government Code 6103

(Space above this line for Recorder's Use Only)

## NOTICE OF COMPLETION

NOTICE is hereby given that: The undersigned is the owner of an interest of estate in the hereinafter described property, the nature of which said interest or estate is:

fee

The full name and address of the undersigned is  
Noel Castillo  
Public Works Director/  
City Engineer  
5111 Benito Street  
Montclair, CA 91763

The work was completed on that certain work known as:

### **Moreno Street Rehabilitation Project**

for the undersigned City of Montclair,  
a Municipal Corporation, on the 15th day of August 2019

The City accepted the job on the 15th day of August 2019

The Contractor on said job was  
R Dependable Construction, Inc.  
1019 W 3<sup>rd</sup> Street  
San Bernardino, CA 92410

The improvement consisted of:  
Street Improvements

The property upon which said work of improvement was completed is described as Address:

5060 Richton Street, Montclair, CA. 91763

(APN not applicable for City Street)

### **VERIFICATION**

I, the undersigned, say that I am agent for the owner of the aforesaid interest or estate in the property described in the above notice. I have read the foregoing notice and know and understand the contents thereof, and the facts stated herein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 19, 2019 at 5111 Benito Street, Montclair, California

\_\_\_\_\_  
Noel Castillo  
Public Works Director  
City Engineer



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	STA813
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	10	<b>PREPARER:</b>	S. STANTON

**SUBJECT:** CONSIDER APPROVAL OF THE FILING OF A NOTICE OF COMPLETION WITH THE SAN BERNARDINO COUNTY RECORDER FOR COMPLETION OF CONTRACT BY HARDY & HARPER, INC., FOR CONSTRUCTION OF THE MORENO STREET REHABILITATION PROJECT

CONSIDER AUTHORIZING RELEASE OF RETENTION OF PAYMENT BOND 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION

---

**REASON FOR CONSIDERATION:** State law requires that Notices of Completion be recorded with the County Recorder upon acceptance and completion of a public works project. The City Council is requested to consider approval of the filing of a Notice of Completion with the San Bernardino County Recorder and related actions concerning the Moreno Street Rehabilitation Project.

**BACKGROUND:** On May 20, 2019, Hardy & Harper, Inc., was awarded a construction contract for the Moreno Street Rehabilitation Project and entered into Agreement No. 19-36 with the City. The street improvement project included replacement of damaged curb, gutter, and sidewalk; upgrading existing pedestrian curb ramps and new asphalt pavement.

All work included in the scope of work has been completed to the satisfaction of City staff, and it is now recommended that the project be accepted by the City Council.

**FISCAL IMPACT:** Hardy & Harper, Inc. was awarded a construction contract for \$453,871 and the City Council authorized a construction contingency of \$40,000, bringing the total award authority to \$491,871. During the course of construction, bid quantities were amended and two contract change orders were issued. The overall construction cost resulted in the use of \$7,721 from the construction contingency, bringing the overall project cost to \$473,306.

The Moreno Street Rehabilitation Project has been completed under CIP appropriations, using \$345,000 of SB1 Funds and \$150,000 of Development Impact Fees.

Recordation fees with the County Recorder are waived for governmental entities.

**RECOMMENDATION:** Staff recommends that the City Council take the following actions related to the Moreno Street Rehabilitation Project:

1. Approve the filing of a Notice of Completion with the San Bernardino County Recorder for completion of contract by Hardy & Harper, Inc. for construction of the Project.
2. Authorize releasing retention of the payment bond 30 days after recordation of Notice of Completion.

RECORDING REQUESTED BY:

**City of Montclair**

AND WHEN RECORDED MAIL DOCUMENT AND  
TAX STATEMENT TO:

NAME: **City of Montclair**

STREET ADDRESS: **5111 Benito Street**

CITY, STATE & ZIP  
CODE: **Montclair, CA 91763**

Government Code 6103

(Space above this line for Recorder's Use Only)

## NOTICE OF COMPLETION

NOTICE is hereby given that: The undersigned is the owner of an interest of estate in the hereinafter described property, the nature of which said interest or estate is:

fee

The full name and address of the undersigned is  
Noel Castillo  
Public Works Director/  
City Engineer  
5111 Benito Street  
Montclair, CA 91763

The work was completed on that certain work known as:

### **Moreno Street Rehabilitation Project**

for the undersigned City of Montclair,  
a Municipal Corporation, on the 15th day of August 2019

The City accepted the job on the 15th day of August 2019

The Contractor on said job was  
Hardy & Harper, Inc.  
32 Rancho Circle  
Lake Forrest, CA 92630

The improvement consisted of:  
Street Improvements

The property upon which said work of improvement was completed is described as Address:

4300-4800 Moreno Street  
(APN not applicable for City Street)

### **VERIFICATION**

I, the undersigned, say that I am agent for the owner of the aforesaid interest or estate in the property described in the above notice. I have read the foregoing notice and know and understand the contents thereof, and the facts stated herein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 19, 2019 at 5111 Benito Street, Montclair, California

\_\_\_\_\_  
Noel Castillo  
Public Works Director  
City Engineer



**RECOMMENDATION:** Staff recommends that the City Council take the following actions related to the San Jose Street Rehabilitation Project:

1. Authorize an additional \$5,587 appropriation from SB 1 and Pavement Impact Fee funds for construction of the Project.
2. Approve the filing of a Notice of Completion with the San Bernardino County Recorder for completion of contract by Gentry Brothers, Inc., for construction of the Project.
3. Authorize releasing retention of the payment bond 30 days after recordation of the Notice of Completion.



RECORDING REQUESTED BY:

**City of Montclair**

AND WHEN RECORDED MAIL DOCUMENT AND  
TAX STATEMENT TO:

NAME: **City of Montclair**

STREET ADDRESS: **5111 Benito Street**

CITY, STATE & ZIP  
CODE: **Montclair, CA 91763**

Government Code 6103

(Space above this line for Recorder's Use Only)

## NOTICE OF COMPLETION

NOTICE is hereby given that: The undersigned is the owner of an interest of estate in the hereinafter described property, the nature of which said interest or estate is:

fee

The full name and address of the undersigned is  
Noel Castillo  
Public Works Director/  
City Engineer  
5111 Benito Street  
Montclair, CA 91763

The work was completed on that certain work known as:

### Moreno Street Rehabilitation Project

for the undersigned City of Montclair,  
a Municipal Corporation, on the 12th day of August 2019

The City accepted the job on the 12th day of August 2019

The Contractor on said job was  
Gentry Brothers, Inc.  
384 Live Oak Ave.  
Irwindale, CA 91706

The improvement consisted of:  
Street Improvements

The property upon which said work of improvement was completed is described as Address:

4300-4800 San Jose Street  
(APN not applicable for City Street)

### VERIFICATION

I, the undersigned, say that I am agent for the owner of the aforesaid interest or estate in the property described in the above notice. I have read the foregoing notice and know and understand the contents thereof, and the facts stated herein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 19, 2019 at 5111 Benito Street, Montclair, California

\_\_\_\_\_  
Noel Castillo  
Public Works Director  
City Engineer



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	FIN357
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	12	<b>PREPARER:</b>	D. PARKER
<b>SUBJECT:</b>	CONSIDER APPROVING A DEBT POLICY AS REQUIRED BY GOVERNMENT CODE SECTION 8855(i) FOR NEW DEBT ISSUANCES AFTER JANUARY 1, 2017		

---

**REASON FOR CONSIDERATION:** Government Code Section 8855(i) requires that, for new debt issuances after January 1, 2017, cities have an adopted Debt Policy that meets certain guidelines. While presently the City of Montclair does have such a policy, it does not fully conform to the requirements of Section 8855(i). Therefore, adoption of a new Debt Policy is required to comply with the law.

A copy of the proposed Debt Policy is attached to this report as Attachment 1.

**BACKGROUND:** The City of Montclair has a Debt Management Policy, which covers under what circumstances debt issuances will occur and how they will be managed. The current policy is sufficient for existing debt; however, Government Code Section 8855(i) now requires a Debt Policy to be approved for all governmental debt issuances after January 1, 2017. This requirement has additional debt management considerations that are not present in the City's current policy. Because the Successor Agency is presently considering refunding the prior redevelopment agencies bond issues to achieve debt service savings, a new Debt Policy is required.

The attached Debt Policy was provided by bond counsel as part of their services relating to the new Successor Agency bonds. It meets the requirements of Government Code Section 8855(i) and the practices and procedures previously followed by the City of Montclair in its previous Debt Management Policy.

**FISCAL IMPACT:** There is no fiscal impact created by adopting the referenced Debt Policy.

**RECOMMENDATION:** Staff recommends that City Council, Successor Agency Board, Montclair Housing Corporation Board, and Montclair Housing Authority Commissioners approve the attached debt policy as the City's Debt Policy, as required by Government Code Section 8855(i) for new debt issuances after January 1, 2017.

## ATTACHMENT 1



# CITY OF MONTCLAIR DEBT POLICY

This Debt Policy (the “Debt Policy”) of the City of Montclair (the “City”) was approved by the City Council on **Month XX, 2019**. The Debt Policy may be amended by City Council as it deems appropriate from time to time in the prudent management of the debt of the City.

This Debt Policy will also apply to any debt issued by any public agency for which the City Council of the City acts as the legislative body of.

The Debt Policy has been developed to provide guidance in the issuance and management of debt by the City or its related entities and is intended to comply with Government Code Section 8855(i), effective on January 1, 2017. The main objectives are to establish conditions for the use of debt; to ensure that debt capacity and affordability are adequately considered; to minimize the City’s interest and issuance costs; to maintain the highest possible credit rating; to provide complete financial disclosure and reporting; and to maintain financial flexibility for the City.

Debt, properly issued and managed, is a critical element in any financial management program. It assists in the City’s effort to allocate limited resources to provide the highest quality of service to the public. The City understands that poor debt management can have ripple effects that hurt other areas of the City. On the other hand, a properly managed debt program promotes economic growth and enhances the vitality of the City for its residents and businesses.

### 1. Findings

This Debt Policy shall govern all debt undertaken by the City. The City hereby recognizes that a fiscally prudent debt policy is required in order to:

- Maintain the City’s sound financial position.
- Ensure the City has the flexibility to respond to changes in future service priorities, revenue levels, and operating expenses.
- Protect the City’s credit-worthiness.
- Ensure that all debt is structured in order to protect both current and future taxpayers, ratepayers and constituents of the City.
- Ensure that the City’s debt is consistent with the City’s planning goals and objectives and capital improvement program or budget, as applicable.
- Encourage those that benefit from a facility/improvement to pay the cost of that facility/improvement without the need for the expenditure of limited general fund resources.

### 2. Policies

#### A. Purposes For Which Debt May Be Issued

The City will consider the use of debt financing primarily for capital improvement projects (CIP) when the project’s useful life will equal or exceed the term of the financing

## City of Montclair – Debt Policy

and when resources are identified sufficient to fund the debt service requirements. An exception to this CIP driven focus is the issuance of short-term instruments such as tax and revenue anticipation notes, which are to be used for prudent cash management purposes and conduit financing, as described below. Bonded debt should not be issued for projects with minimal public benefit or support, or to finance normal operating expenses.

If a department has any project which is expected to use debt financing, the department director is responsible for expeditiously providing the City Manager and the Finance Department with reasonable cost estimates, including specific revenue accounts that will provide payment for the debt service. This will allow an analysis of the project's potential impact on the City's debt capacity and limitations. The department director shall also provide an estimate of any incremental operating and/or additional maintenance costs associated with the project and identify sources of revenue, if any, to pay for such incremental costs.

- (i) Long-Term Debt. Long-term debt may be issued to finance or refinance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment and land to be owned and/or operated by the City.

(a) Long-term debt financings are appropriate when the following conditions exist:

- When the project to be financed is necessary to provide basic services.
- When the project to be financed will provide benefit to constituents over multiple years.
- When total debt does not constitute an unreasonable burden to the City and its taxpayers and ratepayers.
- When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.

(b) Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.

(c) The City may use long-term debt financings subject to the following conditions:

- The project to be financed has been or will be approved by the City Council.
- The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%, unless specific conditions exist that would mitigate the extension of time to repay the debt and it would not cause the City to violate any covenants to maintain the tax-exempt status of such debt, if applicable.
- The City estimates that sufficient income or revenues will be available to service the debt through its maturity.
- The City determines that the issuance of the debt will comply with the applicable requirements of state and federal law.
- The City considers the improvement/facility to be of vital, time-sensitive need of the community and there are no plausible alternative financing sources.

- (d) Periodic reviews of outstanding long-term debt will be undertaken to identify refunding opportunities. Refunding will be considered (within federal tax law constraints, if applicable) if and when there is a net economic benefit of the refunding. Refundings which are non-economic may be undertaken to achieve City objectives relating to changes in covenants, call provisions, operational flexibility, tax status of the issuer, or the debt service profile.

In general, refundings which produce a net present value savings of at least three (3) percent of the refunded debt will be considered economically viable. Refundings which produce a net present value savings of less than three (3) percent or negative savings will be considered on a case-by-case basis, and are subject to City Council approval.

- (ii) Short-term debt. Short-term borrowing may be issued to generate funding for cash flow needs in the form of tax and revenue anticipation notes or bond anticipation notes.

Short-term borrowing, such as commercial paper, and lines of credit, will be considered as an interim source of funding in anticipation of long-term borrowing. Short-term debt may be issued for any purpose for which long-term debt may be issued, including capitalized interest and other financing-related costs. Prior to issuance of the short-term debt, a reliable revenue source shall be identified to secure repayment of the debt. The final maturity of the debt issued to finance the project shall be consistent with the economic or useful life of the project and, unless the City Council determines that extraordinary circumstances exist, must not exceed seven (7) years.

Short-term debt may also be used to finance short-lived capital projects; for example, the City may undertake lease-purchase financing for equipment.

- (iii) Financings on Behalf of Other Entities. The City may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties in order to further the public purposes of City. In such cases, the City shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein. In no event will the City incur any liability or assume responsibility for payment of debt service on such debt.

## **B. Types of Debt**

In order to maximize the financial options available to benefit the public, it is the policy of the City to allow for the consideration of issuing all generally accepted types of debt, including, but not exclusive to the following:

- General Obligation (GO) Bonds: General Obligation Bonds are suitable for use in the construction or acquisition of improvements to real property that benefit the public at large. Examples of projects include libraries, parks, and public safety facilities. All GO bonds shall be authorized by the requisite number of voters in order to pass.

## City of Montclair – Debt Policy

- Revenue Bonds: Revenue Bonds are limited-liability obligations tied to a specific enterprise or special fund revenue stream where the projects financed clearly benefit or relate to the enterprise or are otherwise permissible uses of the special revenue. An example of projects that would be financed by a Revenue Bond would be water or wastewater improvements, which would be paid back with money raised from rates and charges from water and/or wastewater users. Generally, no voter approval is required to issue this type of obligation but in some cases, the City must comply with proposition 218 regarding rate adjustments.
- Lease-Backed Debt/Certificates of Participation (COP/Lease Revenue Bonds): Issuance of lease-backed debt is a commonly used form of debt that allows a City to finance projects where the debt service is secured via a lease agreement and where the payments are budgeted in the annual budget appropriation by the City from the general fund. Lease-backed debt does not constitute indebtedness under the state or the City's constitutional debt limit and does not require voter approval. Lease revenue bonds may be issued by the Montclair Financing Authority on behalf of the City.
- Special Assessment/Special District Debt: The City will consider requests from developers for the use of debt financing secured by property based assessments or special taxes in order to provide for necessary infrastructure for new development only under strict guidelines adopted by City Council, which may include minimum value-to-lien ratios and maximum tax burdens. Examples of this type of debt are Assessment Districts (AD) and Community Facilities Districts (CFD) or more commonly known as Mello-Roos Districts. In order to protect bondholders as well as the City's credit rating, the City will also comply with all State guidelines regarding the issuance of special district or special assessment debt, as well as the City's Statement of Goals and Policies for the Use of The Mello-Roos Community Facilities Act of 1982, previously adopted and as amended from time to time, included as Exhibit A hereto.
- Multi-Family Mortgage Revenue Bonds: The City is authorized to issue mortgage revenue bonds to finance the development, acquisition and rehabilitation of multi-family rental projects. The interest on the bonds can be exempt from Federal and State taxation. As a result, bonds provide below market financing for qualified rental projects. In addition, the bonds issued can qualify projects for allocations of Federal low-income housing tax credits, which can provide a significant portion of the funding necessary to develop affordable housing.
- HUD Section 108 Loan Guarantee Program: The U.S. Department of Housing and Urban Development (HUD) Section 108 Loan Guarantee Program allows cities to use their annual Community Development Block Grant (CDBG) entitlement grants to obtain federally guaranteed funds large enough to stimulate or pay for major community development and economic development projects. The program does not require a pledge of the City's General Fund, only of future CDBG entitlements. By pledging future CDBG entitlement grants as security, the City can borrow at favorable interest rates because of HUD's guarantee of repayment to investors.

The City may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

To maintain a predictable debt service burden, the City will give preference in the future to debt that carries a fixed interest rate. An alternative to the use of fixed rate debt is variable rate debt. The City may choose in the future to issue securities that pay a rate of interest that varies according to a pre-determined formula or results from a periodic remarketing of securities. When making the determination to issue bonds in a variable rate mode in the future, consideration will be given in regards to the useful life of the project or facility being financed or the term of the project requiring the funding, market conditions, credit risk and third party risk analysis, and the overall debt portfolio structure when issuing variable rate debt for any purpose. The City's goal is, over time, to reduce the maximum amount of variable-rate debt payable from the general fund to no more than 20 percent of the total debt payable from the general fund.

The City will not employ derivatives, such as interest rate swaps, in its debt program. A derivative product is a financial instrument which derives its own value from the value of another instrument, usually an underlying asset such as a stock, bond, or an underlying reference such as an interest rate. Derivatives are commonly used as hedging devices in managing interest rate risk and thereby reducing borrowing costs. However, these products bear certain risks not associated with standard debt instruments.

### **C. Relationship of Debt to Capital Improvement Program and Budget**

The City intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the City's capital budget and the capital improvement plan.

The City shall integrate its debt issuances with the goals of its capital improvement program by timing the issuance of debt to ensure that projects are available when needed in furtherance of the City's public purposes.

The City shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

### **D. Policy Goals Related to Planning Goals and Objectives**

The City is committed to financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget administration. The City intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the City's annual operating budget.

It is a policy goal of the City to protect taxpayers, ratepayers and constituents by utilizing conservative financing methods and techniques so as to obtain the highest practical credit ratings (if applicable) and the lowest practical borrowing costs.

The City will comply with applicable state and federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates and charges.

Except as described in Section 2.A., when refinancing debt, it shall be the policy goal of the City to realize, whenever possible, and subject to any overriding non-financial policy considerations minimum net present value debt service savings equal to or greater than 3% of the refunded principal amount.



### **E. Internal Control Procedures**

When issuing debt, in addition to complying with the terms of this Debt Policy, the City shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The City will periodically review the requirements of and will remain in compliance with the following:

- any continuing disclosure undertakings under SEC Rule 15c2-12,
- any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues, and
- the City’s investment policies as they relate to the investment of bond proceeds.

The City shall be vigilant in using bond proceeds in accordance with the stated purpose at the time that such debt was issued. Whenever reasonably possible, proceeds of debt will be held by a third-party trustee and the City will submit written requisitions for such proceeds. The City will submit a requisition only after obtaining the signature of the City Manager or the Finance Department or such other designee as appropriate.

### **F. Waivers of Debt Policy**

There will be circumstances from time to time when strict adherence to a provision of this Debt Policy is not possible or not in the best interest of the City,

If the City staff has determined that a waiver of one or more provisions of this Debt Policy should be considered by the City Council, it will prepare an analysis for the City Council describing the rationale for the waiver and the impact of the waiver on the proposed debt issuance and on taxpayers, if applicable.

Upon a majority vote of the City Council, one or more provisions of this Debt Policy may be waived for a debt financing,

The failure of a debt financing to comply with one or more provisions of this Debt Policy shall in no way affect the validity of any debt issued by the City in accordance with applicable laws.





# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	MHA050/FIN390
<b>SECTION:</b>	ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	13	<b>PREPARER:</b>	M. STAATS
<b>SUBJECT:</b>	CONSIDER APPROVAL OF A REQUEST BY MILLS FAMILY HOUSING PARTNERS, L.P. (NATIONAL COMMUNITY RENAISSANCE) REGARDING USE OF CONSTRUCTION SAVINGS FOR PROJECT IMPROVEMENTS AT 10319 MILLS AVENUE (VISTA DEL CIELO)		

---

**REASON FOR CONSIDERATION:** Mills Family Housing Partners, L.P. (National Community Renaissance, also known as “National CORE”) is requesting that the Montclair Housing Authority Commissioners authorize the use of construction savings at the Vista Del Cielo apartment project to finance certain project improvements. National CORE has made this request to the Montclair Housing Authority because the former City of Montclair Redevelopment Agency was one of the lenders for the affordable housing project.

**BACKGROUND:** The former Redevelopment Agency Board of Directors approved an Affordable Housing Agreement (Agreement No. 08-01) with National CORE on January 22, 2008. Under the terms of this agreement, National CORE was obligated to construct a 50-unit affordable family housing development at 10319 Mills Avenue. The Mills Avenue location previously consisted of a blighted commercial strip center constructed in 1965. Pursuant to the Agreement, the Redevelopment Agency loaned National CORE \$3,650,000 for pre-development and acquisition costs. The costs to finance the project were originally estimated to be \$18 million.

In 2008, National CORE proposed to finance the Mills Family Project with a combination of 9 Percent Low Income Housing Tax Credits (LIHTC), Redevelopment Agency acquisition and pre-development assistance, Federal Home Loan Bank Affordable Housing Program (AHP) funds, and County of San Bernardino HOME funds. In order to submit an application to the State of California Tax Credit Allocation Committee (TCAC), all sources of financing, other than the tax credits, had to be committed. Shortly before the deadline for submittal of LIHTC application National CORE learned that its \$2 million request for County of San Bernardino HOME loan funds had been unsuccessful. National CORE staff immediately began investigating other sources of financing for the proposed 50-unit project. In the interest of submitting a competitive application to the TCAC, National CORE requested that the Redevelopment Agency Board of Directors consider providing an additional loan for the project in the amount of \$2.65 million. The \$650,000 represented release of a deposit held by the Agency to National CORE for undergrounding improvements. Therefore, the First Amendment to the Affordable Housing Agreement (Agreement No. 09-67) increased the amount of the loan made by the Redevelopment Agency to National CORE from \$3,650,000 to \$6,300,000. The Redevelopment Agency Board of Directors approved the First Amendment to the Affordable Housing Agreement on August 3, 2009. National CORE executed an amended Promissory Note and a Modification to the Deed of Trust adding the \$2,650,000 to the residual receipts loan to finance construction costs.

Fortunately, with the additional Redevelopment Agency commitment, the LIHTC application submitted by National CORE was approved.

In June 2010, National CORE was finally awarded a \$2 million HOME loan from the County of San Bernardino under the provisions of the HOME Investment Partnership Act. As a result of the award of the HOME loan, National CORE repaid the Redevelopment Agency \$2 million to reduce the balance of their Agency loan to \$4,300,000. The Residual Receipts Loan accrues interest at a rate of three percent (3%) per annum on the unpaid principal balance.

Vista Del Cielo completed construction in early 2011. Forty-nine (49) units are rented to low-, very low-, and extremely low-income families, and one unit is used as an on-site management residence.

National CORE staff has identified approximately \$286,000 in construction savings from loaned monies that have gone unspent since completion of the project in 2011. National CORE is requesting to use these funds in the following manner:

Repair Deteriorated Building Siding and Repaint Building:	\$ 98,000
Replace Patio/Pool Furniture:	\$ 17,000
Repairs to Golf Cart (used by maint. staff for travel between properties):	\$ 6,500
Resurface/Replacement of Rubberized Playground Flooring:	<u>\$ 25,000</u>
<b>Total:</b>	<b>\$146,500</b>

The remaining **\$139,500** would be distributed to the various lending parties involved in the transaction. The Montclair Housing Authority would receive some portion of the funds as payment towards its Residual Receipts Loan. This amount has yet to be determined.

**FISCAL IMPACT:** The Redevelopment Agency financially participated in all four of the National CORE affordable housing projects constructed in the City. In each development, the Redevelopment Agency loaned National CORE Low- to Moderate-Income Housing Fund monies. The monies were to be repaid through a “Residual Receipts Loan.”

Residual receipts are “revenues less operating expenses.” The borrower is required to repay the loan annually only if rents are sufficient to pay all operating expenses. Operating expenses include such items as any utilities not paid by the tenants, insurances, fees, repair and maintenance costs, salaries and benefits, all senior loans or debt service on the property, property management fees, and social programs fees. The property is also required to have a Capital Replacement Reserve Fund for long-term maintenance items.

The residual receipts loan concept is the most common financing method used to facilitate low- to moderate-income housing development. It is not uncommon for some affordable housing projects to be unable to repay all outstanding residual receipts debts. The Redevelopment Agency Low- to Moderate-Income Housing Funds loaned to National CORE were restricted to use for the development of new low- to moderate-income housing. After the dissolution of redevelopment agencies by the State, payments on residual receipts loans are provided to a designated housing authority to be used to increase the supply of affordable housing.

In certain types of affordable housing projects that receive federal rent subsidies, the property owner/manager is able to obtain an increase in the rent subsidy from the federal Department of Housing and Urban Development (HUD) to cover increased

operating costs. Generally, tax credit-financed housing projects do not include a provision to increase rent subsidies. Consequently, many affordable housing projects with 100 percent affordable units have experienced an increase in operating expenses and no corresponding increase in rental income over the past five or more years. This issue exists as a result of stagnant wages combined with an increase in the costs of goods and services. The rental fees that may be charged in an affordable housing project pursuant to applicable state law are generally capped at 30 percent of family income. Therefore, with rising costs for goods and services and no increases in revenue (revenue from rent), residual receipts are negative or are negligible amounts of money.

In addition, federal and state law mandate that utility allowances for tenants are provided. The utility allowance is a deduction from the rent. As costs for utilities have risen, costs for utility allowances have also increased. Again, increases in rental income have not offset the increases experienced in the utility allowance.

The Vista Del Cielo project does not receive federal subsidies. For the past several years, the project has been unable to make payments on its Residual Receipts Loan because no revenue has remained after expenses. It should be noted that the residual receipts for this project are also divided between the Montclair Housing Authority and the County of San Bernardino as a result of their \$2 million HOME loan in 2010. The Redevelopment Agency Low- and Moderate-Income Housing Funds loaned to the Vista Del Cielo Project represented the largest Residual Receipts Loan made by the Redevelopment Agency.

From 2015 to 2017, Vista Del Cielo lost \$30,000 in revenue caused by increases in the utility allowance. Since 2011, operating expenses for the project have risen by \$81,600. Since it has been completed, the Vista Del Cielo project has repaid \$34,955 of its Residual Receipts Loan to the Montclair Housing Authority. As of June 30, 2019, the amount of the Residual Receipts Loan, with accrued interest, owed to the Montclair Housing Authority now stands at approximately \$5,702,000. The term of the Residual Receipts Loan for Vista Del Cielo is a 55 years. The project has 47 years remaining to repay the Residual Receipts Loan.

The lender for the Vista Del Cielo project requires its Capital Reserve Fund to maintain a minimum of \$1,000 per unit at all times. National CORE is unable to utilize its Capital Reserve Fund to paint and repair the siding without falling well below the \$1,000 per unit threshold.

The Montclair Housing Authority Commission Members are requested to consider the request by National CORE to use the funds from construction savings for project improvements and repayment of a portion of the Residual Receipts Loan. If approved, some remaining construction savings would be remitted to the Montclair Housing Authority toward repayment of the Residual Receipts Loan after payments to the other lending parties involved in the transaction. Alternatively, the Montclair Housing Authority Commission Members could deny the request by National CORE and ask that the construction savings funds (\$286,000) be distributed to all involved lending parties.

**RECOMMENDATION:** Staff recommends the Montclair Housing Authority Commissioners approve the request by Mills Family Housing Partners, L.P. (National Community Renaissance) regarding use construction savings for project improvements at 10319 Mills Avenue (Vista Del Cielo).



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	HSV043
<b>SECTION:</b>	AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 19-66 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT TO ADMINISTER THE IMMUNIZATION PROGRAM AT THE MONTCLAIR MEDICAL CLINIC		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 19-66 with Ontario-Montclair School District (OMSD) to administer the immunization program at the Montclair Medical Clinic, a copy of which is attached.

**BACKGROUND:** The Montclair Medical Clinic is a component of the Healthy Montclair initiative; the purpose of the Healthy Montclair Initiative is to achieve excellence in the quality of life for those who live, work, play, eat, and shop in Montclair. In 1998, Montclair was one of the first cities in California to be designated a Healthy City from the California Healthy Cities and Communities Initiative. In addition, the City of Montclair is a founding member of the San Bernardino County Department of Public Health's countywide Healthy Communities initiative. Since this time, the Healthy Montclair Initiative has continued to flourish. Healthy Montclair defines health as a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity.

Since 1978, the Montclair Medical Clinic has served the community by offering general family practice care, immunizations, limited gynecological services, and referrals for free or low-cost health and social services. The Montclair Medical Clinic was housed in the Recreation Center for over 30 years and in early 2017 the clinic was moved to a new location inside the Montclair Community Health Center located at 5050 San Bernardino Street. Dr. James Lally serves as the volunteer Medical Director and owns the newly renovated building.

The Montclair Medical Clinic has administered the immunization program which serves (1) students qualifying for the State Vaccine For Children (VFC) Program; (2) all employees and volunteers of the OMSD preschool programs; and (3) as listed in Appendix A of proposed Agreement No. 19-66. In addition to immunizations, the Clinic would also provide health services, TB shots, and head lice screenings and treatment. Volunteer Medical Director James M. Lally, D.O., would administer the continuation Immunization Program through VFC.

**FISCAL IMPACT:** Should the City Council approve proposed Agreement No. 19-66, the funding would provide for supplies and services to administer the immunization program. OMSD would pay a total of \$30,000 in ten monthly installments throughout the term of Agreement No. 19-66, from July 1, 2019 through June 30, 2020.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 19-66 with Ontario-Montclair School District to administer the Montclair Medical Clinic Immunization Program.



## 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, Appendix B.**

- 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:

**\$3,000 per month, for ten months (Appendix B)**

**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.

N/A

**Summary of Compensation**

Services: **\$30,000**

Travel Expense: None

**Total contract amount not to exceed (services + travel) \$30,000**

- 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

\_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Javier John Dutrey  
 Printed Name  
 \_\_\_\_\_  
 Mayor of the City of Montclair  
 Title

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

5111 Benito St.  
 Montclair, CA 91763  
 \_\_\_\_\_  
 Address  
 (909) 625-8571  
 \_\_\_\_\_  
 Telephone Number

ATTEST:

\_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Andrea Phillips  
 Printed Name  
 \_\_\_\_\_  
 City Clerk  
 Title

Date: \_\_\_\_\_  
 Date of Board of Trustees Approval:

Date: August 19, 2019  
 Date of City Council Approval: August 19, 2019

## 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.  
Montclair, CA 91763  
\_\_\_\_\_  
Address

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

ATTEST:

\_\_\_\_\_  
Signature

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

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

**END OF AGREEMENT FOR CONSULTANT SERVICES**

*Appendix A*

**Ontario-Montclair School  
District Agreement for Services  
City of Montclair**

Services to be initiated through the attached agreement will be performed through the health services portion of the Montclair Community Collaborative (aka Family & Collaborative Services Montclair Case Management), a partnership between the City of Montclair, Ontario- Montclair School District, and other community partners. The following description of services specifies the scope of work for contracted “Health Services” which include:

1. Coordinate services with the Ontario Montclair School District Health Services.
2. Provide supervision for nursing services through the City of Montclair, Human Services Department as needed.
3. Follow all protocols, mandates and confidentiality laws while providing services under this contract.
4. Administer immunizations as requested by OMSD for students qualifying for the Vaccine for Children (VFC) Program.
  - Maintain vaccine records in accordance with State Immunization Standards.
  - Provide number of vaccines given per school year to OMSD Health Services Administrator on a quarterly basis.
  - Administer pertussis, measles, and annual influenza immunizations to OMSD employees and preschool volunteers as funding allows.
  - Order and maintain supplies as appropriate (e.g., vaccines, syringes, lice shampoo and lice combs).
  - Maintain proper agreements and requirements with VFC program such as provider requirements, vaccine management, storage, and compliance visits from VFC.
5. Coordinate with OMSD Health Services Administrator to conduct a minimum of (3) outreach immunization clinics per school calendar year.
  - Provide OMSD a copy of student’s vaccine records during outreach clinics to be used to comply with state law immunization requirements for school enrollment.
6. Provide parent with copy of immunizations provided.
7. Provide Health Care Services at the Medical Clinic to families referred by OMSD.
8. Document nursing activities, including maintaining a vaccine inventory and other pertinent services, as appropriate.
9. Provide number of students/families served at clinic.
10. Administer TB screenings to the staff, families, and students of OMSD.
  - Maintain TB screening logs and provide number of TB Screening per school year
  - Refer individuals with Positive TB screenings according to Public Health policies.
11. Provide head lice screening for students of OMSD.
  - Maintain head lice logs and provide number of students screened for head lice per school year to OMSD Health Services Administrator.
  - Assist with, provide advice on, and complete head lice screenings and treatment (targeting individual students with chronic problems not remedied by usual school nurse interventions).

*Appendix B*  
 Ontario-Montclair School District  
 Agreement for Services  
 City of Montclair

**CONSULTANT COMPENSATION**

Upon receipt of an invoice required and monthly report as required under the terms of this agreement, Ontario-Montclair School District will pay ten monthly installments of \$3,000.00 (not to exceed \$30,000.00) as follows:

August, 2019	\$3,000.00
September, 2019	\$3,000.00
October, 2019	\$3,000.00
November, 2019	\$3,000.00
December, 2019	\$3,000.00
January, 2020	\$3,000.00
February, 2020	\$3,000.00
March, 2020	\$3,000.00
April, 2020	\$3,000.00
May, 2020	\$3,000.00



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	MCC500
<b>SECTION:</b>	AGREEMENTS	<b>DEPT.:</b>	ADMIN. SVCS.
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	J. HAMILTON
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 19-72, A MEMORANDUM OF UNDERSTANDING WITH THE MONTCLAIR CITY CONFIDENTIAL EMPLOYEES' ASSOCIATION FOR THE PERIOD OF JULY 1, 2019 TO JUNE 30, 2021		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 19-72, the Memorandum of Understanding (MOU) between the City of Montclair and the Montclair City Confidential Employees' Association (MCCEA) for the period of July 1, 2019 to June 30, 2021. A copy of the above-identified MOU is available for the City Council's review and consideration.

**BACKGROUND:** On a typically annual basis, the City of Montclair negotiates on the terms and conditions of employment with the various labor associations, which includes MCCEA. Once an agreement is reached with the representative labor association, the City and the respective labor association will memorialize the terms in a signature agreement, which is presented to the Personnel Committee for approval of pay and benefit increases. The MOU between the City and MCCEA is then updated and presented to City Council for approval. The City and MCCEA have concluded negotiations for a two-year period of July 1, 2019 to June 30, 2021, and the following is a summary of the agreement related to the terms and conditions of employment:

Agreement No. 19-72: The City and MCCEA reached an agreement for the period of July 1, 2019 to June 30, 2021 on July 30, 2019, with the Personnel Committee approving the following terms and conditions of employment on August 5, 2019:

- **Article 5 Unit Description:** This change provides for an updated list of all classifications represented by MCCEA.
- **Article 7 (Section 7.01):** This change relates to a salary increase of 3 percent to all classifications represented by MCCEA effective August 5, 2019, and another salary increase of 2 percent to all classifications represented by MCCEA effective the first full pay period in July 2020.
- **Article 8 (Section 8.01):** This change provides for the increase in the benefit fund contribution from \$1,100 per month to \$1,150 per month, per MCCEA employee, effective September 2019, and another increase in the benefit fund contribution from \$1,150 per month to \$1,200 per month, per MCCEA employee, effective the first full pay period in July 2020.
- **Article 8 (Section 8.03):** This change restructures the retiree medical benefit an employee earns after 25 years of continuous service. Under this restructuring, the retiree is no longer permitted to remain on City-provided healthcare, dental, or optical plans and must shop for his/her own individual plan. In return, the City

will reimburse up to \$532.16/month to assist the retiree in paying for his/her health care premiums or Medicare premiums only. This new plan allows an employee to move outside of the City's healthcare coverage areas or join his/her spouse's health care plan and still benefit from this earned retiree benefit.

- Article 14 (Section 14.01): This change raises an employee's cap on sick leave up to 1,250 hours; however, only 1,000 hours maximum may be used toward redemption of sick leave hours upon retirement.
- Article 43: This change relates to the term of the Agreement.

**FISCAL IMPACT:** The fiscal impact associated with ratifying proposed Agreement No. 19-72 due to additional compensation will be funded from the Personnel Adjustment Reserve of the General Fund, as these increases were not included in the adopted Fiscal Year 2019-20 Budget.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 19-72, a Memorandum of Understanding with the Montclair City Confidential Employees' Association (MCCEA) for the period of July 1, 2019 to June 30, 2021.



# AGENDA REPORT

---

**DATE:** AUGUST 19, 2019                      **FILE I.D.:** COM025/CVC500  
**SECTION:** AGREEMENTS                      **DEPT.:** CITY MGR.  
**ITEM NO.:** 3                                      **PREPARER:** J. NGUYEN  
**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 19-73 WITH MATRIX AUDIO VISUAL  
DESIGNS, INC., FOR THE PURCHASE AND INSTALLATION OF AUDIO AND VIDEO  
EQUIPMENT IN THE CITY COUNCIL CHAMBERS

CONSIDER APPROVAL OF AGREEMENT NO. 19-74 WITH MATRIX AUDIO VISUAL  
DESIGNS, INC., FOR THE PURCHASE AND INSTALLATION OF AUDIO AND VIDEO  
EQUIPMENT IN THE MONTCLAIR SENIOR CENTER

CONSIDER AUTHORIZING A TRANSFER OF \$92,534.60 FROM THE PEG FUND FOR  
AUDIO-VIDEO TECHNOLOGY UPGRADES IN THE CITY COUNCIL CHAMBERS AND  
\$66,734.36 FROM THE TECHNOLOGY RESERVE FUND FOR AUDIO-VIDEO  
TECHNOLOGY UPGRADES IN THE MONTCLAIR SENIOR CENTER

CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO EXECUTE ALL  
DOCUMENTS ON BEHALF OF THE CITY OF MONTCLAIR IN RELATION TO AGREEMENT  
NOS. 19-73 AND 19-74 WITH MATRIX AUDIO VISUAL DESIGNS, INC.

---

**REASON FOR CONSIDERATION:** The existing audio-video (AV) systems used in the City Council Chambers and Senior Center are operationally deficient, resulting in the declining quality of audio recordings, reduced amplification of sound, and poor video presentation quality. This has led to discussions that are often muffled and inaudible and presentations that do not properly display information. The age of the equipment makes further repair difficult as components and parts are difficult to acquire, and previous attempts at repair have proven ineffective. Furthermore, staff has had to resort to using portable speakers and projectors causing major disruptions and a lower quality standard for many events held in the Senior Center.

The City Council is requested to consider approval of Agreement Nos. 19-73 and 19-74 with Matrix Audio Visual Designs, Inc., for the purchase and installation of new AV equipment in the City Council Chambers and Montclair Senior Center, respectively.

Copies of proposed Agreement Nos. 19-73 and 19-74 with Matrix Audio Visual Designs, Inc., are attached for City Council review and consideration.

**BACKGROUND:** *AV System & Equipment in the Council Chambers*

The City Council Chambers are used by elected officials, staff, and the public to conduct official City business and host public forums. The Council Chambers routinely host City Council, Planning Commission, and Community Activities Commission meetings, as well as other governmental and civic groups, and homeowners' association meetings.

The current AV equipment in the Council Chambers was installed in 2008 during the last major renovation and upgrade of technologies in the City Council Chambers. The AV

equipment has been routinely experiencing technical problems for the past several years. These problems include sound fluctuations, microphones stalling, background noises, difficulties in displaying visual presentations on monitors and on the overhead projector, and a host of other issues that interrupt the regular decorum of meetings held in the Council Chambers. Given the significance of the events held in the Council Chambers, it is imperative that the audio and video equipment be able to reinforce and record events in a clear and audible manner and to present information to the public clearly during matters of public discourse.

Staff has met with several professionals with AV system backgrounds to address the current audio and visual technical issues. Upon a full review and testing of the microphones, operating system, audio equipment, and visual system, it was determined that the audio equipment and visual systems should be fully replaced. The existing microphones and operating system were installed in 2015 and were determined to be functional and within their life span of use.

Staff submitted Requests for Quotes (RFQs) to several audio equipment firms that utilize the City's existing Audio Technica microphones and operating system that will remain in use. The following are the quotes provided by each firm for the furnishing, replacement, and installation of new AV equipment in the Council Chambers:

Sunset Electrical	\$139,460.02
Western Audio Visual	\$94,147.20
Matrix Audio Visual Design	\$92,534.60

#### *AV System & Equipment in the Senior Center*

The Montclair Senior Center is the community focal point that provides critical services to Montclair's senior citizens. The Senior Center provides vital community services that help Montclair's aging population stay healthy, happy, and independent. The facility regularly offers services such as meal and nutrition programs; training and assistance; health, fitness, and wellness programs; transportation services; social and recreational activities; and education and arts programs. These types of programs have shown to help older adults manage and delay the onset of chronic diseases and improve physical, mental, social, emotional, and economic well-being.

The Senior Center also routinely hosts outside governmental and civic groups and is home to the Candidates' Forum, which occurs every two years before the City's General Municipal Elections.

The current AV system in the Senior Center was installed in 2007 when the Senior Center was constructed. The audio and visual equipment has been routinely experiencing technical problems for the past several years. These problems include sound fluctuations, microphones stalling, background noises, difficulties in displaying visual presentations on monitors and on the overhead projector, and a host of other issues.

Given the significance of the events held in the Senior Center and its daily uses, it is imperative that the audio and video equipment be able to handle the needs of the Senior Center.

Staff has met with several professionals with audio and visual backgrounds to address the current audio and visual technical issues. Upon a full review and testing of the



microphones, operating system, audio equipment, and visual system, it was determined that the whole system should be replaced.

Staff submitted Requests for Quotes (RFQs) to several audio and visual equipment firms to replace the AV equipment in the Senior Center. The following are the quotes received from each firm:

Sunset Electrical	\$96,111.91
Western Audio Visual	\$78,745.24
Matrix Audio Visual Designs	\$66,734.36

### *Selection of Vendor*

After careful consideration of each proposal for upgrading the AV equipment and systems in the Council Chambers and Senior Center, staff selected Matrix Audio Visual Designs, Inc., as the best option. Matrix Audio Visual Designs, Inc.'s qualifications, customer service, estimated price point, and extensive experience in repurposing and installing audio and visual equipment systems set the company apart from the other firms.

### *Matrix Audio Visual Designs, Inc.*

Matrix Audio Visual Designs, Inc., has been in business since 1991 and is an audio, video, lighting, and control systems design and integration firm located in Burbank, California. Matrix Audio Visual Designs, Inc. has experience integrating technology solutions for residential applications, private businesses, educational institutions, houses of worship, military, and government agencies. Matrix Audio Visual Designs, Inc., is dedicated to providing the highest quality audiovisual system integrations for all budgets.

Over the past twenty years, Matrix Audio Visual Designs, Inc., has serviced many clients from government to education to defense to residential. Every design and installation is given the utmost care and attention.

Matrix Audio Visual Designs, Inc., is the preferred vendor for this project due to having the lowest quote and because they were awarded the last contract to upgrade the microphones and audio equipment in the Council Chambers. This provides Matrix Audio Visual Designs, Inc. with an in-depth understanding of the unique audio requirements of the City Council Chambers.

### *Scope of Work – Council Chambers System & Equipment Upgrades*

As part of the scope of work, Matrix Audio Visual Designs, Inc., shall provide, develop, install, and integrate control systems for the Audio Technica microphones, audio equipment, and operating system. Matrix Audio Visual Designs, Inc., will consult with staff in order to review and evaluate the related plans and systems requirements for the project and ensure that staff is involved in every step of the process.

The furnishing and installation of audio and visual equipment would occur in the following stages:

- ✓ Removal of existing projector and projection screen.

- ✓ Installation of a 98" inch LED High Definition (HD) Display at the center of the Council Chambers along with two 80" inch LED HD Displays on either side of the main display.
- ✓ Removal of existing audio speakers.
- ✓ Installation of new audio speaks towards the front of the Council Chambers as well as the Installation of rear surface mounted flush speakers.
- ✓ Installation of audio conferencing equipment to allow for incoming and outgoing voice conference calls.
- ✓ Removal of existing dais monitors to be replaced with 24" inch displays.
- ✓ Installation of a digital voting system that would allow for votes to be displayed in real time on the overhead LED HD Displays.

Matrix Audio Visual Design, INC., will provide for an easy to use fully functional turnkey system. The installation of the audio and visual equipment if approved would coincide with the current remodeling of the Council Chambers, so there will be no disruptions of any meetings or events.

#### *Scope of Work – Senior Center AV System & Equipment Upgrades*

As part of the scope of work, Matrix Audio Visual Designs, Inc., shall provide, develop, install, and integrate audio and visual control systems in the Main Dining room, and East and West rooms of the Senior Center.

The furnishing and installation of audio and visual equipment would occur in the following stages:

- ✓ Removal of existing projectors and projection screens.
- ✓ Installation of three laser projectors in the Main Dining room, and East and West rooms.
- ✓ Removal of existing audio speakers.
- ✓ Installation of new audio speaks.
- ✓ Installation of a new digital control system to interface with the video and audio equipment.
- ✓ Installation of wireless microphones for each room in the Senior Center.
- ✓ Conversion of all audio and visual inputs from analog to digital.

**FISCAL IMPACT:** The City Council's approval of proposed Agreement No. 19-73 would result in a cost of \$92,534.60 payable from the Public, Educational, and Governmental Access (PEG) Fund (Account No. 0000-1748-52990-400), and approval of proposed Agreement No. 19-74 would result in a cost of \$66,734.36 payable from the Technology Reserve Fund (1704) established to fund unanticipated and planned major technology upgrades.

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

1. Approve Agreement No. 19-73 with Matrix Audio Visual Designs, Inc., for the purchase and installation of audio and video equipment in the City Council Chambers;
2. Approve Agreement No. 19-74 with Matrix Audio Visual Designs, Inc., for the purchase and installation of audio and video equipment in the Montclair Senior Center;
3. Authorize a transfer of \$92,534.60 from the PEG Fund for audio-video technology upgrades in the City Council Chambers and \$66,734.36 from the Technology Reserve Fund for audio-video technology upgrades in the Montclair Senior Center; and
4. Authorize the City Manager to execute all documents on behalf of the City of Montclair in relation to Agreement Nos. 19-73 and 19-74 with Matrix Audio Visual Designs, Inc.

The Agreement ("Agreement") is entered into between the following parties ("the Parties"): **City of Montclair** (*hereinafter* "Owner or City" or "you") located at **5111 Benito Street, Montclair, CA 91763** and **Matrix Audio Visual Designs, Inc.** (*hereinafter* "AV Contractor" or "we") located at **2525 W. Burbank Blvd. Burbank, CA 91505**.

In consideration of the mutual execution of this Agreement and the promises made in the Agreement by the Parties, the Parties agree as follows:

**For this Project:**

*Project Name:* Audio and Video System Enhancement – (*hereinafter* "Project")

*Project Number:* P000592

*Description of Project:* Upgrade audio and video system in the chambers to support HDMI connection with conferencing, voting capabilities.

*Job Site Address:* 5111 Benito Street, CA 91763 (*hereinafter* "Venue")

*Today's Date:* 8/15/2019

*Revised Date:*

**With a Contracted Value of: Ninety Four Thousand Seven Hundred Thirty One and Eighty One Cents (\$94,731.81)**, which represents the total price of the labor to install and the cost to purchase the audio-visual system and related Equipment and software set forth in the Proposal corresponding to the Project Number and other components comprising the System, **including 8% (budgeted sales tax)**. The Contracted Value **Excludes Owner Furnished Products**. The Total Project Cost amount may be adjusted in accordance with the terms and conditions contained herein relating to the costs, including variation or modification thereof, of the System and the labor to install the System.

**1. GENERAL TERMS**

- 1.1. This Agreement shall not be binding upon AV Contractor, unless signed by an authorized representative of the Owner and signed by an officer of AV Contractor. The individual(s) executing this Agreement and the instruments referenced herein on behalf of Owner and AV Contractor have the legal power, right, and actual authority to bind Owner and AV Contractor to the terms and conditions hereof and thereof.
- 1.2. Neither the Owner nor AV Contractor shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to an institutional lender providing financing for the Project. In such an event, the lender shall assume the Owner's rights and obligations under this Agreement - AV Contractor shall execute and take all steps reasonably necessary to facilitate such assignment.
- 1.3. This Agreement, including the Agreement Documents and related appendixes incorporated by reference as though fully set forth herein, sets forth the entire agreement between the Parties with regard to the subject matter hereof. All prior agreements, representations and warranties, express or implied, oral or written, with respect to the subject matter hereof, are hereby superseded by this Agreement. This is an integrated agreement.
- 1.4. In the event any provision of this Agreement is deemed to be void, invalid, or unenforceable, that provision shall be severed from the remainder of this Agreement so as not to cause the invalidity or unenforceability of the remainder of this Agreement. All remaining provisions of this Agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.
- 1.5. This Agreement may be modified, superseded, or voided only upon the written and signed agreement of the Parties. Further, the physical destruction or loss of this document shall not be construed as a modification or termination of the Agreement contained herein.
- 1.6. The Parties agree to act in good faith and to cooperate fully with each other in carrying out the intent of this Agreement, and for that purpose agree to execute all additional documents as may prove reasonably necessary to accomplish that intent.
- 1.7. The Parties agree that the laws of the State of California shall be utilized in construing this Agreement and in enforcing the rights and remedies of the Parties. Any litigation arising out of a dispute concerning the Agreement shall be litigated in Los Angeles, California. The Parties agree to venue in that jurisdiction for all such disputes concerning this Agreement.
- 1.8. If any suit or action or other proceeding is commenced to enforce or interpret any of the terms or provisions of this Agreement, the prevailing Party in such suit or action or other proceeding shall be entitled to an award against the other Party for the prevailing Party's reasonable attorney's fees and costs incurred both at trial and on any appeal.
- 1.9. This Agreement shall inure to the benefit of and shall be binding upon each of the Parties here and their respective agents, representatives, executors, administrators, trustees, personal representatives, partners, directors, officers, shareholders, agents, attorneys, insurers, employees, representatives, predecessors, successors, heirs and assigns.

Initials: \_\_\_\_\_

- 1.10. Each party acknowledges that he or she has had an adequate opportunity to read and study this Agreement, to consider it, to consult with attorneys if he or she has so desired.
- 1.11. This Agreement may be executed in multiple counterparts, all of which shall be deemed originals, and with the same effect as if all Parties had signed the same document. All of such counterparts shall be construed together with and shall constitute one agreement, but in making proof, it shall only be necessary to produce one such counterpart. A facsimile or other means of electronic transmission shall be as valid and enforceable as an original.
- 1.12. Unless otherwise defined in a specific Section, capitalized terms used throughout this Agreement shall have the following meaning:
  - 1.12.1. **Agreement Documents.** This Agreement and the appendixes and attachments incorporated by reference as though fully set forth herein as follows: Proposal, AV Contractor's Standard Warranty Terms and Conditions.
  - 1.12.2. **Equipment.** The hardware listed in the Proposal.
  - 1.12.3. **Proposal.** AV Contractor's Proposal relating to the Project Number identified in this Agreement containing the Total Project Cost and System-related deliverables.
  - 1.12.4. **System.** The audio-visual system and related Equipment, components and software installed pursuant to this Agreement, as more specifically itemized in the Proposal.
  - 1.12.5. **Total Project Cost.** The total cost of the Project to be paid by Owner to AV Contractor as set forth in Section 13.7 or pursuant to a mutually executed Change Order.
  - 1.12.6. **Work.** The labor and project management related services to install the System.
  - 1.12.7. **Change Order.** A written document signed by an authorized representative of each Party to this Agreement to make a change to the scope of this Agreement and/or Project Proposal.

## 2. AV CONTRACTOR'S RESPONSIBILITIES

- 2.1. The AV Contractor's services shall be performed in accordance with the degree of professional skill and care required by applicable law and as expeditiously as is consistent with professional skill and care and the orderly progress of the Project.
- 2.2. The AV Contractor shall submit for the Owner's approval a schedule for the performance of the AV Contractor's services (per Section 15) which may be adjusted as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the AV Contractor or the Owner.
- 2.3. The AV Contractor shall designate a representative authorized to act on behalf of the AV Contractor with respect to the Project. Insofar as it is reasonable, the same person shall remain consistent from Project inception until completion. This representative shall be referred to as the Project Manager.
- 2.4. The AV Contractor's Work shall be neat and workmanlike and shall assign enough workers with the required skills and qualifications to the job to meet its schedule commitments as outlined at the signing of this document.
- 2.5. The AV Contractor shall coordinate and cooperate with other trades to ensure satisfactory work progress.
- 2.6. The AV Contractor shall, at its own cost and expense, comply with all State/Provincial and local laws, ordinances, rules, regulations, codes, standards, orders, notices and requirements necessary for the prosecution of the Work.
- 2.7. The AV Contractor will install all Equipment in accordance with the manufacturers' instructions unless otherwise approved by the Owner. Where these instructions are exceeded by any applicable national and local regulations, ordinances, and codes, such regulations, ordinances, and codes shall apply.
- 2.8. Upon completion of the Work, the AV Contractor shall remove from the site all unused materials, containers, and Equipment. The AV Contractor will endeavor to protect all floors, walls, and other adjacent surfaces from stains, marring or other damage. The space shall be clean and undamaged.
- 2.9. The AV Contractor is not responsible for the operation or the performance of Equipment supplied by others outside this Agreement. The AV Contractor does not warrant that Equipment supplied by others either can be connected to or can work satisfactorily with our System, except as specified in this Agreement.

## 3. OWNER'S RESPONSIBILITIES

- 3.1. The Owner shall provide full information in a timely manner regarding requirements for and limitations on the Owner's objectives, schedule, constraints and criteria.
- 3.2. The Owner shall furnish to the AV Contractor, within ten (10) days after receipt of a written request, information necessary and relevant for the AV Contractor to evaluate, give notice of, or enforce lien rights.

Initials: \_\_\_\_\_

- 3.3. The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or the designated representative shall render decisions in a timely manner pertaining to documents submitted by the AV Contractor in order to avoid unreasonable delay in the orderly and sequential progress of the AV Contractor's services.
- 3.4. The Owner shall furnish the services, at the Owner's expense, of any and all consultants reasonably required for the proper execution of the Project as and when requested by the AV Contractor. The AV Contractor shall be entitled to rely upon the accuracy and completeness of any information provided by these consultants.
- 3.5. The Owner shall furnish all legal, accounting, and insurance services that may be necessary at any time for the Project to meet the Owner's needs and interests.
- 3.6. The Owner shall provide prompt written notice to AV Contractor if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions, or inconsistencies in AV Contractor's Proposal and/or quotation.
- 3.7. The Owner shall ensure that the Project is secure and set up for both pre-wiring and installation of the Equipment in accordance with the requirements of AV Contractor. The Owner shall be solely responsible for the Project site conditions, including the security, safety, and fitness of the areas in which AV Contractor's services are to be performed. The Owner warrants to AV Contractor that the Project site is adequate and sufficient to install, use, and store the Equipment.
- 3.8. At the time of signing of this Agreement, the Owner shall have identified and provide information to the AV Contractor of all other equipment and connections that will interface with the Equipment to be provided by the AV Contractor related to this Project, with the understanding that any omissions to the information provided to date may result in additional charges from the AV Contractor in order to accommodate such changes or omissions.
- 3.9. The Owner shall provide access to the Project site during normal business hours to allow AV Contractor to perform its services in a timely and orderly manner. Further, the Owner shall provide suitable and secure locations at the Project site for storage of the Equipment prior to installation.
- 3.10. The Owner shall provide a representative to accept delivery of Equipment from the AV Contractor as required at the Project site, and shall remain liable for any loss or damage to the Equipment located at the Project site.

#### 4. SCOPE OF SERVICES

- 4.1. Within the context of this document, "Approve" means review of and comment on, existing conditions or design by others. "Design" means complete design service including drawings.
- 4.2. The AV Contractor shall provide, develop, install, and integrate the System for the Project. The AV Contractor will consult with the Owner and Owner's representatives or authorized agents in order to review and evaluate the related architectural plans and systems requirements for the Project. The AV Contractor will make all recommendations or modifications as may be required in cooperation with the Owner, or others as directed by the Owner, and shall assist in finalizing a functional description of the System. Scope of Services to include schematic designs, design administration, preparation of a preliminary and final budget estimate of audio/visual system costs, attendance at progress meetings, and preparation of preliminary and final drawings and documentation.
- 4.3. The AV Contractor shall inspect the System installed in the Project and will assist the Owner in the commissioning of the System. The AV Contractor will make recommendations as to training, support, and maintenance of the System.
- 4.4. The specific Scope of Services for this Project are a part of this document with the cost work sheet.

#### 5. INTELLECTUAL PROPERTY

- 5.1. "Intellectual Property Rights" means all intellectual property rights throughout the world, including copyrights, patents, mask works, trademarks, service marks, trade secrets, inventions (whether or not patentable), know how, authors' rights, rights of attribution, and other proprietary rights and all applications and rights to apply for registration or protection of such rights and the legal rights, interests and protections afforded under applicable patent, copyright, trademark, trade secret and other intellectual property laws.
- 5.2. AV Contractor shall retain all right, title and interest in and to the Intellectual Property Rights associated with any products, tools, devices, manuals, plans, drawings, customized programs and software source code and other documentation, invented, generated, developed, or otherwise produced by AV Contractor or its agents, representatives, employees, and subcontractors in connection with the performance of the Services, and shall at all times remain the property of the AV Contractor. The Parties hereto intend and agree, however, that the AV Contractor shall grant a perpetual, non-exclusive, non-transferable license to any and all products, tools, devices, manuals, plans, drawings, customized programs, and software for the life of the Project; provided, however, that:
  - 5.2.1. Such license shall be non-transferable by the Owner without the prior written consent of AV Contractor, and shall be exercised by the Owner solely for the Owner's benefit in direct connection with the Project following the date of this Agreement;
  - 5.2.2. Licensing rights as outlined shall require the express written permission of the AV Contractor in order to reproduce or distribute to any other third party any or all of the above mentioned drawings, plans, specifications, reports, and other documentation; and
  - 5.2.3. The AV Contractor shall provide the Owner with current copies of all software upon request; these shall be for archival and administrative purposes only.
  - 5.2.4. Notwithstanding the foregoing, as consideration for the limited licensing rights in connection with the above, the Owner hereby agrees to:

Initials: \_\_\_\_\_

- 5.2.4.1. Use its best efforts to promote and credit AV Contractor's integral role in connection with the completion and operation of the Project, which efforts shall include, without limitation, the advertisement and promotion, whenever and wherever reasonably possible, of AV Contractor as the designer, provider, and supplier of the technology used in connection with the Project.
- 5.2.4.2. Permit AV Contractor to cite the Project, together with AV Contractor's role, relative to the design technology developed and used in connection therewith, for purposes of AV Contractor's advertising, marketing, and public relations efforts.

## 6. DISPUTE RESOLUTION

### 6.1. MEDIATION

- 6.1.1. In the event that any claim, dispute, or other matter in question arises out of or relates to this Agreement or the System Owner and AV Contractor shall first attempt resolution of same via mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration. The form for initiating a request to mediate can be accessed at [American Arbitration Association](#). If such a matter relates to or is the subject of a lien arising out of AV Contractor services, AV Contractor may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.
- 6.1.2. If settlement is not reached within **sixty (60) days** after service of a written demand for mediation, any unresolved claim or controversy shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, excluding any rules or procedures governing or permitting class actions. Any judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Federal Arbitration Act shall govern the interpretation and enforcement of this Agreement. Costs for the mediation/arbitration under this section shall be borne equally by each Party and each Party shall bear their own attorneys' fees and costs.
- 6.1.3. A demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such a claim dispute or other matter in question would be barred by the applicable statute of limitations.
- 6.1.4. No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, AV Contractor, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent arbitration to any claim, dispute, or other matter in question not described in the written consent or with a person or entity not there named or described. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by Parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction over it.
- 6.1.5. The Parties agree that the arbitrator(s) shall have no power or authority to make awards or issue orders of any kind except as expressly permitted by this Agreement, and in no event shall the arbitrator(s) have the authority to award punitive or exemplary damages.
- 6.1.6. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon in accordance with applicable law in any court having jurisdiction.
- 6.1.7. Any mediation or arbitration commenced under this Section shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

## 7. PERMITS

- 7.1. The Owner shall bear at its own cost all consents, licenses, permits, approvals, authorizations, and inspections from local government authorities, agencies, or officials required for the prosecution and completion of the Work and the delivery of the System as obtained by either the Owner or the AV Contractor in relation to this Project.
- 7.2. Where such consents, licenses, permits, approvals, authorizations, and inspections are obtained by the AV Contractor, such costs shall be considered in addition to the approved contract cost, and shall be subject to a 15% administration fee above and beyond the cost paid by the AV Contractor.

## 8. Exclusions and Assumptions

- 8.1. Exclusions
  - 8.1.1. Patch work
  - 8.1.2. Painting
  - 8.1.3. Bonding – 3%
  - 8.1.4. Overtime and/or shift work
  - 8.1.5. Prevailing wage
  - 8.1.6. Certified payroll

Initials: \_\_\_\_\_



- 8.1.7. Fees and permits
- 8.1.8. Parking
- 8.1.9. All cabling within walls and ceiling shall be plenum rated.
- 8.1.10. All electrical requirements, including power, conduits, J-Boxes are excluded and are by others.

**9. REPRESENTATIONS**

- 9.1. The AV Contractor is not, and does not represent to be, a licensed architect, electrician, electrical engineer, mechanical engineer, or structural engineer and shall not perform, nor be responsible for the performance of, the work of such persons. All information, drawings, schematics, specifications, or other documents containing references to, or depictions of, architectural, electrical, or mechanical attributes which are supplied to the Owner by the AV Contractor hereunder will be provided for the sole purpose of indicating the AV Contractor's suggestions related to the Work, and the AV Contractor shall have no liability whatsoever, including liability for the Owner's reliance thereon, except as such information, drawings, documents, specifications, or other documents may relate to the performance of the System.
- 9.2. The Owner's signing and delivery of this Agreement and its performance of its obligations hereunder:
  - 9.2.1. Have been duly authorized by all necessary corporate action;
  - 9.2.2. Do not conflict with any terms or conditions of its Certificate of Incorporation or By-laws;
  - 9.2.3. Do not violate any law, regulation, order, judgment or decree by which it may be bound; and
  - 9.2.4. Will not violate or result in a breach, acceleration, or default under any agreement or understanding to which it is a party or by which it may be bound which will materially affect its ability to perform its obligations hereunder.
- 9.3. When signed and delivered by the Owner, this Agreement will constitute the legal, valid and binding obligation of the Owner, and will be enforceable against it in accordance with its terms and conditions, subject only to the rights of creditors under applicable laws relating to bankruptcy or the relief of debtors.

**10. TERM & TERMINATION**

- 10.1. The term of this Agreement will be from the Effective Date until completion of the Work and payment of the Total Project Cost, except as otherwise provided for herein.
- 10.2. Except as otherwise provided for herein, either party may terminate this Agreement upon notice in writing to the other in the event that such other party shall breach or be in default of any of the covenants, obligations, warranties, representations, terms, or conditions of this Agreement in a material manner (a "Default") and such other party fails to remedy such Default within thirty (30) days after notice thereof from the party not in default; provided that where a remedy will reasonably require greater than thirty (30) days to complete, the non-defaulting party may terminate this Agreement if the defaulting party does not start to remedy the Default within the thirty (30) day period, or, once started, fails to diligently proceed with and complete the remedy. Such notice shall provide in reasonable detail the basis upon which the Default is claimed.
- 10.3. In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under applicable bankruptcy legislation or any other applicable statute relating to insolvency or the protection of rights of creditors, then the other party may terminate this Agreement.
- 10.4. In the event the AV Contractor terminates this Agreement pursuant to either paragraph 10.2 or 10.3 of this Section, then all licenses granted by AV Contractor to the Owner shall immediately terminate and the Owner shall immediately discontinue use of any software identified in the Proposal and furnished hereunder and return to the AV Contractor all copies of such software and any Confidential Information furnished hereunder.
- 10.5. No termination of this Agreement shall affect or impair AV Contractor's right to be paid for all costs and fees incurred through the effective date of termination. All fees paid through the date of termination shall be non-refundable.

**11. ADDITIONAL COSTS**

- 11.1. The following costs shall be borne by the Owner in addition to the approved contract cost, and shall be billed in full plus an administration fee of 15% at the completion of the Project:
  - 11.1.1. Parking
  - 11.1.2. Equipment Storage (under the conditions defined within Section 16.7)
  - 11.1.3. Specifically requested Insurance other than as defined within Section 17
  - 11.1.4. Performance and Labor bonds
  - 11.1.5. Permits, licenses, approvals, and Inspections as defined within Section 7

Initials: \_\_\_\_\_



**12. PREVAILING TERMS**

12.1. If any purchase order, acceptance, or other document is used by Purchaser in connection with the purchase of the System, then notwithstanding any provisions therein contained to the contrary, the terms of all such documents shall be governed by the provisions of this Agreement and any terms thereof which are inconsistent with, different from, or in addition to, the provisions of this Agreement shall be null and void and of no force or effect.

**13. CHARGES AND INVOICING**

- 13.1. The Owner shall pay to AV Contractor the charges for the Equipment, all labor, materials, and services as detailed by AV Contractor's Proposal and revision along with any modifications and changes to same as outlined in any subsequent Change Orders.
- 13.2. All charges are inclusive of federal, State/Provincial and local sales, use, excise, utility, and gross receipts taxes and other similar tax-like charges, including tax-related surcharges, which the Owner agrees to pay. In the event the Owner provides the AV Contractor with a duly authorized tax exemption certificate, the AV Contractor agrees to exempt the Owner in accordance with the law; effective on the date exemption certificate is received by the AV Contractor.
- 13.3. The AV Contractor shall invoice the Owner for charges due under this Agreement as set forth herein. All invoices are due and payable within thirty (30) days of the invoice date with the exception of the invoice for the Project initiation fees which is due and payable upon signing the Agreement. The Owner is responsible for meeting payment terms as listed below. The AV Contractor reserves the right to withhold delivery of products, installation, and maintenance services pending this payment.
- 13.4. All invoiced amounts that remain unpaid for more than thirty (30) days shall be subject to a finance charge of either 2.5% per month or the highest rate permitted under applicable law, computed from the date of invoice.
- 13.5. The Owner shall not make any deductions of any kind from any payment becoming due to the AV Contractor unless Owner shall have received an official credit memorandum from AV Contractor authorizing such deduction.
- 13.6. If the Owner fails to make any payment to AV Contractor as provided for herein, the AV Contractor may, upon thirty (30) business days prior written notice to the Owner, suspend performance of the Work until such payment is received in full and the period of suspension shall be added to the time which AV Contractor has estimated to complete performance of same.
- 13.7. Payment terms and schedule are agreed as follows:

Below you will find our payment schedule. Matrix Audio Visual Designs is an audio visual system integration firm. We purchase Equipment as needed per job basis. Thus our vendors need to be paid on time as Equipment is delivered. We ask you to adhere to the following payment terms so in turn we can honor their payment schedule.

**Payment Schedule**

		<b>Balance</b>
<b>Total Project Cost:</b>	\$94,731.81	
<b>Contract Execution (20% of Equipment):</b>	\$11,168.57	
		\$83,563.24
<b>Ordering Equipment (25% of Equipment):</b>	\$13,960.71	
		\$69,602.53
<b>Equipment received by Matrix AV (25% of Equipment):</b>	\$13,960.71	
		\$55,641.82
<b>Equipment Delivered to Client and installation Start:</b>	\$22,317.03	
		\$33,324.79
<b>Labor - 50% Progress:</b>	\$16,662.39	
		\$16,662.39
<b>Labor - 80% Progress:</b>	\$3,332.48	
		\$13,329.92
<b>Completion:</b>	\$13,329.92	

Initials: \_\_\_\_\_

#### 14. OWNERSHIP

- 14.1. All hardware shall remain the property of AV Contractor until final payment is received.
- 14.2. Upon delivery of any Equipment to site, a representative of the Owner shall be required to sign for acceptance of such Equipment.
- 14.3. From the point that any hardware is delivered to site, responsibility for the safekeeping and security of such Equipment shall be borne by the Owner, who shall remain responsible for the cost of any repair or replacement of such Equipment damaged or lost as a result of any actions taken by any individual other than in the direct employment of AV Contractor.

#### 15. PROJECT SCHEDULE

- 15.1. Time is of the essence in performance of this Agreement. Both the Owner and the AV Contractor shall proceed with the Work in a prompt and diligent manner in accordance with the current Project schedule.
- 15.2. The AV Contractor shall coordinate its Work with the work of others on the site in a manner which will avoid conflict or interference with the work of AV Contractor and others, and which will avoid delay in the completion of any part or the entire Project.
- 15.3. The Owner recognizes that construction delays could affect the schedule for installation of any portion of the System and shall advise AV Contractor immediately of any adjustments to the Project schedule that may have an impact on any System related to AV Contractor's Scope of Services. Upon presentation of a written request and cost adjustment, the Owner will review, in an expeditious manner, such charges as presented by AV Contractor to increase the likelihood of meeting the schedule.
- 15.4. AV Contractor will require various sign-offs and approvals throughout the design, engineering, and installation process. The AV Contractor, where applicable, shall provide the Owner with a required date of acceptance in order to maintain the agreed Project schedule. At that time, the Owner agrees to not unreasonably withhold its agreement for such documents. A minimum of seven (7) business days, where possible, shall be allotted by AV Contractor to allow for communication and response from the Owner without penalty to the schedule or Project.
- 15.5. AV Contractor shall not be liable for any default or delay caused by any third party impeding production or delivery of the Equipment ordered. All promises of delivery are made in good faith and AV Contractor will make best efforts to fulfill them. However, if AV Contractor is unable to meet a scheduled delivery date, then AV Contractor shall not be liable for additional transportation charges incurred on the Owner's request to use a faster means of transportation.

#### 16. DELAYS

- 16.1. Delays by other trades, Owner's schedules, approval of AV Contractor's drawings and submittals, Change Orders, or non-availability of specific Equipment shall be cause for reasonable extensions of completion date.
- 16.2. The Owner's criteria will always be the AV Contractor's goal; however, no liability can be assumed for such delays.
- 16.3. Any delays due to performance of other trades and/or contractors or labor disputes/strikes related to trades outside AV Contractor's obligations under this Agreement will result in additional fees.
- 16.4. Identified shipping and delivery dates of Equipment are provided in good faith and represent AV Contractor's best estimate. If the manufacture, delivery, or installation of the Equipment is delayed, in whole or in part, through no fault of AV Contractor, including, but not limited to, Acts of God, terrorism, war, strikes, fire, and governmental acts, AV Contractor's performance time shall be extended and AV Contractor's compensation shall be adjusted due to such a delay.
- 16.5. AV Contractor shall not be liable for any default or delay caused by any third party impeding production or delivery of the products ordered.
- 16.6. Freight charges contained in this Proposal, if any, are estimated to allow standard ground- based shipping methods. If expedited shipping is requested by the Owner, or is required in order to meet a scheduled delivery date, AV Contractor shall be additionally compensated for additional transportation charges incurred on the Owner's behalf.
- 16.7. If the Owner requests a delay in the shipment or installation of Equipment that has already been ordered or manufactured, AV Contractor upon receiving that Equipment may place the identified Equipment in storage at the Owner's expense.
- 16.8. The Owner shall pay the storage charges upon acceptance.
- 16.9. If the Owner requests a delay in the shipment or installation of Equipment before the Equipment has been ordered or manufactured, the Owner shall pay any increases in the Equipment's price occurring prior to the date of subsequent release of order by AV Contractor.
- 16.10. Notwithstanding any provision to the contrary in this Agreement, if the Owner requests a delay, or if for any reason the Project is suspended for thirty (30) consecutive days, the Owner shall compensate AV Contractor within fifteen (15) days of the date of notification of request of delay by Owner or within fifteen (15) days of the thirtieth (30th) day of suspension,
  - 16.10.1. The full price of services performed prior to the request or suspension, and
  - 16.10.2. The full price of all Equipment ordered and applicable storage charges.
- 16.11. When the Project is resumed, AV Contractor shall be compensated for expenses incurred in the interruption and resumption of AV Contractor's services. AV Contractor's fees for the remaining services and the time schedules shall be equitably adjusted.

Initials: \_\_\_\_\_

- 16.12. If the Project is suspended or AV Contractor's services are suspended for more than sixty (60) consecutive days, AV Contractor may terminate this Agreement without further obligation or liability by giving not less than fifteen (15) days' written notice.

## 17. INSURANCE

- 17.1. During the term of the Contract, AV Contractor shall, at its own expense, maintain
- 17.1.1. Workers compensation as required by applicable state law
  - 17.1.2. Comprehensive General Liability insurance with limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate covering claims for bodily injury, death, personal injury or property damage occurring or arising out of the performance of this Agreement.
  - 17.1.3. Comprehensive Automobile Liability with limits of not less than \$1,000,000.00 per accident for AV Contractor's vehicles.
  - 17.1.4. Umbrella/Excess Liability coverage with liability limits of not less than \$1,000,000.00
- 17.2. AV Contractor shall require any sub-contractors to provide similar insurance coverage and shall be required to name AV Contractor and Owner as an additional insured.
- 17.3. The Owner shall obtain and pay for insurance against injury to its own employees, if any, and persons on the site at the Owner's direction.
- 17.4. The AV Contractor shall not be responsible for any on site damage solely caused by the Owner or his agents, or by Acts of God beyond the control of the AV Contractor.
- 17.5. The AV Contractor shall submit a Certificate of Insurance naming the Owner as additional insured upon written request by the Owner.

## 18. LIMITATION OF LIABILITY

IN NO EVENT SHALL AV CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES; LOSS OF REVENUE OR PROFIT; OR LOSS, DAMAGE OR DESTRUCTION OF DATA OR PROPERTY INCLUDING SOFTWARE PROBLEMS EXPERIENCED BY OWNER IN SOFTWARE PACKAGES OR DATABASES IN PLACE PRIOR TO THE INSTALLATION OF ANY SOFTWARE HEREUNDER AND INCLUDING ANY ELECTRICAL DAMAGE OR ELECTRICAL PROBLEMS THAT MAY OCCUR AS A RESULT OF ANY OF THE USE OF THE EQUIPMENT, SYSTEM OR WORK OR MAINTENANCE SERVICES PROVIDED UNDER THE TERMS OF THIS AGREEMENT; REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, EVEN IF AWARE OF THE POSSIBILITY THEREOF. AV CONTRACTOR'S LIABILITY FOR DAMAGES FOR BREACH OF THE AGREEMENT OR ARISING IN ANY OTHER RESPECT OUT OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE MONIES PAID TO AV CONTRACTOR BY OWNER FOR THE ITEM(S) OF EQUIPMENT, SYSTEM, WORK OR OTHER SERVICE GIVING RISE TO THE CAUSE OF ACTION; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO PERSONAL INJURY, INCLUDING DEATH OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AV CONTRACTOR. IT IS THE OWNER'S RESPONSIBILITY TO ENSURE THAT ALL OF ITS DATA FILES ARE ADEQUATELY DUPLICATED AND DOCUMENTED. AV CONTRACTOR WILL NOT BE RESPONSIBLE FOR THE OWNER'S FAILURE TO DO SO, OR FOR THE COST OF RECONSTRUCTION DATA STORED ON DISK FILES, TAPES, MEMORIES, ETC., WHICH IS LOST DURING THE COURSE OF PERFORMANCE OF AV CONTRACTOR HEREUNDER.

## 19. FORCE MAJEURE

- 19.1. AV Contractor shall not be deemed in breach of contract, negligent, at fault, or liable for any delay or failure of performance resulting from Acts of God, war, accidents, riots, terrorism, denial of service attacks, telecommunications or other utility outages, civil insurrection, labor disputes, strikes or any other cause not the fault of and beyond the reasonable control of AV Contractor; provided, that AV Contractor will give the Owner prompt notice of the delay in sufficient detail to permit the Owner the opportunity to minimize the effect of such delay, if practicable.

## 20. WARRANTY

- 20.1. All Equipment furnished by AV Contractor shall be accompanied by each manufacturer's standard warranty. AV Contractor shall be solely responsible for seeing that warranty repairs are made.
- 20.2. In addition to the standard manufacturer's warranty, AV Contractor warrants the Work, System and Equipment in accordance with the terms of AV Contractor's Standard Warranty Terms and Conditions, incorporated by reference as though fully set forth herein.
- 20.3. Notwithstanding the foregoing, AV Contractor's warranty obligations shall not apply to the extent that the Equipment has been subjected to abuse, unauthorized modifications or alterations, improper maintenance, unauthorized or improper repair and misuse, including, but not limited to, operating the Equipment outside of its environmental, performance, electrical, temperature, or humidity specification.
- 20.4. For any services covered under the AV Contractor's one (1) year warranty, AV Contractor shall be the sole source utilized for repairs. The Owner agrees to provide access for any scheduled or requested services of the System or Equipment. If the Equipment is not available during the scheduled time, AV Contractor may charge the Owner its normal trip charge and, if asked to wait on-site, AV Contractor's current published hourly rates for standing by until the Equipment is made available or until instructed to return at another time.

Initials: \_\_\_\_\_

## 21. DURATION OF WARRANTY

- 21.1. Except as otherwise provided by virtue of any manufacturer's warranty set forth in Section 20., all warranties made herein by AV Contractor shall commence as of the execution of this Agreement, and shall remain in effect for a period of one (1) year following the achievement of Substantial Completion, in accordance with the terms of Section 23, or first beneficial use, whichever occurs first.
- 21.2. In the event that the Owner desires to engage AV Contractor to perform and/or provide additional services and/or Project maintenance following the expiration of the one (1) year warranty period, AV Contractor shall submit to the Owner a quotation for an extended service and/or maintenance arrangement. Any agreement for extension of maintenance services shall be effective only pursuant to a mutual agreement in writing.

## 22. WARRANTY CLAIMS

- 22.1. Upon receipt of written notice from the Owner of any warranty claim pursuant to this Section, the Owner may, as its sole remedy against AV Contractor under this Agreement, require AV Contractor to correct any Work relating to the Scope of Services not conforming to the warranties set forth herein, or promptly repair and/or replace any deficient goods, materials, or Equipment sold or provided by AV Contractor in connection herewith.
- 22.2. The cost and expense of all such remedial work, so as to bring the Work relating to the Scope of Services in compliance with the warranties set forth herein, shall be borne solely by the AV Contractor.
- 22.3. AV Contractor's sole obligation in connection with this Section shall be limited to the correction and/or repair of any Work relating to the Scope of Services, or the repair and/or replacement of any goods, materials, or Equipment sold or provided to the Owner in connection therewith, which do not conform to the warranties set forth herein.
- 22.4. AV Contractor shall assume no liability or expense for any corrections, repairs, or replacements except those performed by AV Contractor or its authorized agents, and AV Contractor shall not be liable for any expense or damages beyond the actual cost of correction, repair, or replacement as set forth in this Section. With respect to all repair and/or replacement obligations imposed upon AV Contractor pursuant to this Section, it shall be within the AV Contractor's sole discretion as to whether to repair or replace any deficient goods, materials, or Equipment; which option shall in all events be accepted by the Owner so long as the deficient goods, materials, or Equipment, as applicable, are made to conform to the warranties set forth by AV Contractor pursuant to this Section.
- 22.5. THE WARRANTIES SET FORTH IN THIS ARTICLE ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND ARE ACKNOWLEDGED BY THE OWNER TO BE IN LIEU OF ALL SUCH OTHER REMEDIES AS MAY OTHERWISE BE AVAILABLE TO THE OWNER AT LAW OR IN EQUITY.

## 23. SUBSTANTIAL COMPLETION & ACCEPTANCE

- 23.1. Upon completion of installation and testing, notification will be transmitted by the AV Contractor to the Owner of such completion in the form of a Certificate of Substantial Completion.
- 23.2. A demonstration to the Owner of System functionality, in keeping with the Scope of Services as outlined herein, shall be scheduled within seven (7) calendar days of such notification at a time mutually acceptable to both Parties.
- 23.3. During the demonstration, the Owner shall prepare a written punch list of deficiencies; if any deficiencies are noted during the demonstration, these shall be noted on the Certificate of Substantial Completion.
- 23.4. AV Contractor and the Owner shall agree upon and identify any deficiencies that would prevent the Owner from having beneficial use of the System(s) and Equipment.
- 23.5. The AV Contractor shall promptly correct any deficiencies deemed as preventing beneficial use, at which point the Owner shall sign the Certificate of Substantial Completion. This shall be deemed as Substantial Completion.
- 23.6. In no event shall the Owner use or operate the System(s) or Equipment until AV Contractor achieves Substantial Completion.
- 23.7. Should the Owner use or operate the System prior to the AV Contractor achieving Substantial Completion, the Owner will automatically deem the Project substantially complete, coincidentally triggering and accepting any payment conditions that may be associated with this milestone, with any outstanding deficiency resolution by the Agreement now deemed a part of final acceptance and signoff.
- 23.8. Promptly following AV Contractor's provision to the Owner of a Certificate of Substantial Completion, the AV Contractor shall remedy any remaining deficiencies noted at the time of Substantial Completion, and the Owner shall execute a mutually acceptable Final Acceptance and Project Completion Agreement indicating that all facets of the Scope of Services have been completed by AV Contractor in accordance with the terms and conditions of this Agreement.

## 24. CHANGES IN THE SCOPE OF SERVICES

Initials: \_\_\_\_\_

- 24.1. Costs resulting from material changes in the Scope of Services of this Project by the Owner, additional requirements or restrictions placed on AV Contractor by the Owner, or changes in the configuration of the Equipment described herein, will be added to, or subtracted from, the contract value depending upon the changes required.
- 24.2. When AV Contractor becomes aware of the nature and impact of the change, a Change Order will be submitted for review and approval by the Owner, prior to continuing work. Change Order cost calculations will be commensurate with the materials and labor rates provided within the base contract.
- 24.3. Such changes shall be billed at 100% of the approved value upon completion of the Change Order, and shall not be subject to the progressive payment schedule as outlined within Section 13 of this document.

**25. RETURN POLICY & RESTOCKING CHARGES**

- 25.1. Under no circumstances shall the Equipment be returned by the Owner without AV Contractor's Return Merchandise Authorization (RMA) number.
- 25.2. The following conditions apply to Systems included in this Agreement:
  - 25.2.1. No custom Equipment returns will be allowed.
  - 25.2.2. Return of Equipment damaged by the Owner, or any of their representatives will not be accepted.
  - 25.2.3. Equipment returned for any reason, other than warranty repair or defect, must:
    - 25.2.3.1. Be in original "as-new", undamaged and untarnished condition
    - 25.2.3.2. Include, at the time of return, all supplied accessories in original "as-new", undamaged and untarnished condition, and
    - 25.2.3.3. Include, at the time of return, all original packaging, manuals and documentation for any returns to be accepted.
- 25.3. It shall be the Owner's responsibility to provide storage for such packaging should they wish to retain such subsequent to Equipment delivery.
- 25.4. Returns of software products sold and delivered will not be accepted.
- 25.5. Restocking charges for Equipment subject to return shall be invoiced to the Owner as follows:
  - 25.5.1. Costs of any restocking fees to be charged by the Equipment vendor to AV Contractor to re-stock the items in question.
  - 25.5.2. All related miscellaneous costs related to the return of such goods, including, but not limited to, transportation, brokerage, etc.
  - 25.5.3. Labor charges associated with removal, project administration, project management, System re-engineering, System re-programming, System re-drafting, handling of goods, etc.

**26. ASSIGNMENT**

- 26.1. Neither party may assign or transfer to any person or entity its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- 26.2. Any prohibited assignment of this Agreement or the obligations hereunder shall be null, void, and of no effect.
- 26.3. Upon permitted assignment hereunder, the terms and conditions of this Agreement shall become the direct and primary obligations of the assignee or successor in interest.
- 26.4. Subject to the foregoing, all of the terms, conditions, and provisions of this Agreement shall be binding upon and shall inure to the benefit of each party's permitted successors and assignees.

**27. NOTICES**

- 27.1. A notice, document, or other communication required hereunder shall be deemed to have been properly given or delivered if same is delivered by hand, sent via fax or email and confirmed by certified mail, or sent by certified or registered mail to the following address:

**OWNER**  
 City of Montclair  
 5111 Benito Street  
 Montclair, CA 91763  
 John Nguyen  
 Tel: 909 625-9409  
 E-mail: [jnguyen@ci.montclair.ca.us](mailto:jnguyen@ci.montclair.ca.us)

**AV CONTRACTOR**  
 Matrix Audio Visual Designs, Inc.  
 2525 W. Burbank Blvd.  
 Burbank, CA 91505  
 Hovik Mirzakhanian  
 Tel: 818 841-4700 Ext. 262  
 E-Mail: [hovik@matrixav.com](mailto:hovik@matrixav.com)

**28. PUBLICITY**

- 28.1. The Owner agrees that the AV Contractor may use Owner's name and logo to publicize and advertise its relationship with and work for the Owner to promote the AV Contractor's business. Owner agrees AV Contractor upon request and at an agreed and scheduled time may photograph or otherwise take digital

Initials: \_\_\_\_\_

images (collectively "Images") of its Work related to this Project at the Owner's location(s). AV Contractor shall retain all right, title and interest to the Images. Owner hereby waives any right to control the use of the Images in whatever media used and waive any right to royalties or other compensation arising from or related to AV Contractor's use of the Images.

**29. NON-SOLICITATION**

- 29.1. The Owner agrees that it will not, without the prior written consent of the AV Contractor, during the term of this Agreement and for a period of one (1) year after the date of Owner's execution of the Certificate of Substantial Completion, directly or indirectly:
  - 29.1.1. Induce, entice, hire, or attempt to hire or employ any employee of the AV Contractor.
  - 29.1.2. Contact and/or solicit any subcontractor or vendor utilized on the Project that has an exclusive business relationship with the AV Contractor in the AV Contractor's business and which provides products and services to the AV Contractor.

**30. ACCESS TO SITE – HOURS OF ACCESS**

- 30.1. So as to ensure proper and timely performance of its duties, AV Contractor shall have access to the Project site during all normal business hours and otherwise upon the reasonable consent of the Owner.
- 30.2. AV Contractor shall not be liable for any delay or failure relative to the provision of its duties caused by the failure of Owner or site status to provide such access.
- 30.3. The Owner agrees that AV Contractor shall not be liable for any additional costs related to site access outside of these hours as a result of any delay per Sections 16 or 19 of this Agreement.
- 30.4. Any requirement for the need to work overtime shall be presented by the AV Contractor to the Owner in writing for approval prior to being undertaken; the Owner agrees to approve such charges or grant an extension to the completion schedule within one (1) business day.
- 30.5. If the site is not available during the scheduled time, the AV Contractor may charge the Owner the greater of its minimum callout/trip charge or, if asked to wait on-site, the AV Contractor's hourly rates to stand by until the site is made available, plus travel time and mileage allowances if instructed to return at another time.

The Parties, by their signatures below, have executed this Agreement and agree to be bound by it.

By: City of Montclair


By: Matrix Audio Visual Designs, Inc.

\_\_\_\_\_  
Signature

**Edward C. Starr**  
\_\_\_\_\_  
Name

**City Manager**  
\_\_\_\_\_  
Title

**8/19/2019**  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature

**Hovik Mirzakhian**  
\_\_\_\_\_  
Name

**Vice President**  
\_\_\_\_\_  
Title

**8/15/2019**  
\_\_\_\_\_  
Date

**ATTEST:**  
\_\_\_\_\_  
Signature

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

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

Initials: \_\_\_\_\_

The Agreement ("Agreement") is entered into between the following parties ("the Parties"): **City of Montclair** (*hereinafter* "Owner or City" or "you") located at **5111 Benito Street, Montclair, CA 91763** and **Matrix Audio Visual Designs, Inc.** (*hereinafter* "AV Contractor" or "we") located at **2525 W. Burbank Blvd. Burbank, CA 91505**.

In consideration of the mutual execution of this Agreement and the promises made in the Agreement by the Parties, the Parties agree as follows:

**For this Project:**

*Project Name:* City of Montclair Senior Center Audio and Video System Upgrade (*hereinafter* "Project")  
*Project Number:* P000611  
*Description of Project:* AV system upgrade including control system and displays at the center  
*Job Site Address:* 5111 Benito Street, Montclair, CA 91763 (*hereinafter* "Venue")  
*Today's Date:* 8/5/2019  
*Revised Date:*

**With a Contracted Value of: Sixty Six Thousand Seven Hundred Thirty Four Dollars and Thirty Six Cents (\$66,734.36)**, which represents the total price of the labor to install and the cost to purchase the audio-visual system and related Equipment and software set forth in the Proposal corresponding to the Project Number and other components comprising the System, **including 9.5% (budgeted sales tax)**. The Contracted Value **Excludes Owner Furnished Products**. The Total Project Cost amount may be adjusted in accordance with the terms and conditions contained herein relating to the costs, including variation or modification thereof, of the System and the labor to install the System.

**1. GENERAL TERMS**

- 1.1. This Agreement shall not be binding upon AV Contractor, unless signed by an authorized representative of the Owner and signed by an officer of AV Contractor. The individual(s) executing this Agreement and the instruments referenced herein on behalf of Owner and AV Contractor have the legal power, right, and actual authority to bind Owner and AV Contractor to the terms and conditions hereof and thereof.
- 1.2. Neither the Owner nor AV Contractor shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to an institutional lender providing financing for the Project. In such an event, the lender shall assume the Owner's rights and obligations under this Agreement - AV Contractor shall execute and take all steps reasonably necessary to facilitate such assignment.
- 1.3. This Agreement, including the Agreement Documents and related appendixes incorporated by reference as though fully set forth herein, sets forth the entire agreement between the Parties with regard to the subject matter hereof. All prior agreements, representations and warranties, express or implied, oral or written, with respect to the subject matter hereof, are hereby superseded by this Agreement. This is an integrated agreement.
- 1.4. In the event any provision of this Agreement is deemed to be void, invalid, or unenforceable, that provision shall be severed from the remainder of this Agreement so as not to cause the invalidity or unenforceability of the remainder of this Agreement. All remaining provisions of this Agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.
- 1.5. This Agreement may be modified, superseded, or voided only upon the written and signed agreement of the Parties. Further, the physical destruction or loss of this document shall not be construed as a modification or termination of the Agreement contained herein.
- 1.6. The Parties agree to act in good faith and to cooperate fully with each other in carrying out the intent of this Agreement, and for that purpose agree to execute all additional documents as may prove reasonably necessary to accomplish that intent.
- 1.7. The Parties agree that the laws of the State of California shall be utilized in construing this Agreement and in enforcing the rights and remedies of the Parties. Any litigation arising out of a dispute concerning the Agreement shall be litigated in Los Angeles, California. The Parties agree to venue in that jurisdiction for all such disputes concerning this Agreement.
- 1.8. If any suit or action or other proceeding is commenced to enforce or interpret any of the terms or provisions of this Agreement, the prevailing Party in such suit or action or other proceeding shall be entitled to an award against the other Party for the prevailing Party's reasonable attorney's fees and costs incurred both at trial and on any appeal.
- 1.9. This Agreement shall inure to the benefit of and shall be binding upon each of the Parties here and their respective agents, representatives, executors, administrators, trustees, personal representatives, partners, directors, officers, shareholders, agents, attorneys, insurers, employees, representatives, predecessors, successors, heirs and assigns.
- 1.10. Each party acknowledges that he or she has had an adequate opportunity to read and study this Agreement, to consider it, to consult with attorneys if he

Initials: \_\_\_\_\_



or she has so desired.

- 1.11. This Agreement may be executed in multiple counterparts, all of which shall be deemed originals, and with the same effect as if all Parties had signed the same document. All of such counterparts shall be construed together with and shall constitute one agreement, but in making proof, it shall only be necessary to produce one such counterpart. A facsimile or other means of electronic transmission shall be as valid and enforceable as an original.
- 1.12. Unless otherwise defined in a specific Section, capitalized terms used throughout this Agreement shall have the following meaning:
  - 1.12.1. **Agreement Documents.** This Agreement and the appendixes and attachments incorporated by reference as though fully set forth herein as follows: Proposal, AV Contractor's Standard Warranty Terms and Conditions.
  - 1.12.2. **Equipment.** The hardware listed in the Proposal.
  - 1.12.3. **Proposal.** AV Contractor's Proposal relating to the Project Number identified in this Agreement containing the Total Project Cost and System-related deliverables.
  - 1.12.4. **System.** The audio-visual system and related Equipment, components and software installed pursuant to this Agreement, as more specifically itemized in the Proposal.
  - 1.12.5. **Total Project Cost.** The total cost of the Project to be paid by Owner to AV Contractor as set forth in Section 13.7 or pursuant to a mutually executed Change Order.
  - 1.12.6. **Work.** The labor and project management related services to install the System.
  - 1.12.7. **Change Order.** A written document signed by an authorized representative of each Party to this Agreement to make a change to the scope of this Agreement and/or Project Proposal.

## 2. AV CONTRACTOR'S RESPONSIBILITIES

- 2.1. The AV Contractor's services shall be performed in accordance with the degree of professional skill and care required by applicable law and as expeditiously as is consistent with professional skill and care and the orderly progress of the Project.
- 2.2. The AV Contractor shall submit for the Owner's approval a schedule for the performance of the AV Contractor's services (per Section 15) which may be adjusted as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the AV Contractor or the Owner.
- 2.3. The AV Contractor shall designate a representative authorized to act on behalf of the AV Contractor with respect to the Project. Insofar as it is reasonable, the same person shall remain consistent from Project inception until completion. This representative shall be referred to as the Project Manager.
- 2.4. The AV Contractor's Work shall be neat and workmanlike and shall assign enough workers with the required skills and qualifications to the job to meet its schedule commitments as outlined at the signing of this document.
- 2.5. The AV Contractor shall coordinate and cooperate with other trades to ensure satisfactory work progress.
- 2.6. The AV Contractor shall, at its own cost and expense, comply with all State/Provincial and local laws, ordinances, rules, regulations, codes, standards, orders, notices and requirements necessary for the prosecution of the Work.
- 2.7. The AV Contractor will install all Equipment in accordance with the manufacturers' instructions unless otherwise approved by the Owner. Where these instructions are exceeded by any applicable national and local regulations, ordinances, and codes, such regulations, ordinances, and codes shall apply.
- 2.8. Upon completion of the Work, the AV Contractor shall remove from the site all unused materials, containers, and Equipment. The AV Contractor will endeavor to protect all floors, walls, and other adjacent surfaces from stains, marring or other damage. The space shall be clean and undamaged.
- 2.9. The AV Contractor is not responsible for the operation or the performance of Equipment supplied by others outside this Agreement. The AV Contractor does not warrant that Equipment supplied by others either can be connected to or can work satisfactorily with our System, except as specified in this Agreement.

## 3. OWNER'S RESPONSIBILITIES

- 3.1. The Owner shall provide full information in a timely manner regarding requirements for and limitations on the Owner's objectives, schedule, constraints and criteria.
- 3.2. The Owner shall furnish to the AV Contractor, within ten (10) days after receipt of a written request, information necessary and relevant for the AV Contractor to evaluate, give notice of, or enforce lien rights.
- 3.3. The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or the designated representative shall render decisions in a timely manner pertaining to documents submitted by the AV Contractor in order to avoid unreasonable delay in the orderly and sequential progress of the AV Contractor's services.

Initials: \_\_\_\_\_



- 3.4. The Owner shall furnish the services, at the Owner's expense, of any and all consultants reasonably required for the proper execution of the Project as and when requested by the AV Contractor. The AV Contractor shall be entitled to rely upon the accuracy and completeness of any information provided by these consultants.
- 3.5. The Owner shall furnish all legal, accounting, and insurance services that may be necessary at any time for the Project to meet the Owner's needs and interests.
- 3.6. The Owner shall provide prompt written notice to AV Contractor if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions, or inconsistencies in AV Contractor's Proposal and/or quotation.
- 3.7. The Owner shall ensure that the Project is secure and set up for both pre-wiring and installation of the Equipment in accordance with the requirements of AV Contractor. The Owner shall be solely responsible for the Project site conditions, including the security, safety, and fitness of the areas in which AV Contractor's services are to be performed. The Owner warrants to AV Contractor that the Project site is adequate and sufficient to install, use, and store the Equipment.
- 3.8. At the time of signing of this Agreement, the Owner shall have identified and provide information to the AV Contractor of all other equipment and connections that will interface with the Equipment to be provided by the AV Contractor related to this Project, with the understanding that any omissions to the information provided to date may result in additional charges from the AV Contractor in order to accommodate such changes or omissions.
- 3.9. The Owner shall provide access to the Project site during normal business hours to allow AV Contractor to perform its services in a timely and orderly manner. Further, the Owner shall provide suitable and secure locations at the Project site for storage of the Equipment prior to installation.
- 3.10. The Owner shall provide a representative to accept delivery of Equipment from the AV Contractor as required at the Project site, and shall remain liable for any loss or damage to the Equipment located at the Project site.

#### 4. SCOPE OF SERVICES

- 4.1. Within the context of this document, "Approve" means review of and comment on, existing conditions or design by others. "Design" means complete design service including drawings.
- 4.2. The AV Contractor shall provide, develop, install, and integrate the System for the Project. The AV Contractor will consult with the Owner and Owner's representatives or authorized agents in order to review and evaluate the related architectural plans and systems requirements for the Project. The AV Contractor will make all recommendations or modifications as may be required in cooperation with the Owner, or others as directed by the Owner, and shall assist in finalizing a functional description of the System. Scope of Services to include schematic designs, design administration, preparation of a preliminary and final budget estimate of audio/visual system costs, attendance at progress meetings, and preparation of preliminary and final drawings and documentation.
- 4.3. The AV Contractor shall inspect the System installed in the Project and will assist the Owner in the commissioning the System. The AV Contractor will make recommendations as to training, support, and maintenance of the System. The specific Scope of Services for this Project are as follows:

Matrix AV is proposing the following AV equipment for the equipment room

- 4.3.1. Matrix AV (AV Contractor) will be reusing the following existing equipment.
  - 4.3.1.1. Equipment rack – Removing the existing equipment and cleaning the space preparing for the installation of the proposed new equipment.
  - 4.3.1.2. Loudspeaker – The ceiling-mounted loudspeaker system.
  - 4.3.1.3. Audio amplifier – The amplifier will be reused.
  - 4.3.1.4. Control System – The control system processor along with the touch screen will be repurposed. A new program will be developed to interface with the new system.
- 4.3.2. Matrix AV is proposing to install a new Biamp Forter AVB audio DSP (Digital Signal Processor) to mix, process, and switch the audio signal for the entire space.
- 4.3.3. We are also proposing the installation of three Shure wireless microphones with an antenna distribution system.
- 4.3.4. On the video side, an 8 input by 8 output Digital Media switcher is recommended with the appropriate number of input and output cards to allow the user to switch the signal for purposes of projection.
- 4.3.5. We will be replacing the existing wall plates with three new Digital Media wall plates. Each wall plate shall include both HDMI and analog VGA connections.
- 4.3.6. Please refer to the Proposal for itemized Equipment deliverables.

#### 5. INTELLECTUAL PROPERTY

- 5.1. "Intellectual Property Rights" means all intellectual property rights throughout the world, including copyrights, patents, mask works, trademarks, service marks, trade secrets, inventions (whether or not patentable), know how, authors' rights, rights of attribution, and other proprietary rights and all applications and rights to apply for registration or protection of such rights and the legal rights, interests and protections afforded under applicable patent, copyright, trademark, trade secret and other intellectual property laws.

Initials: \_\_\_\_\_

- 5.2. AV Contractor shall retain all right, title and interest in and to the Intellectual Property Rights associated with any products, tools, devices, manuals, plans, drawings, customized programs and software source code and other documentation, invented, generated, developed, or otherwise produced by AV Contractor or its agents, representatives, employees, and subcontractors in connection with the performance of the Services, and shall at all times remain the property of the AV Contractor. The Parties hereto intend and agree, however, that the AV Contractor shall grant a perpetual, non-exclusive, non-transferable license to any and all products, tools, devices, manuals, plans, drawings, customized programs, and software for the life of the Project; provided, however, that:
- 5.2.1. Such license shall be non-transferable by the Owner without the prior written consent of AV Contractor, and shall be exercised by the Owner solely for the Owner's benefit in direct connection with the Project following the date of this Agreement;
  - 5.2.2. Licensing rights as outlined shall require the express written permission of the AV Contractor in order to reproduce or distribute to any other third party any or all of the above mentioned drawings, plans, specifications, reports, and other documentation; and
  - 5.2.3. The AV Contractor shall provide the Owner with current copies of all software upon request; these shall be for archival and administrative purposes only.
  - 5.2.4. Notwithstanding the foregoing, as consideration for the limited licensing rights in connection with the above, the Owner hereby agrees to:
    - 5.2.4.1. Use its best efforts to promote and credit AV Contractor's integral role in connection with the completion and operation of the Project, which efforts shall include, without limitation, the advertisement and promotion, whenever and wherever reasonably possible, of AV Contractor as the designer, provider, and supplier of the technology used in connection with the Project.
    - 5.2.4.2. Permit AV Contractor to cite the Project, together with AV Contractor's role, relative to the design technology developed and used in connection therewith, for purposes of AV Contractor's advertising, marketing, and public relations efforts.

## 6. DISPUTE RESOLUTION

### 6.1. MEDIATION

- 6.1.1. In the event that any claim, dispute, or other matter in question arises out of or relates to this Agreement or the System Owner and AV Contractor shall first attempt resolution of same via mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration. The form for initiating a request to mediate can be accessed at [American Arbitration Association](http://www.adr.org). If such a matter relates to or is the subject of a lien arising out of AV Contractor services, AV Contractor may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.
- 6.1.2. If settlement is not reached within **sixty (60) days** after service of a written demand for mediation, any unresolved claim or controversy shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, excluding any rules or procedures governing or permitting class actions. Any judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Federal Arbitration Act shall govern the interpretation and enforcement of this Agreement. Costs for the mediation/arbitration under this section shall be borne equally by each Party and each Party shall bear their own attorneys' fees and costs.
- 6.1.3. A demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such a claim dispute or other matter in question would be barred by the applicable statute of limitations.
- 6.1.4. No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, AV Contractor, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent arbitration to any claim, dispute, or other matter in question not described in the written consent or with a person or entity not there named or described. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by Parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction over it.
- 6.1.5. The Parties agree that the arbitrator(s) shall have no power or authority to make awards or issue orders of any kind except as expressly permitted by this Agreement, and in no event shall the arbitrator(s) have the authority to award punitive or exemplary damages.
- 6.1.6. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon in accordance with applicable law in any court having jurisdiction.
- 6.1.7. Any mediation or arbitration commenced under this Section shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as **settlement agreements in any court having jurisdiction**.

## 7. PERMITS

- 7.1. The Owner shall bear at its own cost all consents, licenses, permits, approvals, authorizations, and inspections from local government authorities, agencies, or officials required for the prosecution and completion of the Work and the delivery of the System as obtained by either the Owner or the AV Contractor in relation to this Project.

Initials: \_\_\_\_\_

- 7.2. Where such consents, licenses, permits, approvals, authorizations, and inspections are obtained by the AV Contractor, such costs shall be considered in addition to the approved contract cost, and shall be subject to a 15% administration fee above and beyond the cost paid by the AV Contractor.

## 8. Exclusions and Assumptions

- 8.1. Exclusions
- 8.1.1. Patch work
  - 8.1.2. Painting
  - 8.1.3. Bonding – 3%
  - 8.1.4. Overtime and/or shift work
  - 8.1.5. Prevailing wage
  - 8.1.6. Certified payroll
  - 8.1.7. Fees and permits
  - 8.1.8. Parking
  - 8.1.9. All cabling within walls and ceiling shall be plenum rated.
  - 8.1.10. All electrical requirements, including power, conduits, J-Boxes are excluded and are by others.

## 9. REPRESENTATIONS

- 9.1. The AV Contractor is not, and does not represent to be, a licensed architect, electrician, electrical engineer, mechanical engineer, or structural engineer and shall not perform, nor be responsible for the performance of, the work of such persons. All information, drawings, schematics, specifications, or other documents containing references to, or depictions of, architectural, electrical, or mechanical attributes which are supplied to the Owner by the AV Contractor hereunder will be provided for the sole purpose of indicating the AV Contractor's suggestions related to the Work, and the AV Contractor shall have no liability whatsoever, including liability for the Owner's reliance thereon, except as such information, drawings, documents, specifications, or other documents may relate to the performance of the System.
- 9.2. The Owner's signing and delivery of this Agreement and its performance of its obligations hereunder:
- 9.2.1. Have been duly authorized by all necessary corporate action;
  - 9.2.2. Do not conflict with any terms or conditions of its Certificate of Incorporation or By-laws;
  - 9.2.3. Do not violate any law, regulation, order, judgment or decree by which it may be bound; and
  - 9.2.4. Will not violate or result in a breach, acceleration, or default under any agreement or understanding to which it is a party or by which it may be bound which will materially affect its ability to perform its obligations hereunder.
- 9.3. When signed and delivered by the Owner, this Agreement will constitute the legal, valid and binding obligation of the Owner, and will be enforceable against it in accordance with its terms and conditions, subject only to the rights of creditors under applicable laws relating to bankruptcy or the relief of debtors.

## 10. TERM & TERMINATION

- 10.1. The term of this Agreement will be from the Effective Date until completion of the Work and payment of the Total Project Cost, except as otherwise provided for herein.
- 10.2. Except as otherwise provided for herein, either party may terminate this Agreement upon notice in writing to the other in the event that such other party shall breach or be in default of any of the covenants, obligations, warranties, representations, terms, or conditions of this Agreement in a material manner (a "Default") and such other party fails to remedy such Default within thirty (30) days after notice thereof from the party not in default; provided that where a remedy will reasonably require greater than thirty (30) days to complete, the non-defaulting party may terminate this Agreement if the defaulting party does not start to remedy the Default within the thirty (30) day period, or, once started, fails to diligently proceed with and complete the remedy. Such notice shall provide in reasonable detail the basis upon which the Default is claimed.
- 10.3. In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under applicable bankruptcy legislation or any other applicable statute relating to insolvency or the protection of rights of creditors, then the other party may terminate this Agreement.
- 10.4. In the event the AV Contractor terminates this Agreement pursuant to either paragraph 10.2 or 10.3 of this Section, then all licenses granted by AV Contractor to the Owner shall immediately terminate and the Owner shall immediately discontinue use of any software identified in the Proposal and furnished hereunder and return to the AV Contractor all copies of such software and any Confidential Information furnished hereunder.

Initials: \_\_\_\_\_

- 10.5. No termination of this Agreement shall affect or impair AV Contractor's right to be paid for all costs and fees incurred through the effective date of termination. All fees paid through the date of termination shall be non-refundable.

**11. ADDITIONAL COSTS**

- 11.1. The following costs shall be borne by the Owner in addition to the approved contract cost, and shall be billed in full plus an administration fee of 15% at the completion of the Project:
  - 11.1.1. Parking
  - 11.1.2. Equipment Storage (under the conditions defined within Section 16.7)
  - 11.1.3. Specifically requested Insurance other than as defined within Section 17
  - 11.1.4. Performance and Labor bonds
  - 11.1.5. Permits, licenses, approvals, and Inspections as defined within Section 7

**12. PREVAILING TERMS**

- 12.1. If any purchase order, acceptance, or other document is used by Purchaser in connection with the purchase of the System, then notwithstanding any provisions therein contained to the contrary, the terms of all such documents shall be governed by the provisions of this Agreement and any terms thereof which are inconsistent with, different from, or in addition to, the provisions of this Agreement shall be null and void and of no force or effect.

**13. CHARGES AND INVOICING**

- 13.1. The Owner shall pay to AV Contractor the charges for the Equipment, all labor, materials, and services as detailed by AV Contractor's Proposal and revision along with any modifications and changes to same as outlined in any subsequent Change Orders.
- 13.2. All charges are inclusive of federal, State/Provincial and local sales, use, excise, utility, and gross receipts taxes and other similar tax-like charges, including tax-related surcharges, which the Owner agrees to pay. In the event the Owner provides the AV Contractor with a duly authorized tax exemption certificate, the AV Contractor agrees to exempt the Owner in accordance with the law; effective on the date exemption certificate is received by the AV Contractor.
- 13.3. The AV Contractor shall invoice the Owner for charges due under this Agreement as set forth herein. All invoices are due and payable within thirty (30) days of the invoice date with the exception of the invoice for the Project initiation fees which is due and payable upon signing the Agreement. The Owner is responsible for meeting payment terms as listed below. The AV Contractor reserves the right to withhold delivery of products, installation, and maintenance services pending this payment.
- 13.4. All invoiced amounts that remain unpaid for more than thirty (30) days shall be subject to a finance charge of either 2.5% per month or the highest rate permitted under applicable law, computed from the date of invoice.
- 13.5. The Owner shall not make any deductions of any kind from any payment becoming due to the AV Contractor unless Owner shall have received an official credit memorandum from AV Contractor authorizing such deduction.
- 13.6. If the Owner fails to make any payment to AV Contractor as provided for herein, the AV Contractor may, upon thirty (30) business days prior written notice to the Owner, suspend performance of the Work until such payment is received in full and the period of suspension shall be added to the time which AV Contractor has estimated to complete performance of same.
- 13.7. Payment terms and schedule are agreed as follows:

Below you will find our payment schedule. Matrix Audio Visual Designs is an audio visual system integration firm. We purchase Equipment as needed per job basis. Thus our vendors need to be paid on time as Equipment is delivered. We ask you to adhere to the following payment terms so in turn we can honor their payment schedule.

<b>Payment Schedule</b>	
	<b>Balance</b>
<b>Total Project Cost:</b>	<b>\$66,734.36</b>
<b>Contract Execution (20% of Equipment):</b>	<b>\$13,346.87</b>
	<b>\$53,118.76</b>

Initials: \_\_\_\_\_

<b>Ordering Equipment (25% of Equipment):</b>	\$5,769.50	
		\$47,349.26
<b>Equipment received by Matrix AV (25% of Equipment):</b>	\$5,769.50	
		\$41,579.76
<b>Equipment Delivered to Client and installation Start:</b>	\$9,981.38	
		\$31,598.39
<b>Labor - 50% Progress:</b>	\$10,299.19	
		\$21,299.19
<b>Labor - 80% Progress:</b>	\$2,059.84	
		\$19,239.35
<b>Completion:</b>	\$19,239.35	

**14. OWNERSHIP**

- 14.1. All hardware shall remain the property of AV Contractor until final payment is received.
- 14.2. Upon delivery of any Equipment to site, a representative of the Owner shall be required to sign for acceptance of such Equipment.
- 14.3. From the point that any hardware is delivered to site, responsibility for the safekeeping and security of such Equipment shall be borne by the Owner, who shall remain responsible for the cost of any repair or replacement of such Equipment damaged or lost as a result of any actions taken by any individual other than in the direct employment of AV Contractor.

**15. PROJECT SCHEDULE**

- 15.1. Time is of the essence in performance of this Agreement. Both the Owner and the AV Contractor shall proceed with the Work in a prompt and diligent manner in accordance with the current Project schedule.
- 15.2. The AV Contractor shall coordinate its Work with the work of others on the site in a manner which will avoid conflict or interference with the work of AV Contractor and others, and which will avoid delay in the completion of any part or the entire Project.
- 15.3. The Owner recognizes that construction delays could affect the schedule for installation of any portion of the System and shall advise AV Contractor immediately of any adjustments to the Project schedule that may have an impact on any System related to AV Contractor's Scope of Services. Upon presentation of a written request and cost adjustment, the Owner will review, in an expeditious manner, such charges as presented by AV Contractor to increase the likelihood of meeting the schedule.
- 15.4. AV Contractor will require various sign-offs and approvals throughout the design, engineering, and installation process. The AV Contractor, where applicable, shall provide the Owner with a required date of acceptance in order to maintain the agreed Project schedule. At that time, the Owner agrees to not unreasonably withhold its agreement for such documents. A minimum of seven (7) business days, where possible, shall be allotted by AV Contractor to allow for communication and response from the Owner without penalty to the schedule or Project.
- 15.5. AV Contractor shall not be liable for any default or delay caused by any third party impeding production or delivery of the Equipment ordered. All promises of delivery are made in good faith and AV Contractor will make best efforts to fulfill them. However, if AV Contractor is unable to meet a scheduled delivery date, then AV Contractor shall not be liable for additional transportation charges incurred on the Owner's request to use a faster means of transportation.

**16. DELAYS**

- 16.1. Delays by other trades, Owner's schedules, approval of AV Contractor's drawings and submittals, Change Orders, or non-availability of specific Equipment shall be cause for reasonable extensions of completion date.
- 16.2. The Owner's criteria will always be the AV Contractor's goal; however, no liability can be assumed for such delays.
- 16.3. Any delays due to performance of other trades and/or contractors or labor disputes/strikes related to trades outside AV Contractor's obligations under this Agreement will result in additional fees.
- 16.4. Identified shipping and delivery dates of Equipment are provided in good faith and represent AV Contractor's best estimate. If the manufacture, delivery, or installation of the Equipment is delayed, in whole or in part, through no fault of AV Contractor, including, but not limited to, Acts of God, terrorism, war, strikes, fire, and governmental acts, AV Contractor's performance time shall be extended and AV Contractor's compensation shall be adjusted due to such a delay.
- 16.5. AV Contractor shall not be liable for any default or delay caused by any third party impeding production or delivery of the products ordered.

Initials: \_\_\_\_\_

- 16.6. Freight charges contained in this Proposal, if any, are estimated to allow standard ground- based shipping methods. If expedited shipping is requested by the Owner, or is required in order to meet a scheduled delivery date, AV Contractor shall be additionally compensated for additional transportation charges incurred on the Owner's behalf.
- 16.7. If the Owner requests a delay in the shipment or installation of Equipment that has already been ordered or manufactured, AV Contractor upon receiving that Equipment may place the identified Equipment in storage at the Owner's expense.
- 16.8. The Owner shall pay the storage charges upon acceptance.
- 16.9. If the Owner requests a delay in the shipment or installation of Equipment before the Equipment has been ordered or manufactured, the Owner shall pay any increases in the Equipment's price occurring prior to the date of subsequent release of order by AV Contractor.
- 16.10. Notwithstanding any provision to the contrary in this Agreement, if the Owner requests a delay, or if for any reason the Project is suspended for thirty (30) consecutive days, the Owner shall compensate AV Contractor within fifteen (15) days of the date of notification of request of delay by Owner or within fifteen (15) days of the thirtieth (30th) day of suspension,
  - 16.10.1. The full price of services performed prior to the request or suspension, and
  - 16.10.2. The full price of all Equipment ordered and applicable storage charges.
- 16.11. When the Project is resumed, AV Contractor shall be compensated for expenses incurred in the interruption and resumption of AV Contractor's services. AV Contractor's fees for the remaining services and the time schedules shall be equitably adjusted.
- 16.12. If the Project is suspended or AV Contractor's services are suspended for more than sixty (60) consecutive days, AV Contractor may terminate this Agreement without further obligation or liability by giving not less than fifteen (15) days' written notice.

**17. INSURANCE**

- 17.1. During the term of the Contract, AV Contractor shall, at its own expense, maintain
  - 17.1.1. Workers compensation as required by applicable state law
  - 17.1.2. Comprehensive General Liability insurance with limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate covering claims for bodily injury, death, personal injury or property damage occurring or arising out of the performance of this Agreement.
  - 17.1.3. Comprehensive Automobile Liability with limits of not less than \$1,000,000.00 per accident for AV Contractor's vehicles.
  - 17.1.4. Umbrella/Excess Liability coverage with liability limits of not less than \$1,000,000.00
- 17.2. AV Contractor shall require any sub-contractors to provide similar insurance coverage and shall be required to name AV Contractor and Owner as an additional insured.
- 17.3. The Owner shall obtain and pay for insurance against injury to its own employees, if any, and persons on the site at the Owner's direction.
- 17.4. The AV Contractor shall not be responsible for any on site damage solely caused by the Owner or his agents, or by Acts of God beyond the control of the AV Contractor.
- 17.5. The AV Contractor shall submit a Certificate of Insurance naming the Owner as additional insured upon written request by the Owner.

**18. LIMITATION OF LIABILITY**

IN NO EVENT SHALL AV CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES; LOSS OF REVENUE OR PROFIT; OR LOSS, DAMAGE OR DESTRUCTION OF DATA OR PROPERTY INCLUDING SOFTWARE PROBLEMS EXPERIENCED BY OWNER IN SOFTWARE PACKAGES OR DATABASES IN PLACE PRIOR TO THE INSTALLATION OF ANY SOFTWARE HEREUNDER AND INCLUDING ANY ELECTRICAL DAMAGE OR ELECTRICAL PROBLEMS THAT MAY OCCUR AS A RESULT OF ANY OF THE USE OF THE EQUIPMENT, SYSTEM OR WORK OR MAINTENANCE SERVICES PROVIDED UNDER THE TERMS OF THIS AGREEMENT; REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, EVEN IF AWARE OF THE POSSIBILITY THEREOF. AV CONTRACTOR'S LIABILITY FOR DAMAGES FOR BREACH OF THE AGREEMENT OR ARISING IN ANY OTHER RESPECT OUT OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE MONIES PAID TO AV CONTRACTOR BY OWNER FOR THE ITEM(S) OF EQUIPMENT, SYSTEM, WORK OR OTHER SERVICE GIVING RISE TO THE CAUSE OF ACTION; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO PERSONAL INJURY, INCLUDING DEATH OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AV CONTRACTOR. IT IS THE OWNER'S RESPONSIBILITY TO ENSURE THAT ALL OF ITS DATA FILES ARE ADEQUATELY DUPLICATED AND DOCUMENTED. AV CONTRACTOR WILL NOT BE RESPONSIBLE FOR THE OWNER'S FAILURE TO DO SO, OR FOR THE COST OF RECONSTRUCTION DATA STORED ON DISK FILES, TAPES, MEMORIES, ETC., WHICH IS LOST DURING THE COURSE OF PERFORMANCE OF AV CONTRACTOR HEREUNDER.

**19. FORCE MAJEURE**

- 19..1. AV Contractor shall not be deemed in breach of contract, negligent, at fault, or liable for any delay or failure of performance resulting from Acts of God, war, accidents, riots, terrorism, denial of service attacks, telecommunications or other utility outages, civil insurrection, labor disputes, strikes or any other cause

Initials: \_\_\_\_\_



not the fault of and beyond the reasonable control of AV Contractor; provided, that AV Contractor will give the Owner prompt notice of the delay in sufficient detail to permit the Owner the opportunity to minimize the effect of such delay, if practicable.

## 20. WARRANTY

- 20.1. All Equipment furnished by AV Contractor shall be accompanied by each manufacturer's standard warranty. AV Contractor shall be solely responsible for seeing that warranty repairs are made.
- 20.2. In addition to the standard manufacturer's warranty, AV Contractor warrants the Work, System and Equipment in accordance with the terms of AV Contractor's Standard Warranty Terms and Conditions, incorporated by reference as though fully set forth herein.
- 20.3. Notwithstanding the foregoing, AV Contractor's warranty obligations shall not apply to the extent that the Equipment has been subjected to abuse, unauthorized modifications or alterations, improper maintenance, unauthorized or improper repair and misuse, including, but not limited to, operating the Equipment outside of its environmental, performance, electrical, temperature, or humidity specification.
- 20.4. For any services covered under the AV Contractor's one (1) year warranty, AV Contractor shall be the sole source utilized for repairs. The Owner agrees to provide access for any scheduled or requested services of the System or Equipment. If the Equipment is not available during the scheduled time, AV Contractor may charge the Owner its normal trip charge and, if asked to wait on-site, AV Contractor's current published hourly rates for standing by until the Equipment is made available or until instructed to return at another time.

## 21. DURATION OF WARRANTY

- 21.1. Except as otherwise provided by virtue of any manufacturer's warranty set forth in Section 20,, all warranties made herein by AV Contractor shall commence as of the execution of this Agreement, and shall remain in effect for a period of one (1) year following the achievement of Substantial Completion, in accordance with the terms of Section 23, or first beneficial use, whichever occurs first.
- 21.2. In the event that the Owner desires to engage AV Contractor to perform and/or provide additional services and/or Project maintenance following the expiration of the one (1) year warranty period, AV Contractor shall submit to the Owner a quotation for an extended service and/or maintenance arrangement. Any agreement for extension of maintenance services shall be effective only pursuant to a mutual agreement in writing.

## 22. WARRANTY CLAIMS

- 22.1. Upon receipt of written notice from the Owner of any warranty claim pursuant to this Section, the Owner may, as its sole remedy against AV Contractor under this Agreement, require AV Contractor to correct any Work relating to the Scope of Services not conforming to the warranties set forth herein, or promptly repair and/or replace any deficient goods, materials, or Equipment sold or provided by AV Contractor in connection herewith.
- 22.2. The cost and expense of all such remedial work, so as to bring the Work relating to the Scope of Services in compliance with the warranties set forth herein, shall be borne solely by the AV Contractor.
- 22.3. AV Contractor's sole obligation in connection with this Section shall be limited to the correction and/or repair of any Work relating to the Scope of Services, or the repair and/or replacement of any goods, materials, or Equipment sold or provided to the Owner in connection therewith, which do not conform to the warranties set forth herein.
- 22.4. AV Contractor shall assume no liability or expense for any corrections, repairs, or replacements except those performed by AV Contractor or its authorized agents, and AV Contractor shall not be liable for any expense or damages beyond the actual cost of correction, repair, or replacement as set forth in this Section. With respect to all repair and/or replacement obligations imposed upon AV Contractor pursuant to this Section, it shall be within the AV Contractor's sole discretion as to whether to repair or replace any deficient goods, materials, or Equipment; which option shall in all events be accepted by the Owner so long as the deficient goods, materials, or Equipment, as applicable, are made to conform to the warranties set forth by AV Contractor pursuant to this Section.
- 22.5. THE WARRANTIES SET FORTH IN THIS ARTICLE ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND ARE ACKNOWLEDGED BY THE OWNER TO BE IN LIEU OF ALL SUCH OTHER REMEDIES AS MAY OTHERWISE BE AVAILABLE TO THE OWNER AT LAW OR IN EQUITY.

## 23. SUBSTANTIAL COMPLETION & ACCEPTANCE

- 23.1. Upon completion of installation and testing, notification will be transmitted by the AV Contractor to the Owner of such completion in the form of a Certificate of Substantial Completion.
- 23.2. A demonstration to the Owner of System functionality, in keeping with the Scope of Services as outlined herein, shall be scheduled within seven (7) calendar days of such notification at a time mutually acceptable to both Parties.

Initials: \_\_\_\_\_

- 23.3. During the demonstration, the Owner shall prepare a written punch list of deficiencies; if any deficiencies are noted during the demonstration, these shall be noted on the Certificate of Substantial Completion.
- 23.4. AV Contractor and the Owner shall agree upon and identify any deficiencies that would prevent the Owner from having beneficial use of the System(s) and Equipment.
- 23.5. The AV Contractor shall promptly correct any deficiencies deemed as preventing beneficial use, at which point the Owner shall sign the Certificate of Substantial Completion. This shall be deemed as Substantial Completion.
- 23.6. In no event shall the Owner use or operate the System(s) or Equipment until AV Contractor achieves Substantial Completion.
- 23.7. Should the Owner use or operate the System prior to the AV Contractor achieving Substantial Completion, the Owner will automatically deem the Project substantially complete, coincidentally triggering and accepting any payment conditions that may be associated with this milestone, with any outstanding deficiency resolution by the Agreement now deemed a part of final acceptance and signoff.
- 23.8. Promptly following AV Contractor's provision to the Owner of a Certificate of Substantial Completion, the AV Contractor shall remedy any remaining deficiencies noted at the time of Substantial Completion, and the Owner shall execute a mutually acceptable Final Acceptance and Project Completion Agreement indicating that all facets of the Scope of Services have been completed by AV Contractor in accordance with the terms and conditions of this Agreement.

## 24. CHANGES IN THE SCOPE OF SERVICES

- 24.1. Costs resulting from material changes in the Scope of Services of this Project by the Owner, additional requirements or restrictions placed on AV Contractor by the Owner, or changes in the configuration of the Equipment described herein, will be added to, or subtracted from, the contract value depending upon the changes required.
- 24.2. When AV Contractor becomes aware of the nature and impact of the change, a Change Order will be submitted for review and approval by the Owner, prior to continuing work. Change Order cost calculations will be commensurate with the materials and labor rates provided within the base contract.
- 24.3. Such changes shall be billed at 100% of the approved value upon completion of the Change Order, and shall not be subject to the progressive payment schedule as outlined within Section 13 of this document.

## 25. RETURN POLICY & RESTOCKING CHARGES

- 25.1. Under no circumstances shall the Equipment be returned by the Owner without AV Contractor's Return Merchandise Authorization (RMA) number.
- 25.2. The following conditions apply to Systems included in this Agreement:
  - 25.2.1. No custom Equipment returns will be allowed.
  - 25.2.2. Return of Equipment damaged by the Owner, or any of their representatives will not be accepted.
  - 25.2.3. Equipment returned for any reason, other than warranty repair or defect, must:
    - 25.2.3.1. Be in original "as-new", undamaged and untarnished condition
    - 25.2.3.2. Include, at the time of return, all supplied accessories in original "as-new", undamaged and untarnished condition, and
    - 25.2.3.3. Include, at the time of return, all original packaging, manuals and documentation for any returns to be accepted.
- 25.3. It shall be the Owner's responsibility to provide storage for such packaging should they wish to retain such subsequent to Equipment delivery.
- 25.4. Returns of software products sold and delivered will not be accepted.
- 25.5. Restocking charges for Equipment subject to return shall be invoiced to the Owner as follows:
  - 25.5.1. Costs of any restocking fees to be charged by the Equipment vendor to AV Contractor to re-stock the items in question.
  - 25.5.2. All related miscellaneous costs related to the return of such goods, including, but not limited to, transportation, brokerage, etc.
  - 25.5.3. Labor charges associated with removal, project administration, project management, System re-engineering, System re-programming, System re-drafting, handling of goods, etc.

## 26. ASSIGNMENT

- 26.1. Neither party may assign or transfer to any person or entity its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- 26.2. Any prohibited assignment of this Agreement or the obligations hereunder shall be null, void, and of no effect.
- 26.3. Upon permitted assignment hereunder, the terms and conditions of this Agreement shall become the direct and primary obligations of the assignee or successor in interest.

Initials: \_\_\_\_\_



- 26.4. Subject to the foregoing, all of the terms, conditions, and provisions of this Agreement shall be binding upon and shall inure to the benefit of each party's permitted successors and assignees.

## 27. NOTICES

- 27.1. A notice, document, or other communication required hereunder shall be deemed to have been properly given or delivered if same is delivered by hand, sent via fax or email and confirmed by certified mail, or sent by certified or registered mail to the following address:

**OWNER**

City of Montclair  
5111 Benito Street  
Montclair, CA 91763  
John Nguyen  
Tel: 909 625-9409  
E-mail: [jnguyen@ci.montclair.ca.us](mailto:jnguyen@ci.montclair.ca.us)

**AV CONTRACTOR**

Matrix Audio Visual Designs, Inc.  
2525 W. Burbank Blvd.  
Burbank, CA 91505  
Hovik Mirzakhonian  
Tel: 818 841-4700 Ext. 262  
E-Mail: [hovik@matrixav.com](mailto:hovik@matrixav.com)

## 28. PUBLICITY

- 28.1. The Owner agrees that the AV Contractor may use Owner's name and logo to publicize and advertise its relationship with and work for the Owner to promote the AV Contractor's business. Owner agrees AV Contractor upon request and at an agreed and scheduled time may photograph or otherwise take digital images (collectively "Images") of its Work related to this Project at the Owner's location(s). AV Contractor shall retain all right, title and interest to the Images. Owner hereby waives any right to control the use of the Images in whatever media used and waive any right to royalties or other compensation arising from or related to AV Contractor's use of the Images.

## 29. NON-SOLICITATION

- 29.1. The Owner agrees that it will not, without the prior written consent of the AV Contractor, during the term of this Agreement and for a period of one (1) year after the date of Owner's execution of the Certificate of Substantial Completion, directly or indirectly:
- 29.1.1. Induce, entice, hire, or attempt to hire or employ any employee of the AV Contractor.
- 29.1.2. Contact and/or solicit any subcontractor or vendor utilized on the Project that has an exclusive business relationship with the AV Contractor in the AV Contractor's business and which provides products and services to the AV Contractor.

## 30. ACCESS TO SITE – HOURS OF ACCESS

- 30.1. So as to ensure proper and timely performance of its duties, AV Contractor shall have access to the Project site during all normal business hours and otherwise upon the reasonable consent of the Owner.
- 30.2. AV Contractor shall not be liable for any delay or failure relative to the provision of its duties caused by the failure of Owner or site status to provide such access.
- 30.3. The Owner agrees that AV Contractor shall not be liable for any additional costs related to site access outside of these hours as a result of any delay per Sections 16 or 19 of this Agreement.
- 30.4. Any requirement for the need to work overtime shall be presented by the AV Contractor to the Owner in writing for approval prior to being undertaken; the Owner agrees to approve such charges or grant an extension to the completion schedule within one (1) business day.
- 30.5. If the site is not available during the scheduled time, the AV Contractor may charge the Owner the greater of its minimum callout/trip charge or, if asked to wait on-site, the AV Contractor's hourly rates to stand by until the site is made available, plus travel time and mileage allowances if instructed to return at another time.

Initials: \_\_\_\_\_

The Parties, by their signatures below, have executed this Agreement and agree to be bound by it.

By: City of Montclair

By: Matrix Audio Visual Designs, Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

**Edward C. Starr**  
\_\_\_\_\_  
Name

**Hovik Mirzakhonian**  
\_\_\_\_\_  
Name

**City Manager**  
\_\_\_\_\_  
Title

**Vice President**  
\_\_\_\_\_  
Title

**8/19/19**  
\_\_\_\_\_  
Date

**8/5/2019**  
\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Signature

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

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

Initials: \_\_\_\_\_



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	HSV070
<b>SECTION:</b>	AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	F. SALTOS
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NOS. 19-75, 19-76, 19-77, AND 19-78 WITH MONTCLAIR LITTLE LEAGUE, GOLDEN GIRLS SOFTBALL LEAGUE, AND ALL CITIES YOUTH BASEBALL FOR USE OF BALL FIELD FACILITIES		

---

**REASON FOR CONSIDERATION:** The Montclair Little League, Golden Girls Softball League, and All Cities Youth Baseball have requested use of City facilities for their fall/winter sports activities.

**BACKGROUND:** Pursuant to Agreement Nos. 19-75 and 19-76, Montclair Little League would use the southern field at Kingsley Park and the two southern and two northern fields at Saratoga Park on weekdays and Saturdays for its baseball activities. Pursuant to Agreement No. 19-77, Golden Girls Softball League would use the fields at Vernon Park for its softball activities on weekdays and Saturdays. Pursuant to Agreement No. 19-78, All Cities Youth Baseball would use Essex Park weekdays and Saturdays for its baseball activities. Sunday field use by all leagues is not permitted.

The Montclair Little League and Golden Girls Softball League have each requested the use of lights for activities that may be conducted after dark. The cost of electrical services associated with such lighting will be covered by the City of Montclair. Montclair Little League requested alarm fees be covered by the City of Montclair at Saratoga and Kingsley Park due to a drastic decline in their snack bar sales. In 2015, the San Bernardino County Health Department classified these snack bars as prepackaged food snack bars, which do not bring in the revenue that limited- and full-prep snackbars do. Snack bar sales are vital as they help offset a variety of costs related to League activities.

The League contracts include cleaning expectations and requirements. The League is also responsible to provide a deposit of \$300 for a cleaning fee if needed during the contract period.

**FISCAL IMPACT:** Approval of the proposed Agreements would be a cost to the City of Montclair of approximately \$10,000 total in lighting and alarm fees. Maintenance costs for the fields are incorporated in the Fiscal Year 2019-20 Budget. The terms of proposed Agreement Nos. 19-75, 19-76, 19-77 and 19-78 with Montclair Little League, Golden Girls Softball League, and All Cities Youth Baseball are September 2, 2019, through December 31, 2019.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement Nos. 19-75, 19-76, 19-77, and 19-78 with Montclair Little League, Golden Girls Softball League, and All Cities Youth Baseball, for use of ball field facilities.

**AGREEMENT NO. 19-75  
WITH MONTCLAIR LITTLE LEAGUE  
FOR USE OF SARATOGA PARK**

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

**WITNESSETH:**

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

**WHEREAS**, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for Little League baseball (including the Challenger Division for children with disabilities) activities at such times and hours set forth in Section 1(aa). The term of this Agreement is for September 2, 2019, through December 31, 2019.

**SECTION 1:** LEAGUE hereby agrees as follows:

- a. Not to use the premises for any other purpose, except as above indicated.
- b. Not to sublet the field.
- c. Not to make any improvements or alterations on said premises.
- d. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.
- e. Not to erect any barriers or fences of any kind unless approved by CITY.
- f. Not to use herbicides at the park for any purpose.
- g. Not to disconnect or make changes to existing phone line account.
- h. Not to allow hitting balls into the chain link fences for batting practice.
- i. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.
- j. To provide a special parking area for participants in the Challenger Division, at the times of their games, by cordoning off the southeast

portion of the parking lot; to provide the equipment and personnel needed to set up the special parking area; to see that all equipment is removed and properly stored after each use; to provide personnel to monitor the cordoned off area during its use.

- k. To maintain restroom facilities and to furnish all supplies for each well-maintained restroom. To police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.
- l. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.
- m. To maintain Meeting Room located on the second floor by emptying trash and vacuuming carpet from facility after each day's use and maintain in a condition deemed acceptable to CITY. This room is not to be used for storage (*e.g.* field equipment and baseball equipment). Storage for baseball equipment is located in the facility on the southern section of baseball fields.
- n. To ensure when a barbecue is used (permit required by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.
- o. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.

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

- aa. It is agreed that LEAGUE may use said baseball fields from September 2, 2019, through December 31, 2019, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays, generally commencing at 8:00 a.m. No activities will be conducted past 9:45 p.m.
- bb. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept, in full force and effect, for the mutual benefit of CITY and LEAGUE, comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence, and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and non contributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice, in writing, by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.
- cc. INDEMNIFICATION: LEAGUE shall defend, indemnify and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- dd. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.
- ee. To conduct all operations in compliance with the Americans with Disabilities Act.
- ff. LEAGUE shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for LEAGUE meetings.
- gg. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3 feet by 5 feet. Banners will be attached to outfield chain link fence using clip on rings.

Banner clearance from turf is a minimum of 2 inches. The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc., and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.

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

**SECTION 2:** CITY hereby agrees as follows:

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



**NOW, THEREFORE**, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities.

**APPROVED AND ADOPTED** this nineteenth day of August 2019.

**LEAGUE:**

**MONTCLAIR LITTLE LEAGUE**

**CITY:**

**CITY OF MONTCLAIR**

\_\_\_\_\_  
President

\_\_\_\_\_  
Javier John Dutrey  
Mayor

\_\_\_\_\_  
Secretary

**ATTEST:**

\_\_\_\_\_  
Andrea M. Phillips  
City Clerk

CITY OF MONTCLAIR - CONTACT LIST FOR SPORTS LEAGUES

SEPTEMBER 2019

<i>After Hours Emergency - Call Montclair PD</i>	<i>Montclair Police Dept.</i>	<i>Contact</i>	<i>(909) 621-4771</i>
Sports League Administration	Sports League Liaison	Fernando Saltos	(909) 625-9496 work
Building Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Ground Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Vandalism	Public Works		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		909-625-9429
Secondary Contact for Xavier Mendez	Public Works	Matt Paradise	(909) 721-1860 cell

**AGREEMENT NO. 19-76  
WITH MONTCLAIR LITTLE LEAGUE  
FOR USE OF KINGSLEY PARK**

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

**WITNESSETH:**

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

**WHEREAS**, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for Junior/Senior Little League baseball activities at such times and hours set forth in Section 1(y). The term of this Agreement is for September 2, 2019, through December 31, 2019.

**SECTION 1:** LEAGUE hereby agrees as follows:

- a. Not to use the premises for any other purpose, except as above indicated.
- b. Not to sublet the field.
- c. Not to make any improvements or alterations on said premises.
- d. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.
- e. Not to erect any barriers or fences of any kind unless approved by CITY.
- f. Not to use herbicides at the park for any purpose.
- g. Not to disconnect or make changes to existing phone line account.
- h. Not to allow hitting balls into the chain link fences for batting practice.
- i. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.
- j. To maintain restroom facilities and to furnish all supplies for each well-maintained restroom. To police the entire premises after each day's use

and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.

- k. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.
- l. To ensure when a barbecue is used (permit required by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.
- m. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.
- n. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snack bar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.
- o. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.
- p. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on

buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Department at 625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.

- q. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.
- r. To deposit, with the CITY representative, the sum of Five Hundred Dollars (\$500) as a security deposit, to ensure the proper and prompt payment of alarm fees, electrical services for elected use of lights, or any incurred damages to facilities associated with the LEAGUE. In the event all invoices or potential damages are paid by the end of this Agreement term, the deposit will be refunded.
- s. To provide the CITY representative with a list of the Board of Directors including names, addresses, and telephone numbers.
- t. To provide CITY with participant rosters, practice and game schedules. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.
- u. To provide CITY with financial statements upon request for audit purposes.
- v. To designate one individual as the LEAGUE's representative to work with the CITY's representative.
- w. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency of which LEAGUE had knowledge.
- x. It is agreed that LEAGUE may use said baseball fields from September 2, 2019, through December 31, 2019, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m. contingent upon infield turf removal completed by CITY at the request of LEAGUE. No activities will be conducted past 9:45 p.m.
- y. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept in full force and effect for the mutual benefit of CITY and LEAGUE comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by

responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice in writing by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them, or certificate(s) evidencing the insurance.

- z. INDEMNIFICATION: LEAGUE shall defend, indemnify, and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- aa. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.
- bb. To conduct all operations in compliance with the Americans with Disabilities Act.
- cc. LEAGUE shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for LEAGUE meetings.
- dd. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3'X 5'. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2". The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.
- ee. LEAGUE may place shade cloth as necessary to dug outs on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Shade cloth is not allowed to stay up on Sundays. Shade cloth must be no greater than what may be required to provide adequate coverage over dug outs. Shade cloth will be attached to dug out structure using clip on rings. The City will determine if a shade cloth is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said shade cloth. The CITY has the right to

remove and dispose of any shade cloth that is not displayed following the above mentioned procedures. If LEAGUE does not remove or replace shade cloth as requested by CITY within 24 hours, CITY may prohibit use of fields and snack bar facilities to LEAGUE until request has been met.

**SECTION 2:** CITY hereby agrees as follows:

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

**NOW, THEREFORE,** if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities.

**APPROVED AND ADOPTED** this nineteenth day of August 2019.

**LEAGUE:**

**MONTCLAIR LITTLE LEAGUE**

**CITY:**

**CITY OF MONTCLAIR**

---

President

---

Javier John Dutrey  
Mayor

---

Secretary

**ATTEST:**

---

Andrea M. Phillips  
City Clerk



CITY OF MONTCLAIR - CONTACT LIST FOR SPORTS LEAGUES

SEPTEMBER 2019

<i>After Hours Emergency - Call Montclair PD</i>	<i>Montclair Police Dept.</i>	<i>Contact</i>	<i>(909) 621-4771</i>
Sports League Administration	Sports League Liaison	Fernando Saltos	(909) 625-9496 work
Building Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Ground Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Vandalism	Public Works		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		909-625-9429
Secondary Contact for Xavier Mendez	Public Works	Matt Paradise	(909) 721-1860 cell

**AGREEMENT NO. 19-77  
WITH MONTCLAIR GOLDEN GIRLS SOFTBALL LEAGUE  
FOR USE OF VERNON PARK**

**THIS AGREEMENT** is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Montclair Golden Girls Softball League hereinafter called "LEAGUE."

**WITNESSETH:**

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

**WHEREAS**, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for girls softball activities at such times and hours set forth in Section 1(x). The term of this Agreement is for September 2, 2019, through December 31, 2019.

**SECTION 1:** LEAGUE hereby agrees as follows:

- a. Not to use the premises for any other purpose, except as above indicated.
- b. Not to permit practice sessions in the southeast quadrant of the field; to provide specific written notice to each coach and, in turn, obtain written confirmation from each coach.
- c. Not to sublet the field.
- d. Not to make any improvements or alterations on said premises.
- e. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.
- f. Not to erect any barriers or fences of any kind unless approved by CITY.
- g. Not to use herbicides at the park for any purpose.
- h. Not to disconnect or make changes to existing phone line account
- i. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.
- j. To maintain restroom facilities and to furnish all supplies for each well-maintained restroom. To police the entire premises after each day's use

and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.

- k. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.
- l. To ensure when a barbecue is used (permit required by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.
- m. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.
- n. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snackbar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.
- o. To be responsible for all costs as a result of lost or stolen keys.
- p. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.

- q. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works DEPARTMENT at 625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.
- r. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.
- s. To provide the CITY representative with a list of the Board of Directors, including names, addresses, and telephone numbers.
- t. To provide CITY with participant rosters, practice and game schedules. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.
- u. To provide CITY with financial statements upon request for audit purposes.
- v. To designate one individual as the LEAGUE's representative to work with the CITY's representative.
- w. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency, of which LEAGUE had knowledge.
- x. It is agreed that LEAGUE may use said baseball fields from September 2, 2019, through December 31, 2019, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m. No activities will be conducted past 9:45 p.m.
- y. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept, in full force and effect for the mutual benefit of CITY and LEAGUE comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and non contributing with any insurance that may be carried by CITY; and (3)

they cannot be canceled or materially changed except after thirty (30) days' notice, in writing by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.

- z. INDEMNIFICATION: LEAGUE shall defend, indemnify and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages, to the maximum extent permitted by law.
- aa. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.
- bb. To conduct all operations in compliance with the Americans with Disabilities Act.
- cc. LEAGUE shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for LEAGUE meetings.
- dd. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3'X 5'. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2". The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.
- ee. LEAGUE may place shade cloth as necessary to dug outs on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Shade cloth is not allowed to stay up on Sundays. Shade cloth must be no greater than what may be required to provide adequate coverage over dug outs. Shade cloth will be attached to dug out structure using clip on rings. The City will determine if a shade cloth is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said shade cloth. The CITY has the right to remove and dispose of any shade cloth that is not displayed following the above mentioned procedures. If LEAGUE does not remove or replace shade cloth as requested by CITY within 24 hours, CITY may prohibit use of fields and snack bar facilities to LEAGUE until request has been met.

**SECTION 2:** CITY hereby agrees as follows:

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

**NOW, THEREFORE,** if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities.

**APPROVED AND ADOPTED** this nineteenth day of August, 2019.

**LEAGUE:**

**GOLDEN GIRLS SOFTBALL**

**CITY:**

**CITY OF MONTCLAIR**

\_\_\_\_\_  
President

\_\_\_\_\_  
Javier John Dutrey  
Mayor

\_\_\_\_\_  
Secretary

**ATTEST:**

\_\_\_\_\_  
Andrea M. Phillips  
City Clerk

CITY OF MONTCLAIR – CONTACT LIST FOR SPORTS LEAGUES

SEPTEMBER 2019

<i>After Hours Emergency – Call Montclair PD</i>	<i>Montclair Police Dept.</i>	<i>Contact</i>	<i>(909) 621-4771</i>
Sports League Administration	Sports League Liaison	Fernando Saltos	(909) 625-9496 work
Building Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Ground Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Vandalism	Public Works		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		909-625-9429
Secondary Contact for Xavier Mendez	Public Works	Matt Paradise	(909) 721-1860 cell

**AGREEMENT NO. 19-78  
WITH ALL CITIES YOUTH BASEBALL  
FOR USE OF ESSEX PARK**

**THIS AGREEMENT** is made and entered into by and between the City of Montclair, hereinafter called "CITY," and All Cities Youth Baseball (ACYB), hereinafter called "ACYB."

**WITNESSETH:**

**WHEREAS**, CITY presently has a baseball field at Essex Park generally located at the southwest corner of Howard Street and Essex Avenue, adjacent to and directly east of Ramona Elementary School, Montclair, California, and

**WHEREAS**, said Park has been developed to provide areas for youth sports, on which premises ACYB desires to use for Youth Baseball activities at such times and hours set forth in Section 1(w). The term of this Agreement is for September 2, 2019, through December 31, 2019.

**SECTION 1:** ACYB, a 501c(3), hereby agrees as follows:

- a. Not to use the premises for any other purpose, except as above indicated.
- b. Not to sublet the field.
- c. Not to make any improvements or alterations on said premises.
- d. Not to charge for parking of vehicles in the parking lots located within CITY facilities.
- e. Not to erect any barriers or fences of any kind unless approved by CITY.
- f. Not to use herbicides at the park for any purpose.
- g. Not to disconnect or make changes to existing phone line account.
- h. Not to allow hitting balls into the chain-link fences for batting practice.
- i. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to ACYB. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of ACYB.
- j. To maintain restroom facilities and to furnish all supplies for each well-maintained restroom. To police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be



hired by the CITY and the LEAGUE will be responsible for all fees related to the service.

- . k. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.
- l. To ensure when a barbecue is used (permit required by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.
- m. To deposit, with the CITY representative, the sum of Three Hundred Dollars (\$300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.
- n. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snack bar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.
- o. To be responsible for all costs as a result of lost or stolen keys.
- p. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.
- q. ACYB agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Department at 625-9480. ACYB will not attempt to remove Graffiti or make repairs to building. ACYB shall furnish and supply personnel to conduct and supervise ACYB activities on the premises.

- r. To provide the CITY representative with a list of the Board of Directors including names, addresses, and telephone numbers.
- s. To provide CITY with participant rosters, practice and game schedules. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.
- t. To provide CITY with financial statements upon request for audit purposes.
- u. To designate one individual as the ACYB's representative to work with the CITY's representative.
- v. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency of which ACYB had knowledge.
- w. It is agreed that ACYB may use said baseball fields from September 2, 2019, through December 31, 2019, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m. No activities will be conducted past daylight hours.
- x. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at ACYB's sole cost and expense, ACYB shall keep, or cause to be kept, in full force and effect for the mutual benefit of CITY and ACYB comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person or for any one accident or occurrence and at least Three Hundred Thousand Dollars (\$300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice, in writing, by the insurer to CITY by certified mail. ACYB shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.
- y. INDEMNIFICATION: ACYB shall defend, indemnify, and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by ACYB of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the ACYB in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.
- z. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with ACYB, unless such person is otherwise regularly employed by and conducting official business of CITY.

- aa. To conduct all operations in compliance with the Americans with Disabilities Act.
- bb. ACYB shall provide CITY with at least two (2) weeks' notice for room reservations for use of CITY facilities for ACYB meetings.
- cc. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3'X 5'. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2". The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.
- dd. LEAGUE may place shade cloth as necessary to dug outs on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Shade cloth is not allowed to stay up on Sundays. Shade cloth must be no greater than what may be required to provide adequate coverage over dug outs. Shade cloth will be attached to dug out structure using clip on rings. The City will determine if a shade cloth is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said shade cloth. The CITY has the right to remove and dispose of any shade cloth that is not displayed following the above mentioned procedures. If LEAGUE does not remove or replace shade cloth as requested by CITY within 24 hours, CITY may prohibit use of fields and snack bar facilities to LEAGUE until request has been met.

**SECTION 2:** CITY hereby agrees as follows:

- a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.
- b. To pay for all water used on premises.
- c. To have full control over watering the entire premises. ACYB shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.
- d. To provide emergency call-out telephone numbers for use by ACYB. A Contact List containing the emergency telephone numbers is attached.
- e. To refund, at the end of the agreement period and upon approval of the Director of Human Services, ACYB's cleaning deposit.
- f. To provide to ACYB, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.
- g. To designate a CITY representative to work with ACYB on all non-maintenance issues relating to the use of CITY facilities.

**NOW, THEREFORE,** if any terms of this Agreement are not complied with, the Agreement will become null and void and ACYB will be refused use of CITY facilities.

**APPROVED AND ADOPTED** this nineteenth day of August 2019.

**LEAGUE:**

**ALL CITIES YOUTH BASEBALL**

**CITY:**

**CITY OF MONTCLAIR**

---

President

---

Javier John Dutrey  
Mayor

---

Secretary

**ATTEST:**

---

Andrea M. Phillips  
City Clerk

CITY OF MONTCLAIR - CONTACT LIST FOR SPORTS LEAGUES

SEPTEMBER 2019

<i>After Hours Emergency - Call Montclair PD</i>	<i>Montclair Police Dept.</i>	<i>Contact</i>	<i>(909) 621-4771</i>
Sports League Administration	Sports League Liaison	Fernando Saltos	(909) 625-9496 work
Building Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Ground Maintenance	Public Works Superintendent	Xavier Mendez	(909) 625-9467 work (909) 721-1755 cell
Vandalism	Public Works		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		909-625-9429
Secondary Contact for Xavier Mendez	Public Works	Matt Paradise	(909) 721-1860 cell



**AMENDMENT TO AGREEMENT NOS. 18-32 AND 19-68**

**WITH**

**WEST COAST ARBORISTS**

**FOR**

**TREE MAINTENANCE SERVICES**

This agreement is made effective this 15th day of August 2019, by and between the CITY OF MONTCLAIR, a municipal corporation hereinafter designated as "City," and WEST COAST ARBORISTS, INC., a California corporation, hereinafter designated as "Contractor," and collectively designated as the "Parties."

**RECITALS**

WHEREAS, Parties have previously entered into Agreement No. 18-32 on June 4, 2018, for tree maintenance services; and

WHEREAS, the Parties amended Agreement No. 18-32 by entering into Agreement No. 19-68 effective July 1, 2019; and

WHEREAS, the Parties desire to amend Agreement No. 19-68 to extend the term of the Agreement through October 15, 2019;

**AGREEMENT**

**NOW, THEREFORE, IT IS AGREED** by and between City and Contractor to extend the expiration date of Agreement No. 18-32, as amended by Agreement No. 19-68, to October 15, 2019.

**BE IT FURTHER AGREED** by and between City and Contractor that except as provided above, all other terms of Agreement 18-32, as amended by Agreement No. 19-68 shall remain as set forth therein.

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

CITY OF MONTCLAIR, CALIFORNIA

WEST COAST ARBORISTS, INC.

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

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

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

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

Approved as to form:

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





RESOLUTION NO. 19-3248

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, STATE OF CALIFORNIA, ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECTS NEEDS ANALYSIS FOR FISCAL YEARS 2020-21 THROUGH 2024-25

WHEREAS, San Bernardino County voters approved passage of Measure I in November 2004, authorizing the San Bernardino County Transportation Authority to impose a one-half of one percent retail transactions and use tax applicable in the incorporated and unincorporated territory of the County of San Bernardino; and

WHEREAS, revenue from the tax can only be used for transportation improvement and traffic management programs authorized in the Expenditure Plans set forth in Ordinance No. 89-1 and Ordinance No. 04-1 of the Authority; and

WHEREAS, the Strategic Plan requires each local jurisdiction applying for revenue from certain Measure I Programs to annually adopt and update a Five-Year Capital Project Needs Analysis; and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Montclair hereby adopts the Measure I Five-Year Capital Project Needs Analysis for Fiscal Years 20-21 through 2024-25, a copy of which is attached to this Resolution.

APPROVED AND ADOPTED this XX day of XX, 20XX.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3248 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, 20XX, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_

Andrea M. Phillips  
City Clerk

## Capital Project Needs Analysis

Agency: Montclair  
 Program: Valley Freeway Interchange Program  
 Project Name: I-10 & Monte Vista Ave  
 Agency Project Name:  
 Agency reported Total Project Cost: \$33,005,900  
 Escalation Factor: %

### Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 81.10% | Dev. Share: 18.90%

		Funding	Prior	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25	Future	Total
Nexus Total Project Cost (All phases):	PA&ED	DEV FEE	212,948	0	0	0	0	0	0	212,948
		MI VFI	670,652	0	0	0	0	0	0	670,652
		<b>Total</b>	<b>883,600</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>883,600</b>
Total Presented Funding:	PS&E	DEV FEE	179,612	76,976	0	0	0	0	0	256,588
		MI VFI	690,069	295,744	0	0	0	0	0	985,813
		Other	132,502	56,766	0	0	0	0	0	189,268
	<b>Total</b>	<b>1,002,183</b>	<b>429,506</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,431,689</b>
Total Measure I Request:	ROW	DEV FEE	566,902	141,726	0	0	0	0	0	708,628
		MI VFI	1,785,391	446,348	0	0	0	0	0	2,231,739
		<b>Total</b>	<b>2,352,293</b>	<b>588,074</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,940,367</b>
CONST		MI VFI	2,881,309	6,420,709	6,420,709	4,280,475	0	0	0	20,003,202
		DEV FEE	1,948,833	0	0	0	0	0	0	1,948,833
		DEV LOAN	0	1,400,231	1,498,462	998,974	0	0	0	3,897,667
	<b>Total</b>	<b>4,830,142</b>	<b>7,820,940</b>	<b>7,919,171</b>	<b>5,279,449</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>25,849,702</b>
	<b>Total</b>	<b>9,068,218</b>	<b>8,838,520</b>	<b>7,919,171</b>	<b>5,279,449</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>31,105,358</b>

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 19/20 expenses.

Project Comments: SBCTA is Lead Agency  
 Last Update: 8/16/2018 3:35:36 PM

Reference: Measure I Policy 40006

## Capital Project Needs Analysis

Agency: Montclair  
 Program: Valley Highway-Railroad Grade Separation Sub-Program  
 Project Name: Monte Vista Avenue (Montclair) at the UPRR Crossing  
 Agency Project Name:  
 Agency reported Total Project Cost:  
 Escalation Factor: %

### Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 81.10% | Dev. Share: 18.90%

	Funding	Prior	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25	Future	Total
Nexus Total Project Cost (All phases):	PA&ED								
31,460,000	Total								
Total Presented Funding:	PS&E								0
26,960,459	Total								
Total Measure   Request:	ROW								0
2,826,190	Total								
	CONST								
	PUC	5,000,000	0	0	0	0	0	0	5,000,000
	RXR	1,076,309	0	0	0	0	0	0	1,076,309
	MI GS	2,826,190	0	0	0	0	0	0	2,826,190
	Other	15,514,696	0	0	0	0	0	0	15,514,696
	DEV FEE	2,543,264	0	0	0	0	0	0	2,543,264
	Total	26,960,459	0	0	0	0	0	0	26,960,459
	<b>Total</b>	<b>26,960,459</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>26,960,459</b>

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 19/20 expenses.

Project Comments: Project Comments  
 Last Update: 8/17/2018 11:31:14 AM

Reference: Measure | Policy 40006

RESOLUTION NO. 19-3249

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, STATE OF CALIFORNIA, ADOPTING THE MEASURE I FIVE-YEAR CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR 2019-20 THROUGH 2023-24

WHEREAS, San Bernardino County voters approved passage of Measure I in November 2004, authorizing the San Bernardino County Transportation Authority to impose a one-half of one percent retail transactions and use tax applicable in the incorporated and unincorporated territory of the County of San Bernardino; and

WHEREAS, revenue from the tax can only be used for transportation improvement and traffic management programs authorized in the Expenditure Plans set forth in Ordinance No. 04-01 of the Authority; and

WHEREAS, the Strategic Plan requires each local jurisdiction applying for revenue from the Local Street Program to annually adopt and update a Five-Year Capital Improvement Plan; and

WHEREAS, California Public Utilities Code 190300 and Ordinance No. 04-01 require each local jurisdiction to maintain General Fund expenditures for transportation-related construction and maintenance activities at the required Maintenance of Effort base year level in each fiscal year of the adopted Five-Year Capital Improvement Plan, which for the City of Montclair is \$894,728; and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Montclair hereby adopts the Measure I Five-Year Local Street Capital Improvement Plan for Fiscal Years 2019-20 through 2023-24, a copy of which is attached to this Resolution.

APPROVED AND ADOPTED this XX day of XX, 20XX.

\_\_\_\_\_  
Mayor

ATTEST:

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3248 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, 20XX, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Andrea M. Phillips  
City Clerk

Resolution Number:  
 Resolution Approval Date:  
 Contact Person/Title: Noel Castillo  
 Phone: 909-625-9441  
 Email: ncastillo@cityofmontclair.org

**Measure I Local Pass-through Program  
 FIVE YEAR CAPITAL IMPROVEMENT PLAN  
 Fiscal Years 2019/2020 thru 2023/2024**

**Montclair**

6/30/19 Carryover Balance: **\$0.00**

	Is Project in City's Non-motorized Transportation (Yes/No)	Does Project have an ATP Component? (Yes/No)	Is the Project on the City's Nexus Study List? (Public/DIP/Share %)	Estimated Total Project Cost	FY2019/20 Est. Revenue		FY2020/21 Est. Revenue		FY2021/22 Est. Revenue		FY2022/23 Est. Revenue		FY2023/24 Est. Revenue		Total Est. Rev.
					Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	
<b>Named Projects:</b>															
central bridge consultant costs	No	No	0%	\$50,000.00	0.00	50,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$50,000.00
central Bridge Local Match	No	No	0%	\$400,000.00	0.00	400,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$400,000.00
I-10/Monte Vista Interchange Term Loan Agreement	No	No	0%	\$33,144,900.00	0.00	74,620.00	0.00	1,348,156.00	0.00	843,707.00	0.00	0.00	0.00	0.00	\$2,266,483.00
pavement management system	No	No	0%	\$50,000.00	0.00	50,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$50,000.00
PD handrail	No	No	0%	\$150,000.00	0.00	150,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$150,000.00
SSARP Local Match	No	No	0%	\$21,000.00	0.00	21,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$21,000.00
traffic safety	No	No	0%	\$50,000.00	0.00	50,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$50,000.00
<b>Total</b>					\$0.00	\$795,620.00	\$0.00	\$1,348,156.00	\$0.00	\$843,707.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,987,483.00
				Total Carryover + Estimate:	\$795,620.00	113.56%	\$1,348,156.00	186.14%	\$843,707.00	112.57%	\$0.00	\$0.00	\$0.00	\$0.00	
				(%) Named Projects to FY Est. Revenue:											

**Categorical Projects:**

	Estimated Total Project Cost	Carryover Funds	Current Estimate	Total
Categorical Projects Total:				
(%) Categorical Projects to FY Est. Revenue:				

**Total Carryover Programming: \$0.00**  
**Total Estimated Programming: \$2,987,483.00**  
**Total Programming: \$2,987,483.00**

Total Programming is currently 79.64% (must not exceed 150%) of Carryover Balance + Total Est. Revenue.





# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	CDV005/FGV025
<b>SECTION:</b>	RESOLUTIONS	<b>DEPT.:</b>	COMMUNITY DEV.
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	M.DIAZ
<b>SUBJECT:</b>	CONSIDER ADOPTION OF RESOLUTION NO. 19-3250 IN SUPPORT OF AND IN PARTNERSHIP WITH THE UNITED STATES CENSUS BUREAU TO ENSURE A COMPLETE AND ACCURATE COUNT FOR THE 2020 US CENSUS		

---

**REASON FOR CONSIDERATION:** On July 11, 2019, Planning Division staff met with Ms. Lupe Camacho from the U.S. Census Bureau to discuss her partnership with the City in helping to establish a Complete Count Committee (CCC) for Montclair. The goal of the CCC would be to increase community awareness and utilize local knowledge to promote a complete count for the City. The purpose for the Resolution is to affirm the importance of the 2020 U.S. Census, and to encourage outreach efforts through a CCC toward a complete and accurate count for the community.

A copy of proposed Resolution No. 19-3250 is attached for City Council review and consideration.

**BACKGROUND:** Every ten years, as mandated by the U.S. Constitution, the federal government undertakes a census of the U.S. population to determine the allocation of seats held by each state in the House of Representatives. The next federal census will begin on April 1, 2020. Collected census data is also used to calculate and distribute federal funding to states and local governments. In California, more than 70 federal programs that benefit our residents use the Census data and population counts as part of their funding formulas, including the Community Development Block Grant (CBDG) Program, as well as funding for roads, school programs and lunches, children's health insurance, Head Start, and foster care. Census data is also a key element used to redraw federal and state legislative district boundaries. For the above reasons, a complete and accurate census count is essential to the well-being of the state and all Californians. California cities play an important role in helping to make the 2020 U.S. Census fair and accurate, especially for historically undercounted populations: racial and ethnic minorities, young children, and renters.

In order to count every person in the country, the U.S. Census Bureau partners with states, local governments, tribal governments, local businesses, non-government organizations, and faith-based organizations to publicize and support the count. These efforts are referred to as Complete Count and are organized by a local CCC. A CCC is composed of local volunteers with direct knowledge of the community who will then identify strategies for public awareness and help eliminate barriers for participation, where possible. As mentioned above, City staff has met with a representative from the 2020 Census, and is currently in beginning stages of the process to establish a CCC for the City. More information on the establishment of a CCC for the City will be forthcoming as the process moves forward.

**FISCAL IMPACT:** There is no direct fiscal impact associated with adopting the resolution. However, accurate population counts are key to ensuring the City has the opportunity to obtain a share of federal and state funds through the various programs and services (e.g., CDBG, roadway funding, etc.) they administer. One of the main implications of a miscount is the loss of annual federal and state funding opportunities for local government.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No.19-3250 in support of and in partnership with the United States Census Bureau to ensure a complete and accurate count for the 2020 US Census.



**RESOLUTION NO. 19-3250**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA, IN SUPPORT OF AND PARTNERSHIP WITH THE UNITED STATES CENSUS BUREAU IN ENSURING A COMPLETE AND ACCURATE COUNT FOR THE 2020 US CENSUS.**

**WHEREAS**, the U.S. Census Bureau is required by Article I, Section 2 of the U.S. Constitution to conduct an accurate count of the population every ten years; and

**WHEREAS**, the next enumeration will be April 1, 2020, and will be the first to rely heavily on online responses; and

**WHEREAS**, the primary and perpetual challenge facing the U.S. Census Bureau is the undercount of certain population groups; and

**WHEREAS**, that challenge is amplified in California, given the size of the state and the diversity of communities; and

**WHEREAS**, California has a large percentage of individuals that are considered traditionally hard to count; and

**WHEREAS**, these diverse communities and demographic populations are at risk of being missed in the 2020 Census; and

**WHEREAS**, California receives nearly \$77 billion in federal funding that relies, in part, on census data; and

**WHEREAS**, a complete and accurate count of California's population is essential; and

**WHEREAS**, the data collected by the decennial Census determines the number of seats each state has in the U.S. House of Representatives and is used to distribute billions of dollars in federal funds to state and local governments; and

**WHEREAS**, the data is also used in the redistricting of state legislatures, county boards of supervisors, and city councils; and

**WHEREAS**, the decennial census is a massive undertaking that requires cross-sector collaboration and partnership in order to achieve a complete and accurate count; and

**WHEREAS**, California's leaders have dedicated a historic amount of funding and resources to ensure every Californian is counted once, only once, and in the right place; and

**WHEREAS**, this includes coordination between tribal, city, county, state governments, community-based organizations, education, and many more; and

**WHEREAS**, U.S. Census Bureau is facing several challenges with Census 2020, including constrained fiscal environment, rapidly changing use of technology, declining response rates, increasingly diverse and mobile population, thus support from partners and stakeholders is critical; and

**WHEREAS**, California began its outreach and engagement efforts in April 2019 for the 2020 Census; and

**WHEREAS**, the City of Montclair, in partnership with other local governments, the State, businesses, schools, and community organizations, is committed to robust outreach and communication strategies, focusing on reaching the hardest-to-count individuals;

**WHEREAS**, City staff is working with a representative from the U.S. Census Bureau to establish a local Complete Count Committee (CCC) to create community awareness and utilize local knowledge to promote a complete count in Montclair; and

**WHEREAS**, a CCC is composed of local volunteers with direct knowledge of the community who will then identify strategies for public awareness and work towards eliminating barriers to participation, where possible; and

**WHEREAS**, in early 2020 the Montclair CCC will mobilize and begin public awareness efforts through various means identified by the CCC to encourage self responses to the Census questionnaires.

**NOW, THEREFORE**, be it resolved that the City of Montclair recognizes the importance of the 2020 U.S. Census and supports helping to ensure a complete, fair, and accurate count of all Californians.

**Effective Date.** This Resolution shall be in full force and effect immediately upon adoption.

**APPROVED AND ADOPTED** this XX day of XX, 20XX.

**ATTEST:**

\_\_\_\_\_  
Mayor

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3250 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, 20XX, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Andrea M. Phillips  
City Clerk



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	ENV100
<b>SECTION:</b>	RESOLUTIONS	<b>DEPT.:</b>	CITY MGR.
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	M. FUENTES
<b>SUBJECT:</b>	CONSIDER ADOPTION OF RESOLUTION NO. 19-3251 IN SUPPORT OF BALANCED ENERGY SOLUTIONS AND LOCAL CONTROL OF ENERGY CHOICES		

---

**REASON FOR CONSIDERATION:** Last year, Governor Brown signed Senate Bill 100, which mandates that the State must rely entirely on zero-emission energy sources for its electricity by the year 2045. As a leader in climate policy, California has made great strides to combat climate change, but many policies occur at the State level without granting local governments the freedom and flexibility to achieve the State's goals while taking into account the needs of their individual communities.

These mandates eliminate local control and customer choice which suppresses innovation, reduces reliability, and have the ability to increase costs for Montclair residents and businesses.

A copy of proposed Resolution No. 19-3251 in support of balanced energy solutions and local control of energy choices is attached for the City Council's review and consideration.

**BACKGROUND:** In an effort to reduce the State's carbon footprint, the State and energy agencies have been pursuing ambitious goals for statewide carbon neutrality. SB 100 mandates that the State must rely entirely on zero-emission sources for its electricity by the year 2045. As part of this effort, many at the State level have begun discussions of requiring the complete electrification of all new residential and commercial buildings and requiring existing residential and commercial buildings to be retrofitted to be all electric.

While the City of Montclair believes in pursuing efficient and environmentally-friendly alternative energy sources as a means to achieve carbon neutrality, the City also values local control and the right to choose policies and investments that most affordably and efficiently enable residents and business to comply with State mandates.

The reduction of greenhouse gas emissions and reducing the effect of climate change on our citizens are of primary concern to the City and is a one of many elements currently being studied as part of the City's update to the General Plan. The City is taking an active role in helping promote ideas and measures that seek to meet or exceed emission reduction goals and regulations.

Proposed Resolution No. 19-3251 is a step towards communicating the City's desire to protect the interests of its residents and businesses to have a continued choice in their preferred energy solutions, be it electric or natural gas.

This resolution does not take a position against electrification. It does emphasize the desire of the City Council to allow for customer choice.

Supporting energy choices does not come at a cost to the environment or to the State's goal of achieving zero-emission sources. Both electricity and gas energy suppliers are concerned with greenhouse gas emissions and are seeking methods to protect the environment.

Proposed Resolution No. 19-3251 affirms the City Council's support for balanced energy solutions that provide it with the decision-making authority and resources needed to achieve the State's climate goals.

**FISCAL IMPACT:** There would be no direct fiscal impact associated with the City Council's adoption of proposed Resolution No. 19-3251.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 19-3251 in support of balanced energy solutions and local control of energy choices.

RESOLUTION NO. 19-3250

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR IN SUPPORT OF BALANCED ENERGY SOLUTIONS AND LOCAL CONTROL OF ENERGY CHOICES

WHEREAS, Governor Brown signed Senate Bill 100, which mandates that the State must rely entirely on zero-emission energy sources for its electricity by the year 2045; and

WHEREAS, many of the policies addressing climate change have occurred at the State level without input from local governments; and

WHEREAS, the State legislature and State agencies are increasingly proposing new legislation and regulations eliminating choice of energy by mandating technologies to power buildings and public and private fleets as a strategy to achieve the State's climate goals; and

WHEREAS, many at the State level have begun discussions of requiring the complete electrification of all new residential and commercial buildings and requiring existing residential and commercial buildings be retrofitted to become all electric; and

WHEREAS, the City of Montclair believes in pursuing efficient and environmentally-friendly alternative energy sources as means to achieve carbon neutrality, the City also values local control and the right to choose policies and investments that most affordably and efficiently enable residents and businesses to comply with State mandates; and

WHEREAS, City of Montclair desires to protect the interests of its residents and businesses to have a continued choice in their preferred energy solutions be it electric or natural gas; and

WHEREAS, the City of Montclair it not opposed to electrifications, a means to combat climate change, but desires to allow for consumer choices in reducing greenhouse gas emissions.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Montclair supports balanced energy solutions that provide it with the decision-making authority and resources needed to achieve the State's climate goals and supports proposed State legislation and regulation that retains local control by allowing all technologies and energy resources that can power buildings and fuel vehicles, and also meet or exceed emissions reductions regulations.

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. 19-3250 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



# AGENDA REPORT

---

**DATE:** AUGUST 19, 2019

**FILE I.D.:** PER600

**SECTION:** RESOLUTIONS

**DEPT.:** ADMIN. SVCS.

**ITEM NO.:** 4

**PREPARER:** J. HAMILTON

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 19-3252 DELEGATING AUTHORITY TO THE CITY MANAGER TO MAKE APPLICATIONS, DETERMINE DISABILITY STATUS, AUTHORIZE REINSTATEMENTS, AND CERTIFY SUCH DETERMINATIONS ON BEHALF OF THE CITY FOR DISABILITY RETIREMENTS WITH THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS)

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 19-3252, which delegates the authority of the City Council to the City Manager to submit applications, determine disability status, authorize reinstatements, and certify such determinations on behalf of the City for disability retirements with the California Public Employees' Retirement System (CalPERS).

A copy of proposed Resolution No. 19-3252 is attached for City Council's review and consideration.

**BACKGROUND:** The California Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency is disabled for the purpose of the California Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law.

In determining whether an employee is disabled, the City Council must find, among other matters, that the employee is incapacitated to perform his/her duties within the meaning of the California Public Employees' Retirement Law; must certify under the penalty of perjury that the determination was made on the basis of competent medical opinion, and was not used as a substitute for the disciplinary process in accordance with *California Government Code § 21156(a)(2)*; and must report to CalPERS whether the employee has filed a Workers' Compensation claim for his/her disabling condition(s) and whether those claims were accepted or denied.

Pursuant to *California Government Code § 21173*, the City Council may delegate the authority to make these determinations to the City Manager. That is, the authority to make applications on behalf of the City pursuant to *California Government Code § 21552(c)* for disability retirement of all employees and to initiate requests for reinstatement of such employees who are retired for disability. Additionally, under *California Government Code § 21156*, the City Council may delegate its authority to the City Manager to make determinations of disability on behalf of the City regarding whether such disability is industrial and to certify such determinations and all other necessary information to CalPERS.

**FISCAL IMPACT:** The fiscal impact associated with the City Council's adoption of proposed Resolution No. 19-3252 would be negligible.

**RECOMMENDATION:** Staff recommends that the City Council adopt Resolution No. 19-3252 delegating the authority to the City Manager to make applications, determine disability status, authorize reinstatements, and certify such determinations on behalf of the City for disability retirements with the California Public Employees' Retirement System (CalPERS).

RESOLUTION NO. 19-3252

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, PROVIDING FOR DELEGATION OF AUTHORITY TO MAKE APPLICATIONS, DETERMINE DISABILITY, MAKE REINSTATEMENTS, AND TO CERTIFY SUCH DETERMINATIONS ON BEHALF OF THE CITY COUNCIL FOR DISABILITY RETIREMENTS WITH THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM

WHEREAS, the City of Montclair (herein referred to as Agency) is a contracting agency of the California Public Employees' Retirement System;

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and such disability is "industrial" within the meaning of such Law;

WHEREAS, the City Council of the City of Montclair has determined upon legal advice that it may delegate authority under California Government Code § 21173 to make such determinations to the incumbent of the office/position of City Manager.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair delegate and it does hereby delegate to the incumbent of the office/position of City Manager, authority to make application on behalf of the Agency pursuant to California Government Code § 21152(c) for disability retirement of all employees and to initiate requests for reinstatement of such employees who are retired for disability;

BE IT FURTHER RESOLVED that the City Council for the City of Montclair delegate and it does hereby delegate to the incumbent of the office/position of City Manager authority to make determinations of disability on behalf of the Agency under California Government Code § 21156 and whether such disability is industrial and to certify such determinations and all other necessary information to the California Public Employees' Retirement System.

APPROVED AND ADOPTED this XX day of XX, 20XX.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3252 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, 20XX, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_

Andrea M. Phillips  
City Clerk





# AGENDA REPORT

**DATE:** AUGUST 19, 2019

**FILE I.D.:** FIN200/SAG070

**SECTION:** RESOLUTIONS

**DEPT.:** FINANCE/SUCCESSOR RDA

**ITEM NO.:** 5

**PREPARER:** D. PARKER

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 19-01 APPROVING THE ISSUANCE OF REFUNDING BONDS IN ORDER TO REFUND CERTAIN OUTSTANDING BONDS OF THE DISSOLVED CITY OF MONTCLAIR REDEVELOPMENT AGENCY, APPROVING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST RELATING THERETO, REQUESTING OVERSIGHT BOARD APPROVAL OF THE ISSUANCE OF THE REFUNDING BONDS, REQUESTING CERTAIN DETERMINATIONS BY THE OVERSIGHT BOARD, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

**REASON FOR CONSIDERATION:** The California Health and Safety Code (HSC) authorizes the Successor Agency to the City of Montclair Redevelopment Agency (Successor Agency) to undertake proceedings for the refinancing of outstanding bonds and other obligations of the Successor Agency, subject to the conditions contained in HSC §34177.5.

**BACKGROUND:** The City of Montclair Redevelopment Agency (Former Agency) issued tax allocation bonds to raise capital for redevelopment projects and affordable housing. Bond debt service payments on those bonds are funded by property tax revenue. When the Former Agency was eliminated in February 2012, the Successor Agency to the City of Montclair Redevelopment Agency (Successor Agency) assumed responsibility to ensure these debt service payments are made. These payments are classified as enforceable obligations and are reported on the Recognized Obligation Payment Schedule (ROPS). Once approved by the Department of Finance, payments to provide for that debt service are received twice annually. Property taxes collected in excess of the debt service requirements are distributed to the taxing entities in the project areas.

The current economic environment provides the Successor Agency with an opportunity to lower the costs of annual debt service. By lowering the debt service costs additional excess property taxes would result, which would result in an increase in allocations to all taxing agencies. This is in the best interest of the Successor Agency and the taxing entities involved. To meet the statutory prerequisites to accomplish this, the refinancing must be approved by the Montclair Successor Agency, County Oversight Board, and the State Department of Finance.

It is projected by the Underwriter for the proposed bonds that approximately \$11.7 million of savings generated over 16 years, will benefit the taxing agencies with approximately \$7.5 million going to schools, \$1.2 million to San Bernardino County, \$.818 million to the other taxing entities and \$2.1 million to the City.

The tax allocation bonds being considered for refinancing include those issued in 1997, 2001, 2004, 2006 (A and B), and 2007(A and B).

It is anticipated that the refinancing will be split into two series of bonds. The 2019 Series A Bonds will be issued as Federally tax-exempt and the 2019 Series B Bonds will

be issued as Federally taxable. The tax status on the bonds is determined by Bond Counsel based on how the proceeds of the previous bonds were spent and Federal Tax Law.

Interest rates on the bonds are conservatively estimated to range from 2 to 5 percent with the resulting yields ranging from 1.5 to 3.2 percent on the tax-exempt series. Current interest rates on the refunded bonds range from 4 to 6 percent. Taxable rates are estimated to range from 2.55 to 3.77 percent with yields the same.

As an added benefit, the strategy put forth will result in two financings being issued to replace seven that are currently outstanding. This will simplify the administration of the bonds and the preparation of the annual ROPS. The new bonds will be payable on April 1 and October 1 and will have a final maturity date of October 1, 2035.

The following information was obtained from Hilltop Securities Inc., as Underwriter for the Bonds, and is provided in compliance with Senate Bill 450 (Chapter 625 of the 2017-2018 Session of the California Legislature) with respect to the Bonds:

1. *True Interest Cost of the Bonds.* Assuming the maximum aggregate principal amount of the Bonds authorized (\$32,410,000) are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is 2.858%.
2. *Finance Charge of the Bonds.* Assuming the maximum aggregate principal amount of the Bonds authorized (\$32,410,000) are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the finance charge of the Bonds, which means the sum of all fees and charges paid to third parties, is \$885,979 with \$250,000 in professional fees, 243,075 in underwriter's discount and \$392,904 in bond insurance costs.
3. *Amount of Proceeds to Repay Existing Debt.* Assuming the maximum aggregate principal amount of the Bonds authorized (\$32,410,000) are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the amount of proceeds expected to be received for sale of the Bonds for refunding escrow requirements less the finance charge of the Bonds described in 2 above and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is \$39,204,558 (estimated as the principal amount of bonds plus bond premium of \$2,998,577 plus debt service reserve funds on hand of \$4,681,960 less 885,979 above).
4. *Total Payment Amount.* Assuming the maximum aggregate principal amount of the Bonds authorized (\$32,410,000) are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the total payment amount, which means the sum total of all payments the Successor Agency will make to pay debt service on the Bonds plus the finance charge of the Bonds described in paragraph 2 above not paid with the proceeds of the Bonds, calculated to the final maturity of the Bonds, is \$43,946,589.

The foregoing information constitutes good faith estimates only. The actual interest cost, finance charges, amount of proceeds and total payment amount may vary from the

estimates above due to variations from these estimates in the timing of Bond sales, the amount of Bonds sold, the amortization of the Bonds sold and market interest rates at the time of each sale. The date of sale and the amount of Bonds sold will be determined by the Successor Agency based on refunding escrow requirements and other factors. The actual interest rates at which the Bonds will be sold will depend on the bond market at the time of each sale. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale. Market interest rates are affected by economic and other factors beyond the Successor Agency's control.

**FISCAL IMPACT:** Debt service savings to the Successor Agency and taxing entities would allow for higher excess property taxes to be distributed. The City of Montclair receives approximately 18 percent of this distribution. As indicated, it is estimated that additional property taxes available to the City of \$2,126,088 would be obtained over the remaining life of the redevelopment debt with this refinancing. Presently, excess Successor Agency property tax distributions are utilized for Economic Development purposes.

**RECOMMENDATION:** Staff recommends the Successor Agency Board of Directors adopt Resolution No. 19-01 approving the issuance of refunding bonds in order to refund certain outstanding bonds of the dissolved City of Montclair Redevelopment Agency, approving the execution and delivery of an Indenture of Trust relating thereto, requesting Oversight Board approval of the issuance of the refunding bonds, requesting certain determinations by the Oversight Board, and providing for other matters properly relating thereto.

**RESOLUTION NO. 19-01**

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING THE ISSUANCE OF REFUNDING BONDS IN ORDER TO REFUND CERTAIN OUTSTANDING BONDS OF THE DISSOLVED CITY OF MONTCLAIR REDEVELOPMENT AGENCY, APPROVING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST RELATING THERETO, REQUESTING OVERSIGHT BOARD APPROVAL OF THE ISSUANCE OF THE REFUNDING BONDS, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO**

**WHEREAS**, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, all Section references hereinafter being to such Code), the City of Montclair Redevelopment Agency (the "Former Agency") has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, the Successor Agency to the City of Montclair Redevelopment Agency (the "Successor Agency") has become the successor entity to the Former Agency;

**WHEREAS**, prior to the dissolution of the Former Agency, the Former Agency issued the following series of bonds (collectively, the "Prior Bonds") to provide moneys to finance and/or refinance redevelopment activities for the respective project area of the Former Agency:

- (i) Montclair Redevelopment Project Area No. I 1997 Taxable Tax Allocation Bonds;
- (ii) Montclair Redevelopment Project Area No. III Tax Allocation Refunding Bonds, Issue of 2007A;
- (iii) Montclair Redevelopment Project Area No. III Taxable Tax Allocation Refunding Bonds, Issue of 2007B;
- (iv) Montclair Redevelopment Project Area No. IV 2004 Tax Allocation Refunding Bonds;
- (v) Montclair Redevelopment Project Area No. V 2001 Tax Allocation Refunding Bonds;
- (vi) Montclair Redevelopment Project Area No. V Taxable Tax Allocation Refunding Bonds, Issue of 2006A; and
- (vii) Montclair Redevelopment Project Area No. V Tax Allocation Bonds, Issue of 2006B;

**WHEREAS**, Section 34177.5 authorizes the Successor Agency to issue refunding bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the "Refunding Law") for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(1) (the "Savings Parameters");

**WHEREAS**, to determine compliance with the Savings Parameters for purposes of the issuance by the Successor Agency of its 2019 Tax Allocation Refunding Bonds, Series A (the "2019A Bonds") and 2019 Taxable Tax Allocation Refunding Bonds, Series B (the "2019B Bonds," and together with the 2019A Bonds, the "Refunding Bonds"), the Successor Agency has prepared an analysis of the potential savings that will accrue to the Successor Agency and to applicable taxing entities as a result of the use of the proceeds of the Refunding Bonds to refund the Prior Bonds (the "Debt Service Savings Analysis");

**WHEREAS**, the Successor Agency desires at this time to approve the issuance of the Refunding Bonds and to approve the form of and authorize the execution and delivery of the Indenture of Trust, by and between the Successor Agency and U.S. Bank National Association, as trustee, providing for the issuance of the Refunding Bonds (the "Indenture"), and the form of Irrevocable Refunding Instructions to be delivered by the Successor Agency to the trustee for the Prior Bonds (the "Refunding Instructions"), and a bond purchase agreement (the "Purchase Agreement") between the Successor Agency and Hilltop Securities Inc. (the "Original Purchaser");

**WHEREAS**, pursuant to Section 34177.5(f) and Section 34180(b), the issuance of the Refunding Bonds by the Successor Agency is subject to the approval of the San Bernardino Countywide Oversight Board (the "Oversight Board");

**WHEREAS**, the Successor Agency is now requesting that the Oversight Board direct the Successor Agency to undertake the refunding proceedings and to approve the issuance of the Refunding Bonds pursuant to this Resolution and the Indenture;

**WHEREAS**, the Successor Agency further requests that the Oversight Board make certain determinations described below on which the Successor Agency will rely in undertaking the refunding proceedings and the issuance of the Refunding Bonds;

**WHEREAS**, the Successor Agency has determined to sell the Refunding Bonds to the Original Purchaser pursuant to the terms of the Purchase Agreement;

**WHEREAS**, following approval by the Oversight Board of the issuance of the Refunding Bonds by the Successor Agency and upon submission of the Oversight Board Resolution to the California Department of Finance, the Successor Agency will, with the assistance of Richards, Watson & Gershon, A Professional Corporation, as Disclosure Counsel ("Disclosure Counsel"), Urban Futures, Inc., as Municipal Advisor ("Municipal Advisor") and HdL Coren & Cone, as Fiscal Consultant ("Fiscal Consultant"), cause to be prepared a form of Official Statement for the Refunding Bonds describing the Refunding Bonds and containing material information relating to the Successor Agency and the Refunding Bonds, the preliminary form of which will be submitted to the Successor Agency for approval for distribution by the Original Purchaser, as underwriter of the Refunding Bonds, to persons and institutions interested in purchasing the Refunding Bonds;

**WHEREAS**, Section 5852.1 of the California Government Code, which became effective on January 1, 2018, enacted pursuant to Senate Bill 450 (Chapter 625 of the 2017-2018 Session of the California Legislature), requires that the Successor Agency obtain from an underwriter, municipal advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the issuance of the Refunding Bonds, good faith estimates of (a) the true interest cost of the Refunding Bonds, (b) the sum of all fees and charges paid to third parties with respect to the Refunding Bonds, (c) the amount of proceeds of the Refunding Bonds expected to be received net of the fees and charges paid to third parties and any reserves or capitalized interest paid or funded with proceeds of the Refunding Bonds, and (d) the sum total of all debt service payments on the Refunding Bonds calculated to the final maturity of the Refunding Bonds plus the fees and charges paid to third parties not paid with the proceeds of the Refunding Bonds;

**WHEREAS**, in compliance with Section 5852.1 of the California Government Code, the Successor Agency has prepared, based on information provided by the Original Purchaser, the required good faith estimates and such estimates are included in the agenda report submitted by staff to the Successor Agency in connection with the proposed adoption of this Resolution;

**NOW, THEREFORE**, the Successor Agency to the City of Montclair Redevelopment Agency **RESOLVES** as follows:

1. Determination of Savings. The Successor Agency has determined that there are significant potential savings available to the Successor Agency and to applicable taxing entities in compliance with the Savings Parameters by the issuance by the Successor Agency of the Refunding Bonds to provide funds to refund the Prior Bonds, all as evidenced by the Debt Service Savings Analysis on file with the Successor Agency, which Debt Service Savings Analysis is hereby approved.

2. Approval of Issuance of the Refunding Bonds. The Successor Agency hereby authorizes and approves the issuance of the Refunding Bonds under the Law and the Refunding Law in the aggregate principal amount not to exceed amount required to refund and defease the Prior Bonds, to establish customary debt service reserves, and to pay related costs of issuance, provided that the Refunding Bonds are in compliance with the Savings Parameters at the time of sale and delivery. The 2019A Bonds and the 2019B Bonds may be issued as a single series, either on a tax-exempt basis or on a taxable basis.

3. Approval of Indenture. The Successor Agency hereby approves the Indenture prescribing the terms and provisions of the Refunding Bonds and the application of the proceeds of the Refunding Bonds. Each of the Mayor of the City of Montclair (the "City"), as the Chair and presiding officer of the Successor Agency, the City Manager of the City, as the Chief Administrative Officer of the Successor Agency, and the Finance Director of the City, as the Chief Financial Officer of the Successor Agency, on behalf of the Successor Agency (each, an "Authorized Officer"), is hereby authorized and directed to execute and deliver, and the City Clerk of the City, as the Secretary of the Successor Agency, on behalf of the Successor Agency, is hereby authorized and directed to attest to, the Indenture for and in the name and on behalf of the Successor Agency, in substantially the form on file with the Successor Agency, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Indenture. The Successor Agency hereby authorizes the delivery and performance of the Indenture.

4. Approval of Refunding Instructions. The form of the Refunding Instructions in substantially the form on file with the Successor Agency is hereby approved. The Authorized Officers, each acting alone, are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to execute and deliver the Refunding Instructions, in substantially the form on file with the Successor Agency, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Refunding Instructions. The Successor Agency hereby authorizes the delivery and performance of its obligations under the Refunding Instructions.

5. Oversight Board Approval of the Issuance of the Refunding Bonds. The Successor Agency hereby requests the Oversight Board, as authorized by Section 34177.5(f), to direct the Successor Agency to undertake the refunding proceedings and as authorized by Section 34177.5(f) and Section 34180 to approve the issuance of the Refunding Bonds pursuant to Section 34177.5(a)(1) and this Resolution.

6. Filing of Debt Service Savings Analysis and Resolution. The Successor Agency is hereby authorized and directed to file the Debt Service Savings Analysis, together with a copy of this Resolution, with the Oversight Board, and, as provided in Section 34180(j) with the San Bernardino County Administrative Officer, the San Bernardino County Auditor-Controller and the California Department of Finance.

7. Sale of Refunding Bonds. The Successor Agency hereby approves the Purchase Agreement. The Authorized Officers, each acting alone, are hereby authorized and directed to execute and deliver the Purchase Agreement for and in the name and on behalf of the Successor Agency, in substantially the form on file with the Successor Agency, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Purchase Agreement, provided that the Original Purchaser's discount (excluding original issue discount, if any) shall not exceed 1.0% of the aggregate principal amount of the Refunding Bonds to be issued.

8. Issuance of Refunding Bonds in Whole or in Part. It is the intent of the Successor Agency to sell and deliver the Refunding Bonds in whole, provided that there is compliance with the Savings Parameters. However, the Successor Agency will initially authorize the sale and delivery of the Refunding Bonds in whole or, if such Savings Parameters cannot be met with respect to the whole, then in part; provided that the Refunding Bonds so sold and delivered in part are in compliance with the Savings Parameters. The sale and delivery of the Refunding Bonds in part will in each instance provide sufficient funds only for the refunding of that portion of the Refunding Bonds that meet the Savings Parameters. In the event the Refunding Bonds are initially sold in part, the Successor Agency intends to sell and deliver additional parts of the Refunding Bonds without the prior approval of the Oversight Board provided that in each such instance the Refunding Bonds so sold and delivered in part are in compliance with the Savings Parameters.

9. Professional Services. The selection of the firm of Nixon Peabody LLP, as bond counsel, the firm of Richards, Watson & Gershon, A Professional Corporation, as disclosure counsel, Urban Futures, Inc., as municipal advisor, HdL Coren & Cone, as fiscal consultant, is hereby confirmed. The Authorized Officers, each acting alone, are hereby authorized to execute professional services agreement with each such firm.

Additionally, the selection of U.S. Bank National Association, as trustee for the Refunding Bonds, is hereby also confirmed.

10. Municipal Bond Insurance and Reserve Fund Insurance Policy. The Authorized Officers, each acting alone, are hereby authorized and directed to take all actions necessary to obtain a municipal bond insurance policy for the Refunding Bonds and a debt service reserve fund insurance policy for the Refunding Bonds from a municipal bond insurance company if it is determined, upon consultation with the Municipal Advisor, that such municipal bond insurance policy and/or debt service reserve fund insurance policy will reduce the true interest costs with respect to the Refunding Bonds.

11. Approval of Official Statement. Following approval by the Oversight Board of the issuance of the Refunding Bonds by the Successor Agency and upon submission of the Oversight Board Resolution to the California Department of Finance, the Successor Agency will, with the assistance of Disclosure Counsel and the Fiscal Consultant, cause to be prepared a form of Official Statement for the Refunding Bonds describing the Refunding Bonds and containing material information relating to the Successor Agency and the Refunding Bonds, the preliminary form of which will be submitted to the Successor Agency for approval for distribution by the Original Purchaser to persons and institutions interested in purchasing the Refunding Bonds.

12. Official Actions. The Authorized Officers and any and all other officers of the Successor Agency are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions, which they, or any of them, may deem necessary or advisable in obtaining the requested approvals by the Oversight Board and the California Department of Finance and in the issuance, sale and delivery of the Refunding Bonds. Whenever in this Resolution any officer of the Successor Agency is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

13. Effective Date. This Resolution shall take effect from and after the date of approval and adoption thereof.

**APPROVED AND ADOPTED** this XX day of XX, 20XX.

\_\_\_\_\_  
Chair

**ATTEST:**

\_\_\_\_\_  
Secretary

I, Andrea M. Phillips, Secretary of the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 19-01 was duly adopted by the Successor Agency Board of Directors at a regular meeting thereof held on the XX day of XX, 20XX, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Andrea M. Phillips  
City Clerk



# AGENDA REPORT

---

<b>DATE:</b>	AUGUST 19, 2019	<b>FILE I.D.:</b>	CVC600
<b>SECTION:</b>	RESPONSE	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	A	<b>PREPARER:</b>	E. STARR

**SUBJECT:** CONSIDER APPROVAL OF THE PLANS AND SPECIFICATIONS FOR THE CITY OF MONTCLAIR OFFICE REMODEL EXPANSION PROJECT (CITY HALL PHASE 2 REMODEL PROJECT)

CONSIDER AUTHORIZING STAFF TO ADVERTISE FOR BID PROPOSALS FOR CONSTRUCTION OF THE PROJECT

---

**REASON FOR CONSIDERATION:** Approval of plans, specifications, and authorization to advertise for bid proposals is subject to City Council approval.

At the City Council meeting of August 5, 2019, the City Council approved a motion to return this item for further consideration and discussion.

**BACKGROUND:** At its September 18, 2017 meeting, the City Council adopted the Fiscal Year 2017–2022 Capital Improvement Program that included the City Hall Office Remodel Expansion Phase 2 Project. The Project does not include the City Council Chambers, as that project is currently underway and is included in the City Hall Phase 1 Remodel Project. The City Hall Phase 2 Remodel Project includes the following:

- Replacing carpeting and painting throughout City Hall;
- Remodeling the service door entrance to City Manager/Economic Development/Administrative Services offices area;
- Office furniture changes/additions;
- Security door changes/additions;
- Securing the Finance Department counter; and
- Enclosing the existing breezeway to enjoin the east (Youth Center, Information Technology, and NPDES programs) and west (City Manager, Finance, Administration/Personnel, Economic Development/Housing, Community Development and Public Works/Engineering) wings; provide a secure and revised layout for the Finance Department; improve ADA access to the service counters for the Finance, Public Works, and Community Development Departments; and construct a new conference room for Citywide meetings.

*Exhibit 1*, attached shows the current City Hall Complex floor plan for the east and west wings, and *Exhibit 2*, attached, shows the proposed City Hall Complex floor plan as provided for under the City Hall Phase 2 Remodel Project.



The City Hall Phase 2 Remodel Project was reviewed and recommended for City Council consideration at the July 20, 2017 Public Works Committee meeting (Mayor Pro Tem Raft and Council Member Martinez present), the August 17, 2017 Public Works Committee meeting (Mayor Pro Tem Raft and Council Member Martinez present), and at the January 18, 2018 Public Works Committee meeting (Mayor P. Eaton and Mayor Pro Tem Raft present).

The City Hall Phase 2 Remodel Project was also presented to the City Council as part of the Fiscal Year 2017-2022 Capital Improvement Program Workshop held before the City Council on September 5, 2018.

In addition, at the December 18, 2017 City Council meeting, the City Council approved Agreement No. 17-102 with Frick, Frick & Jette Architects, Inc., for design services for the City Hall Phase 1 and Phase 2 Remodel Projects. The percentage-based contract (12 percent of the final construction cost for the project) is funded through the 2014 Lease Revenue Bond Proceeds. The Project cost is estimated at \$900,000. A total of \$70,444 in design fees has already been spent on the breezeway portion of the Project.

City Hall was last remodeled twenty-two years ago, in 1997 to accommodate the expansion of duties and responsibilities of staff in various Departments. The 1997 remodel included the addition of two Finance Department offices to accommodate the Finance Director and Finance Supervisor; a second City Council office for a total of two City Council Offices; adjustments to the Administrative Services/City Clerk/Redevelopment office areas to accommodate the new City Council office; construction of a new Central Stores service office and copier room; construction of a new Information Technology (IT) data center and IT Supervisor office; and construction of new public service counters for the Finance, Community Development and Public Works/Engineering Departments.

As the role of City Hall Departments expand to address a multitude of changes in federal and state law, Council policies, County requirements, and expansion of service programs to the Community, the need for additional office space also expands. The proposed City Hall Phase 2 Remodel Project addresses these expansion needs.

At the August 5, 2019 City Council meeting, City Council Members expressed concern regarding the closure of the existing breezeway to accommodate the City Hall Phase 2 Remodel Project. The breezeway divides the east and west wings of the City Hall complex, providing convenient access to the public for crossing from the Benito Street Avenue side of City Hall to the south parking lot side of City Hall that serves the Senior Center, Community Center, and Montclair Branch Library.

City staff notes, however, that since the relocation of the Montclair Police Department in 2008 from the City Hall east wing (currently housing the Youth Center and IT and NPDES offices) to 4870 Arrow Highway, the breezeway's functional service as an access point has greatly diminished.

As indicated in **Table 1**, on the following page, random sampling of video surveillance covering a two week period of July and August 2019 demonstrates the following employee/pedestrian use of the breezeway:

**Table 1**  
**Employee/Pedestrian Use of the Breezeway**

Demographic	Daily Average
<b>Employees</b>	81.5
<b>Random (dog walkers, joggers, others)</b>	38.375
<b>Children/Skateboarders</b>	25.875
<b>Senior Center Participants (mostly drop-offs on Benito Street, instead of using loading area in front of Senior Center)</b>	12.125
<b>Total</b>	157.875

**Table 1** demonstrates that the vast majority of weekday breezeway users are City employees traversing from the west wing to the east wing (or vice-a-versa) of the City Hall Complex. The second largest distribution of pedestrian breezeway users are random users that can use other alternative routes and/or access points. Children and skateboarders constitute the third largest category of daily users—in their case, however, the breezeway appears to function as nothing more than a quicker, easier, or alternative access point to the various Civic Center Complex facilities including the Skate Park, Alma Hofman Park, and the Youth Center. Senior Citizens constitute the smallest group of daily users, and video surveillance appears to demonstrate that most of the senior citizens using the breezeway are dropped off on Benito Street for the purpose of attending Senior Center events. A loading and unloading zone is provided directly adjacent to the front entrance of the Senior Center as a convenience to participants; therefore, drop-offs on Benito Street can only be interpreted as an elective alternative.

The breezeway may be used by the public as a passageway for occasional special events such as the annual Holiday Tree Lighting Ceremony; however, the use of a passageway for an infrequent activity is not generally considered a legitimate purpose for its maintenance when it can be replaced for a purpose that has a greater and routine advantage.

The breezeway also represents a public nuisance. It has become a maintenance problem for the collection of waste, litter and discarded gum; and it functions as a corridor for mischievous activities including, but not limited to, horseplay and misbehavior, toiletry functions, romantic encounters, arson, and encampments.

Staff does recognize and acknowledge the convenience offered by the breezeway; however, convenience is not necessity. Further, staff is already pursuing changes to certain programs and activities that currently take advantage of this convenience, as follows:

- New directional signs are being placed around the Civic Center campus to provide the public with information related to the location of City facilities. This change should provide clarity for correct facility access.

- For visitors who elect to walk around the west wing of City Hall from Fremont Avenue to Benito Street (or vice-a-versa), the walk will expose them to a new City Hall electronic message monument sign, planned for installation at the current City Hall monument sign location.
- The Human Services Department is working with Montclair Place management to consider the relocation from the Community Center to Montclair Place for the annual Holiday Tree Lighting Ceremony and Community Halloween Party, which would provide for added parking, achieve a centralized location, and allow for more elaborate events.
- Development of a specific plan for the Montclair Place District provides the opportunity to host a range of expanding community activities at Montclair Place. Activities as diverse as the Country Fair Jamboree could find a home in the changing and dynamic environment within the Montclair Place District.
- The breezeway is not generally used as a public access point for the Country Fair Jamboree. For this event, the Civic Center parking lots immediately south of the breezeway are typically used by volunteers working at the Country Fair Jamboree, not by the general public.
- The breezeway is not generally used as a public access point for the annual Memorial Day Ceremony in the Memorial Garden. Access to this event is generally off of Fremont Avenue, with parking provided at the United Methodist Church Parking Lot and the two Civic Center parking lots south of City Hall.
- The breezeway is only occasionally used by attendees to the monthly Senior Birthday Party.

It is noted that City staff is generally not permitted to use the south parking lot on a daily basis. This prohibition expands parking capacity for members of the public, including for visitors to City Hall and the Montclair Branch Library and participants in Senior Center programs, including the daily Nutrition Center Program and the monthly Senior Birthday Party.

If it is necessary to provide for a larger event crowd, City employees are required to park off campus, including the United Methodist Church Parking lot. Instead, employees park at the Alma Hofman Park or the Towne Center Plaza parking lots. This program of off-campus parking can be expanded, if necessary, to include the monthly Senior Party in order to provide more direct access to the Senior Center.

In the event a Senior Center participant does park on Benito Street, they can pass through City Hall by entering from the north entrance on Benito Street and walking through the lobby to the south door that leads to the parking lot (and vice-a-versa) for protected and convenient access. This route does greatly increase the length of travel, but to a lesser extent than using the sidewalk to travel around the perimeter of the City Hall building.

Elimination of the breezeway does not represent a significant burden to members of the public. During business hours, members of the public can traverse through City Hall or can walk around the west wing via Fremont Avenue to Benito Street (or vice-a-versa). It is also pointed out that removing such pedestrian shortcuts could be considered a Healthy Montclair initiative by encouraging visitors to take a few more steps. Health advocates point out that Americans need to add additional exercise to their daily routine, and walking is considered one of the safest and most productive forms of exercise.

The City Hall Phase 2 Remodel Project also provides a number of benefits for organizational operations:

- Secure operations for the Finance Department. The Finance Department functions as a payment center, and requires secure facilities to handle monetary transactions. With the potential for a new licensing program for commercial cannabis activities, there will be a need for even greater security protocols and secure monetary transaction areas.
- ADA accessibility issues. The remodel of the City Council Chambers, along with a remodel of City Hall, triggers Americans with Disabilities Act (ADA) improvement requirements. In addition, new standards are frequently imposed on local governments. Phases 1 and 2 of the City Hall Remodel Project address ADA requirements.
- New Conference Room. The City Manager's Conference Room functions as the only formal conference room at City Hall, and the primary conference room for the entire Civic Center Complex. The need for additional conference rooms is essential for the effective operation of the organization. Additional conference rooms allow City staff to meet the demand for a growing number of meetings with developers, other inter- and intra-agency organizations, and members of the public. Additional conference room space will also allow for the avoidance of meeting conflicts and provide space for the various hearings required of City staff. The need for an additional conference room is vital to the future operations of the organization.
- The City Hall Remodel Project, proposed at an estimated cost of \$900,000, is far less expensive than the construction of new City Hall facilities, which would likely cost between \$40 million to \$60 million.
- Since construction of the original Civic Center Campus in the early 1960s, the Campus has transformed in different ways at least four times by renovation and the addition of new facilities. These changes, designed to accommodate the changing and expanding requirements of the community and organization, include the following:
  - In the late 1970s, the City Council Chambers were added to the west end of the City Hall Complex.
  - In the late 1970s/early 1980s, the Community Center and racquetball courts were added to the Civic Center Campus.

- In the late 1990s, the Finance offices were expanded to include new office space; new service counters were added in the east Lobby of City Hall; the former Central Services storage and copier center was converted to the data control complex for IT and IT office space was added; and a new copier and mail center was constructed for Central Services.
- In 2009–10, a new Senior Center was constructed and the former Montclair Police Department building (the wing east of the breezeway) was converted to a Youth Center, storage and mechanical rooms, a new data control complex, and office space for the IT Program, and office space for the National Pollutant Discharge Elimination System (NPDES) Program.

In a similar fashion, the proposed City Hall Phase 2 Remodel Project will respond to the changing needs and requirements of the organization, with minimal impact on the City's budget and on the community.

As previously addressed in this report, elimination of the breezeway between the east and west wings of the City Hall complex is not expected to have a significant, measurable or deleterious impact on the community.

In summation, the following points are highlighted:

- The vast majority of residents conducting business or engaging in events at the Civic Center Campus drive and park in the parking lot that offers the immediate access to the buildings where the business or activity engaged in is located. The evolving nature of the Campus and the use-specific nature of each building served by a parking lot specific to that building or collection of buildings minimizes the need for the breezeway.
- The changing nature and anticipated relocation of many activities presently conducted at the Civic Center Campus will further minimize the significance or need for the breezeway.
- The existing breezeway frequently represents a public nuisance. Further, the breezeway works against the City's ability to secure the various work areas and avoid any potential for an active shooter situation—the breezeway provides direct window viewing access into a work area that supports a large number of employees, while providing coverage to any potential perpetrator.
- Elimination of the breezeway would also provide an additional layer of protection for the business activities conducted in the Finance Department. As previously noted, Finance Department personnel daily handle a large number of financial transactions. Today, these responsibilities are conducted without any real security and protection from intrusion by members of the public. Further, the need for security is expected to increase significantly if the City Council adopts polices related to the administration of a commercial cannabis activity program. The proposed City Hall Phase 2 Remodel project will enhance security at two locations:
  - At the front counter where the public is served. The new counter will incorporate additional security measures that include protected glass shielding (similar to bank teller windows) and secure access points; and

- At the east end of the Finance Department. Expanding the Finance Department to incorporate part of the existing breezeway would eliminate the window area along the breezeway.
- The breezeway is infrequently used by visitors to the Civic Center Campus to conduct business or engage in activities.
- The breezeway is occasionally used for purposes of misbehavior.
- The breezeway is primarily used by City employees transitioning between the east and west wings of the City Hall complex.
- The existing breezeway bisects the City Hall complex into two separate wings, imposing significant burdens on the supervision of personnel by dividing them across multiple buildings.
- Without the proposed renovations provided for in the City Hall Phase 2 Remodel Project, the requirement for additional space for Code Enforcement Officers and the need to establish a coherent distribution of personnel will be adversely affected. The problem for Code Enforcement is particularly acute—Code Enforcement personnel are randomly distributed to locations where space is available. As changing policies continue to direct more attention at maintenance issues in the community, the need for additional office space and the logical grouping of Code Enforcement and other employees in connected workspaces has become a pressing issue and a problematic concern for supervision.
- Without the proposed City Hall Phase 2 Remodel Project, the reconfiguration of office space for the Finance Department and added security measures would not be possible.
- The need for additional office space and the coherent connection of the two wings of the City Hall complex is a real need and should not be subordinated to the infrequent and minor inconvenience it may impose on pedestrian traffic travelling from Benito Street to the core of the Civic Center Campus (and vice-a-versa).
- Employees of the City conduct their work in City Hall 10 hours each workday. In serving the community, they should be allowed to conduct that business in a safe environment, and an environment conducive to facilitating their ability to serve the public. The proposed City Hall Phase 2 Remodel Project facilitates these purposes, and these purposes should not be conceded to the occasional pedestrian use of a breezeway.
- As presently designed, the east and west wings of the City Hall Complex are not large. Further, when combined together as proposed in the City Hall Phase 2 Remodel Project, they do not impose or represent any significant hurdle to pedestrians who may need to walk around the building via Fremont Avenue and/or Benito Street.
- Over the years, City staff has consistently sought to work with the United Methodist Church to expand parking facilities at the site. Regrettably, various church leaders have envisioned different uses for the site—uses that have never become reality. City staff will continue to work with representatives of the United

Methodist Church to achieve this objective. City staff would also propose to the City Council acquisition of the United Methodist Church property should it become available for sale.

Under City ownership, an expanded parking field would be recommended for the United Methodist Church parking site. Expanding the parking field at the site would greatly add to the City's ability to meet the parking needs of employees and the public visiting the Civic Center Campus for business or to engage in activities. The expansion of parking would also further obviate the need for the breezeway separating the east and west wings of the City Hall complex, as it would expand parking that directly serves the various buildings at the Civic Center Campus.

Based on the above analysis, City staff considers that the City Hall Phase 2 Remodel Project is essential to the current and future work-related growth requirements of the City. The project would also greatly improve security at a time when the nation is experiencing an increasing number of violent activities directly targeting work, community, and entertainment venues.

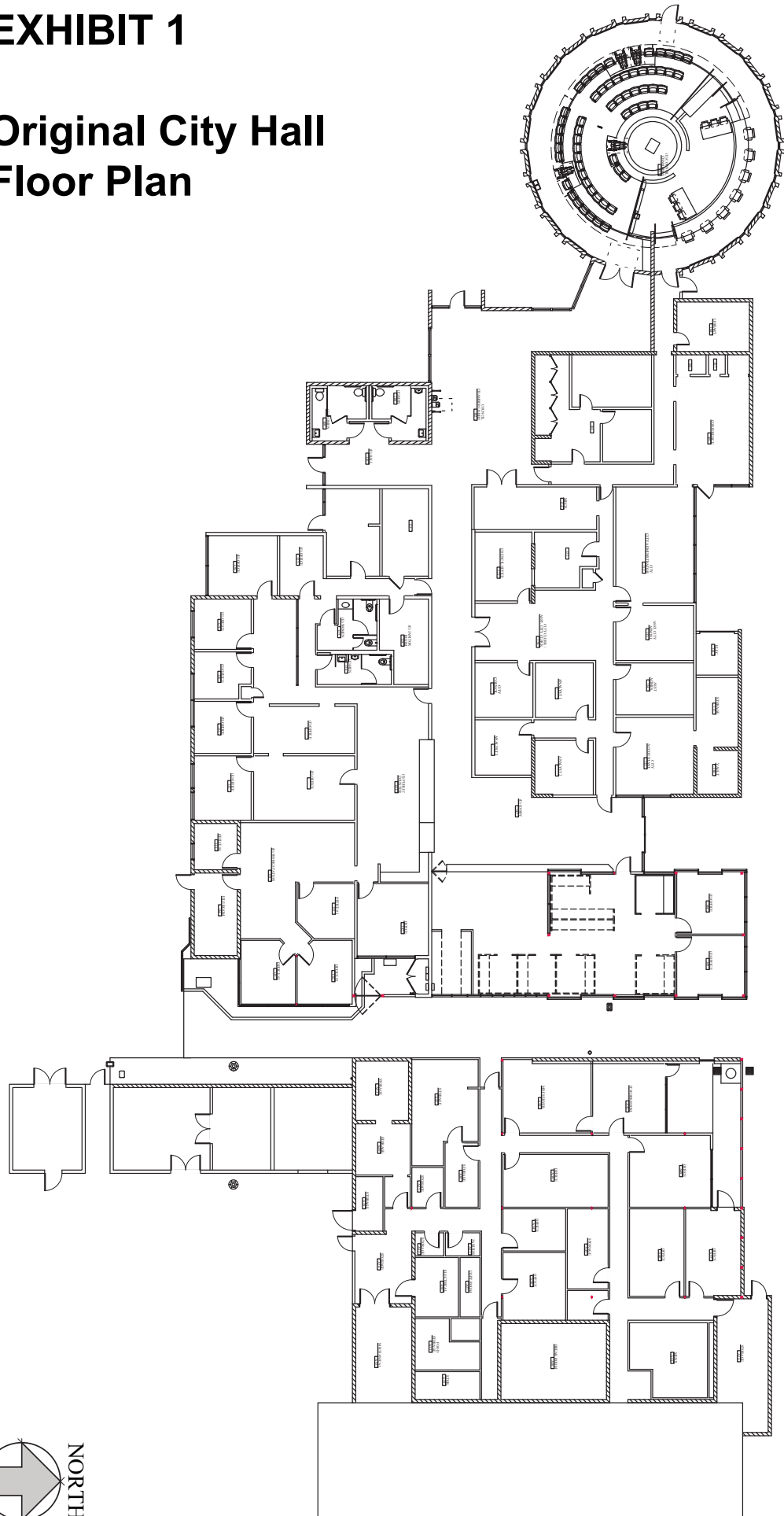
**FISCAL IMPACT:** The City Hall Phase 2 Remodel Project is estimated to cost approximately \$900,000, and will be funded entirely by 2014 Lease Revenue Bond Proceeds. The cost to advertise this project for bid should not exceed \$1,500.

**RECOMMENDATION:** Staff recommends that the City Council take the following actions in relation to the City of Montclair Office Remodel Expansion Project (City Hall Phase 2 Remodel Project):

1. Approve the plans and specifications for the Project; and
2. Authorize staff to advertise for bid proposal for construction of the Project.

# EXHIBIT 1

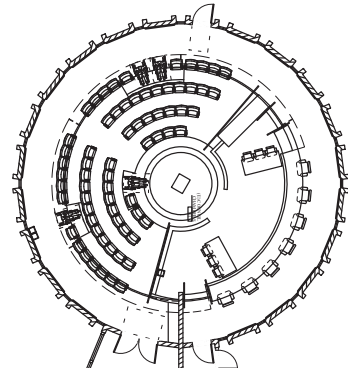
## Original City Hall Floor Plan





9L <= 6 #1 &

BYk '7 J]mi < U''  
: `ccf`D`Ub



**MINUTES OF THE REGULAR MEETING OF THE PUBLIC WORKS  
COMMITTEE HELD ON THURSDAY, MARCH 21, 2019, AT 4:00 P.M.  
IN THE CITY MANAGER CONFERENCE ROOM, 5111 BENITO  
STREET, MONTCLAIR, CALIFORNIA**

---

**I. CALL TO ORDER**

Chair Raft called the meeting to order at 3:57 p.m.

**II. ROLL CALL**

Present: Chair Raft; Committee Member Martinez; City Manager Starr; Senior Management Analyst Fuentes; Chief of Police/Executive Director Office of Public Safety Avels; Public Works Director/City Engineer Castillo; Assistant Director of Housing/City Planner Caldwell; Facilities/Grounds Superintendent McGehee; Public Works Superintendent Mendez and City Planner/Planning Manager Diaz.

**III. APPROVAL OF MINUTES**

The Public Works Committee approved the minutes of the Public Works Committee meeting of February 21, 2019.

**IV. PUBLIC COMMENT — None**

**V. PUBLIC WORKS DEPARTMENT UPDATES/ITEMS**

**A. OPERATIONS**

**1. MAINTENANCE ACTIVITIES**

An Operations Activities Report for the past month was included with the agenda. There were no questions or issues with the report.

**2. ADDITIONAL ITEMS**

Public Works Superintendent Mendez mentioned that residents are complaining about STG Auto Dealer because there is no place to park. City Manager Starr stated to leave the issue alone for now because STG is looking to buy property on the corner of Central and Holt which would solve a lot of the parking issues.

**3. ADDITIONAL ITEMS**

Public Works Superintendent Mendez stated that he talked to Monte Vista Water District (MVWD) regarding the delineators on San Bernardino. MVWD indicated that it is not their project, but is in fact a utility asphalt project. Superintendent Mendez stated that he would discuss the issue with Public Works Inspector Jim Diaz.

## **B. FACILITIES AND GROUNDS**

### **1. MAINTENANCE ACTIVITIES**

A Facilities and Grounds Activities Report for the past month was included with the agenda. There were no questions or issues with the report.

### **2. ADDITIONAL ITEMS — None**

## **C. ENGINEERING DIVISION ITEMS**

### **1. Systemic Safety Analysis Report Program (SSARP)**

Public Works Director/City Engineer Castillo reported that a kick off meeting for the SSARP project was held on March 21st. A couple of warrants would be conducted for the traffic signal improvements and enhancements, including Amherst Avenue at Holt Boulevard. They will be looking at areas where there needs to be rectangular rapid flashing beacons. The project will also be looking at four lane streets throughout the City that are not controlled. At the conclusion of the warrant, the SSARP will have counter-measures for any concerns that come up. The City can apply for grants in the future through the Highway Safety Improvement Plan (HSIP) for needed improvements.

## **VI. POLICE DEPARTMENT UPDATE/ITEMS**

### **1. Vernon Middle School**

Police Chief/Executive Director, Office of Public Safety Avels reported that there have been no parking issues reported on San Bernardino Street and Vernon Avenue. There were no cars found parking in the red zone. Chief Avels stated that on Vernon, extending about 6 houses down on the west side and the first 3 houses on the east side, there was a tremendous amount of parking available. The Police Department continue monitoring that area, but so far there have been no complaints or issues.

Public Works Superintendent Mendez suggested that street sweeping start earlier than 7:00 a.m., because by that time parents are already starting to drop off their children at school. City Manager Starr agreed that the street sweeping should start earlier than 7:00 a.m., but that the street sweeper should notify Superintendent Mendez of any issues.

## **VII. COMMUNITY DEVELOPMENT DEPARTMENT PROJECT UPDATES/ITEMS**

### **1. CIM Plaza Signs**

Assistant Director of Housing/Planning Manager Caldwell stated that the CIM Plaza signs included the digital sign, freeway sign, monument signs, and a ledge sign that will face south towards the freeway. Member Caldwell stated that CIM needs to re-advertise and do more modifications to the project. They are requesting a continuance for this item and plan to take it to the April 22nd

meeting because the April 8th meeting is cancelled due to the general plan charrette.

2. The Canyon Montclair

Assistant Director of Housing/City Planner Caldwell shared with the committee the exterior design of The Canyon. The new design is expected to be completed one month after The Canyon opens.

**VIII. CAPITAL PROJECT UPDATES**

Public Works Director/City Engineer Castillo reported the status of the following capital improvement projects:

**A. LOCAL PROJECTS**

1. CENTRAL AVENUE UTILITY UNDERGROUND PROJECT

Public Works Director/City Engineer Castillo stated that they are still waiting for the last utility to go underground so that they can complete that project.

2. CITY HALL REMODEL PHASE 1 PROJECT (COUNCIL CHAMBERS IMPROVEMENTS)

Public Works Director/City Engineer Castillo stated that the pre-construction meeting was held. Construction for remodel will begin mid-May. Construction will start at the council chambers with the ADA ramps. Member Castillo stated that the City Hall monument sign has been removed from the project.

3. CENTRAL AVENUE STREET REHABILITATION PROJECT PHASE 1

Public Works Director/City Engineer Castillo is working with Cal Trans to get an encroachment permit. They are hoping to advertise towards the end of April. The plan is to start construction in May or June. The construction will take about 6 months.

4. REEDER RANCH ROOF REPLACEMENT AND ELECTRICAL

Public Works Director/City Engineer Castillo stated the notice to proceed will be issued on March 21, 2019. There are some roof samples that the Reeder Foundation Board will look at to choose the colors and materials, and the project should get started in 3 to 4 weeks.

**B. REGIONAL PROJECTS**

1. MONTE VISTA AVENUE/UPRR GRADE SEPERATION PROJECT

Member Castillo stated that the Monte Vista Grade Separation project will be complete in July or August.

## 2. I-10 CORRIDOR PROJECT

Public Works Director/City Engineer Castillo stated that the wall at MacArthur Park is going to shift so the cell tower is going to have to be relocated. Construction is to begin in April of 2020.

## 3. CHINO BASIN PROGRAM (IEUA)

Public Works Director/City Engineer Castillo stated that this is a very large project. The final overall project will be submitted a year from now to the agency that provided the grant.

## 4. FOOTHILL GOLD LINE EXTENSION

City Manager Starr went over several items regarding the Gold Line. He stated that the Gold Line is still having funding challenges. The actual cost of the project will not be known until June 2019. The anticipation is that the cost will be significantly higher than the bids that were received in September.

San Bernardino County Transportation Authority (SBCTA) is proposing to run Diesel Multiple Unit (DMU) trains between Montclair and Pomona as a project alternative.

- The DMU train is a smaller, lighter, and more economical to operate. It is a hybrid of diesel and electricity. The motors are in each train car so that each one can function independently.
- The DMU's will operate as an alternative service to the Gold Line to take riders from the Montclair Transcenter to Pomona to connect to the Gold Line.
- City Manager Starr stated that one train every half hour is not acceptable and that he would like the train to run every 15 minutes and only then would they see that as a viable alternative to not having the Gold Line come to Montclair.
- City Manager Starr stated that SBCTA needs to meet with metrolink to consider replacing the entire metrolink train sets that are used with the DMU and run it the entire length of the San Bernardino line from Union Station in Los Angeles to Redlands once the Redlands Passenger Rail Project is completed.

If the bids come in where they cannot build to Pomona then the Gold Line will not be built to Montclair, but we will still try to get the DMU trains.

5. ATP/SRTS Project

Active Transportation Plan (ATP) and Safe Routes to School (SRTS)

- Public Works Director/City Engineer Castillo is working with KOA on the Active Transportation Plan (ATP) and the Safe Routes to School Plan (SRTS). The ATP goal is to develop a bike and pedestrian master plan. The SRTS will be looking at seven schools, including Vernon Middle School. They will be looking at any potential enhancements as well as conduct a walking audit. The consultants will be watching the kids as they come to school and then they will formulate a package for each school including educational information and a map that shows the best bike and walking routes to take to get to school.

IX. COMMITTEE, CITY MANAGER, AND DEPUTY CITY MANAGER ITEMS — NONE

X. ADJOURNMENT

At 4:25 p.m., Chair Raft adjourned the meeting. The next meeting of the Public Works Committee will be at 4:00 p.m. on Thursday, May 16, 2019 in the City Manager Conference Room.

Submitted for Public Works Committee approval,

A handwritten signature in cursive script, reading "Samantha Contreras", written over a horizontal line.

Samantha Contreras  
Transcribing Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON MONDAY,  
AUGUST 5, 2019, AT 8:31 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

---

**I. CALL TO ORDER**

Mayor Pro Tem Raft called the meeting to order at 8:31 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 July 22, 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 July 22, 2019.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**


At 8:32 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 8:48 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 8:48 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,

  
\_\_\_\_\_  
Edward C. Starr  
City Manager