

## **NOTICE**

### **THIS MEETING WILL BE CONDUCTED VIA WEBINAR/TELECONFERENCE. THE COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC.**

Pursuant to Executive Orders issued by Governor Newsom to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, this meeting will be conducted remotely via the ZOOM virtual meeting platform. In compliance with the Executive Orders, there will be no in-person meeting location, however the public may participate using any of the remote methods described below.

### **LISTEN TO THE MEETING LIVE VIA ZOOM**

Members of the public may participate in this meeting by joining the ZOOM conference via PC, Mac, iPad, iPhone, or Android device using the URL:

<https://zoom.us/j/93717150550>

### **LISTEN TO THE MEETING LIVE VIA TELEPHONE**

The public may participate via phone only (without a computer/smart device) by dialing the below numbers:

**Dial Number: 1 (669) 900 - 6833**

**Meeting ID: 937 - 1715 - 0550**

**ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING.  
THOSE WHO WISH TO SPEAK WILL BE UNMUTED AT THE APPROPRIATE TIME.  
PLEASE KEEP YOURSELF ON MUTE WHEN NOT SPEAKING.**

#### **VERBAL PARTICIPATION USING ZOOM**

Please use the "Raise Hand" button to request to speak. Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda and when the Meeting's presiding officer requests comments from the public.

If you want to provide public comments and are using a computer or laptop without a microphone connected or built in, you will also need to call in using the Teleconference Number and Meeting ID highlighted below, and dial your Participant ID on the phone when prompted. Your Participant ID is found in the "Phone Call" tab of the "Join Audio" settings. This option will also switch your audio over to the phone. Please do not use speaker mode and turn off your computer audio when speaking to prevent audio feedback.

#### **VERBAL PARTICIPATION OVER THE PHONE**

Please dial \*6 to mute and unmute yourself, and \*9 to "raise your hand" to request to speak. Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda and when the Meeting's presiding officer requests comments from the public. Do not use speaker mode when speaking.

#### **ADA COMPLIANCE INFORMATION**

Meetings are accessible to people with disabilities. Requests in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact the City Clerk at [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) or call (909) 625-9416. Every attempt will be made to swiftly address each request. (28 CFR 35.102-35.104 ADA Title II)

## **PUBLIC COMMENT PROCEDURES**

### **MAKING VERBAL COMMENTS**

To provide verbal comments during the meeting, please visit [www.cityofmontclair.org/cc-comment](http://www.cityofmontclair.org/cc-comment) to fill out a Virtual Speaker Card to request to speak in advance. You may also call the City Clerk in advance at (909) 625-9416 to fill out the Virtual Speaker Card over the phone or e-mail your name, phone number if calling in during the meeting, and subject of comment or agenda item to [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) with "[Meeting Date] Virtual Speaker Card" as the subject line.

Meeting attendees who did not fill out the Virtual Speaker Card in advance will be given an opportunity to speak after those who requested to speak in advance.

### **SUBMITTING WRITTEN COMMENTS**

Written comments (250 word limit) may be submitted prior to the meeting by filling out the Virtual Speaker Card ([www.cityofmontclair.org/cc-comment](http://www.cityofmontclair.org/cc-comment)), via e-mail ([cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org)), or via U.S. Mail (Mailing Address: City of Montclair, Attn: City Clerk, Re: [Meeting Date] Public Comment, 5111 Benito Street, Montclair, CA 91763), and will be read aloud during the meeting by the City Clerk at the appropriate time.

Please submit all requests to speak or written comments at least one hour prior to the start of the meeting. The City cannot be held responsible for U.S. Mail that does not arrive on time prior to the subject meeting.



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

**AGENDA**

Monday, July 6, 2020  
7:00 p.m.

*As a courtesy, please place yourself on mute while the meeting is in session, unless speaking (Dial \*6 on the phone to toggle mute), and turn off/mute/disable all video/web cameras.*

*Persons wishing to make a public comment or speak on an agenda item, including public hearing and closed session items, are requested to complete a Virtual Speaker Card (VSC) at [www.cityofmontclair.org/cc-comment](http://www.cityofmontclair.org/cc-comment). The Mayor/Chair (or the meeting's Presiding Officer) will recognize those who have submitted a VSC at the time of the item's consideration and invite those individuals to provide comments on the item at that time. Those who did not fill out a VSC will have an opportunity to speak after those who did by using the "raise hand" function on the ZOOM meeting platform or over the phone by dialing \*9.*

*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).*

*If you did not submit a Virtual Speaker Card and would like to speak on an item that is on the agenda, please request to speak during Public Comment to announce the agenda item on which you would like to comment so you may be called on to provide your comments at the time of that item's consideration.*

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

**VII. PUBLIC HEARINGS — None**

**VIII. CONSENT CALENDAR**

A. Approval of Minutes

1. Regular Joint Meeting — June 15, 2020 [CC/SA/MHC/MHA/MCF]
2. Adjourned Regular Meeting — June 23, 2020 [CC/MHC]

B. Administrative Reports

1. Consider Approval of Warrant Register & Payroll Documentation [CC] 5

C. Agreements

1. Consider Approval of Agreement No. 20-46 with Nutrition Ink to Provide Nutrition-Education Services for the City's Senior Citizen Nutrition Program [CC] 6
2. Consider Approval of Agreement No. 20-48 with Ontario-Montclair School District to Support the Montclair After-School Program [CC] 13
3. Consider Approval of Agreement No. 20-49 with Ontario-Montclair School District to Support the Montclair After-School Summer Expanded Learning Program [CC] 26
4. Consider Approval of Agreement No. 20-56 with the County of San Bernardino Related to Distribution of 2019 Justice Assistance Grant Program Award Funds [CC]  
Consider Authorizing City Manager Edward C. Starr to Sign Said Agreement [CC] 39
5. Consider Approval of Agreement No. 20-59 with Liebert Cassidy Whitmore for Participation in the East Inland Empire Employment Relations Consortium [CC] 60
6. Consider Approval of Agreement No. 20-60 with Ontario-Montclair School District for Utilization of the Family Resource Center for Case Management Services and to Support Operating Costs of the Facility [CC] 63
7. Consider Approval of Agreement No. 20-62 with ServiceMaster 360 Premier Cleaning to Provide Custodial Services at the Family Resource Center [CC] 74
8. Consider Approval of Agreement No. 20-63 with AGA Engineers, Inc. Replacing and Superseding Agreement No. 19-42 with Albert Grover & Associates for Traffic Engineering Services [CC] 86

D. Resolutions — None

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. COUNCIL WORKSHOP**

- A. Presentation of Community Survey Results by Fairbank, Maslin, Maullin, Metz & Associates [CC]

*(The City Council may consider continuing this item to an adjourned meeting on Monday, July 20, 2020, at 5:45 p.m.)*

**XI. COMMUNICATIONS**

- A. City Attorney
- B. City Manager/Executive Director
1. COVID-19 Update
- C. Mayor/Chairperson
- D. Council Members/Directors
- E. Committee Meeting Minutes *(for informational purposes only)* — None

**XII. ADJOURNMENT**

*The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, July 20, 2020, at 7:00 p.m.*

*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 Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Pursuant to the Governor's Executive Orders in relation to the COVID-19 pandemic, please call the City Clerk's Office at (909) 625-9416 or send an e-mail to [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) to request such review of items via e-mail.*

*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 or e-mail [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org). Notification prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. Every attempt will be made to swiftly address each request. (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 City's website at <http://www.cityofmontclair.org/agendas> and on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763 on Wednesday, July 1, 2020.*



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	FIN540
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	1	<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 July 6, 2020, and the Payroll Documentation dated May 24, 2020 and June 7, 2020, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated July 6, 2020, totals \$2,372,066.88; the Payroll Documentation dated May 24, 2020, totals \$594,810.34 gross, with \$415,240.98 net being the total cash disbursement; and the Payroll Documentation dated June 7, 2020, totals \$686,884.15 gross, with \$473,422.74 net being the total cash disbursement.

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



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	HSV105
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-46 WITH NUTRITION INK TO PROVIDE NUTRITION EDUCATION SERVICES FOR THE CITY'S SENIOR CITIZEN NUTRITION PROGRAM		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-46 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

**BACKGROUND:** On June 3, 2019, the City Council approved Agreement No. 19-47 with the San Bernardino County Department of Aging and Adult Services (DAAS) to provide a three-year Senior Citizen Nutrition Program for participants aged 60 and over. The City of Montclair is required to provide nutrition education services to program participants, volunteers and staff.

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

**FISCAL IMPACT:** There will be no cost to the General Fund as a result of this agreement to provide nutrition education services. The cost of nutrition education services, \$2,200, will be 100 percent grant-funded under Agreement No. 19-47 with DAAS. The term of Agreement No. 20-46 will be from July 1, 2020 to June 30, 2021.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-46 with Nutrition Ink to provide nutrition education services for the City's Senior Citizen Nutrition Program.

## NUTRITION INK AGREEMENT

**I. OBJECTIVE:**

To provide consultation to the City of Montclair’s Senior Nutrition Program (Agency/Contractor) regarding nutrition provider requirements as outlined in Title 22, Division 1.8 of the California Department of Aging Regulations, including, but not limited to, the following:

- A. Give preference to older individuals in greatest economic or social need with particular attention to low-income minority individuals.
- B. Promote good health behaviors through nutrition education and nutrition screening of participants.
- C. Promote or maintain coordination with other nutrition-related supportive services for older individuals.

**PROGRAM DESCRIPTION:**

- A. Purpose – The purpose of the Elderly Nutrition Program (ENP) is to provide nutrition services as described in the Older Americans Act (OAA) of 1965, as amended, and to assist older individuals in California to live independently, by promoting better health through improved nutrition, and reduced isolation through programs coordinated with nutrition-related supportive services.
- B. Definition – Nutrition services means the procurement, preparation, transport, and service of meals, nutrition education, nutrition screening, and nutrition counseling, to eligible individuals at congregate sites or in their homes.
- C. Goals – to maintain or improve the physical, psychological, and social well being of older individuals, by providing or securing appropriate nutrition services.
- D. Target Population – The ENP Provider (City of Montclair) shall target individuals who are sixty (60) years of age or older, minorities, low income and living in rural areas of the County of San Bernardino.

**2. TERMS OF AGREEMENT:**

This is to certify that the City of Montclair’s Senior Nutrition Program has engaged the services of *NUTRITION INK* (Sub-Contractor) for its nutrition consultation to one (1) site, Montclair Senior Center. This service is effective July 1, 2020 through June 30, 2021.

**3. RESPONSIBILITIES OF SUB-CONTRACTOR:**

- A. At a minimum, quarterly monitor site for safe food handling and sanitation practices of facilities.
- B. Provide input, review, and approve the Nutrition Education Plan for staff and participants prior to presentation.
- C. Develop, or review and approve the cycle menus unless provided and signed by RD of approved caterer.
- D. Provide technical support and assistance as needed.
- E. Plans, organizes and conducts Nutrition Education a minimum of four (4) times per year for food service staff (paid and volunteers) and participants in congregate meal programs. Nutrition Education for congregate sites is defined as demonstrations, presentations, lectures or small group discussions, all of which may be augmented with printed materials. Training sessions shall be evaluated by those receiving the training.
- F. Nutrition Education shall be based on the particular need of congregate meal participants. An annual Needs Assessment shall be performed by the ENP Provider to make this determination.
- G. Since the Staff Training/Nutrition Education Plan and annual Needs Assessment must be submitted by the City of Montclair to DAAS by July 24, 2020, Sub-Contractor shall be required to support that timeline accordingly.
- H. Nutrition Education sessions must be reported monthly to DAAS using the Nutrition Education Monthly Service Unit Report.

Nutrition Education Units of Service:

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

4. RESPONSIBILITIES OF AGENCY/CONTRACTOR

- A. Identify person designated as supervisor or designee.
- B. Provide a general orientation for the dietitian to the Agency including its staff, policies, recording systems.
- C. Provide suitable space, equipment and materials.
- D. Make records available and if necessary send monthly menus to dietitian for review, analysis, and approval.
- E. Maintain documentation of each training session including sign-in sheets, agendas, handouts, and completed evaluations.
- F. An annual Needs Assessment shall be performed by the ENP Provider to determine the particular Nutrition Education need of congregate meal participants.
- G. Will send Nutrition Education Service Unit Report monthly to DAAS.
- H. Agrees not to hire or contract with a Nutrition Ink Dietitian for a period of one year from termination of this contract unless facility pays RD's annual salary as buyout fee.

5. COPIES of subcontracts, licenses and insurance memoranda and/or letters of understanding shall be on file with the Contractor. Contractor shall be responsible to ensure all subcontractors meet the insurance requirements and for monitoring the insurance requirements in accordance with Article III, Section N.

6. The Sub-Contractor shall provide the following:

- (1). Indemnification - The Sub-Contractor agrees to indemnify, defend and hold harmless the Contractor and County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from Sub-Contractor's acts, errors or omissions and for any costs or expenses incurred by the Contractor on account of any claim therefore, except where such indemnification is prohibited by law.
- (2). Insurance - Without in any way affecting the indemnity herein provided and in addition thereto, the Sub-Contractor shall secure and maintain throughout the term of the Contract the following types of insurance with minimum limits as shown:
  - a. Sub-Contractor will maintain Worker's Compensation - in amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Sub-Contractor and all risks to such persons under this Contract.
  - b. Professional Liability - Professional liability insurance shall have limits of at least \$1,000,000 per claim or occurrence.
- (3). Proof of coverage – Sub-Contractor shall immediately furnish certificates of the required insurance policies to contractor evidencing the insurance coverage, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (3) days prior written notice to Contractor, and Sub-Contractor shall maintain such insurance from the time Sub-Contractor commences performance of services hereunder until the termination of the Contract. Within sixty (60) days of the commencement of this Contract, the Sub-Contractor shall furnish copies of the policies.

7. The Sub-Contractor shall complete all reporting and expenditure documents requested by Contractor. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by Contractor.

8. Sub-Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for Contract performance. Said records shall be kept and maintained at 3164 W. Ramsey St., Banning, Ca. 92220.

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



10. HIPAA Law:

The Sub-Contractor recognizes and acknowledges that, by virtue of entering into this Agreement and providing services to Institution, hereunder, Sub-Contractor will have access to certain information of Institution that is confidential and constitutes valuable, special and unique property of Institution. Sub-Contractor agrees that they will at no time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without Institution's express written consent, except pursuant to their duties hereunder, any confidential or proprietary information of Institution, including, but not limited to, information which concerns Institution's participants, cost, prices and treatment methods at any time used, developed or made by Institution, and which is not otherwise available to the public. Sub-Contractor shall not disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by Institution in writing, any participant or medical record information regarding Institution's participants, and Sub-Contractor shall comply will all federal and state laws and regulations, and all rules, regulations, and policies of Institution, regarding the confidentiality of such information. In addition, if necessary, Sub-Contractor agrees to assist in judicial proceedings any effort to obtain access to such records or information except such access as is expressly permitted by the aforementioned federal regulations.

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

Costs:

Nutrition Education and materials plus yearly plan .....	\$800
Site Monitoring quarterly.....	\$600
Staff Training quarterly.....	\$600
Mileage.....	\$200
Total.....	\$2200

(951) 849-5150 (951) 849-4799 Fax	Federal Tax I.D. Number 20-4651795
-----------------------------------	------------------------------------

**SUB-CONTRACTOR:**

**NUTRITION INK**

\_\_\_\_\_  
 Jessica Lopez, MBA, RDN  
 Jessica@nutritionink.com  
 Vice President of Operations

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

**CONTRACTOR:**

**CITY OF MONTCLAIR**

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

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

**ATTEST:**

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

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

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

**NOTE: RETAIN IN EMPLOYEE/ VOLUNTEER FILE**

---

NAME \_\_\_\_\_

---

POSITION \_\_\_\_\_ FACILITY \_\_\_\_\_

---

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

**PERSONS WHO ARE REQUIRED TO REPORT ABUSE**

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

**PERSONS WHO ARE THE SUBJECT OF THE REPORT**

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

**REPORTING RESPONSIBILITIES AND TIME FRAMES**

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

Reporting shall be completed as follows:

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

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

#### PENALTY FOR FAILURE TO REPORT ABUSE

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

#### CONFIDENTIALITY OF REPORTER AND OF ABUSE REPORTS

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

#### DEFINITIONS OF ABUSE

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

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

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

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

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

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

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

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

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

SIGNATURE	DATE
-----------	------



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	HSV030
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-48 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT TO SUPPORT THE MONTCLAIR AFTER-SCHOOL PROGRAM		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-48 with Ontario-Montclair School District (OMSD) to support the Montclair After-School Program.

**BACKGROUND:** The Human Services Department has delivered after-school programs within OMSD schools since 1999. Funding for this program originates from the California Department of Education, After-School Education and Safety (ASES) program through grants made available to local education authorities, such as OMSD. The goal of the Montclair After-School Program (MAP) is to improve the academic performance and success of students in the program by providing high-quality academic programming after school while ensuring a safe physical and emotional environment for all.

Proposed Agreement No. 20-48 would provide funding for MAP at the following nine elementary school sites: El Camino, Howard, Kingsley, Lehigh, Mission, Monte Vista, Montera, Moreno, and Ramona; and two middle school sites: Serrano and Vernon.

The funding for MAP at these eleven school sites will be used to support academic, enrichment, and physical activities for children in the after-school programs.

**FISCAL IMPACT:** Should the City Council approve proposed Agreement No. 20-48, OMSD would provide no less than \$1,142,168.80 to fund personnel, training, program supplies, and grant oversight. The term of proposed in Agreement No. 20-48 is July 2, 2020, through June 30, 2021.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-48 with Ontario-Montclair School District to support the Montclair After-school 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 2nd day of July, 2020 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) **Scope of Work.** 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):

Provide staff and materials for the ASES expanded learning program. See Attachment A for details.

- b) **Staffing.** 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) **Independent Contractor.** 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) **Public Entity Employee.** 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:

See Attachment B and Schedules A, B, and C for details.

- b) **Travel Expenses.** DISTRICT will pay no additional amount for travel or other expenses of CONSULTANT under this Agreement unless specified below under section 2(c). 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.
- c) **Summary of Compensation**
- |  |                |
|--|----------------|
| Services:  | \$1,142,168.80 |
| Travel Expense:  | NA             |
| <hr/>  |                |
| Total contract amount not to exceed ( <i>services + travel</i> ) | \$1,142,168.80 |
- d) **Retired STRS or PERS.** 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).
- e) **Income Tax.** 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.
- f) **Documentation Required For Payment.** 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, 2020 through June 30, 2021, 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) **Services Performed.** 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) **Use of District Space and Resources.** 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) **Regulatory Compliance.** CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.
- d) **Asbestos Hazard Emergency Response Act (AHERA) and Lead Based Paint Compliance.** CONSULTANT shall comply with the DISTRICT's Asbestos Hazard Emergency Response Act (AHERA) and Lead Based Paint compliance procedures. Prior to starting any construction work at a DISTRICT facility (including demolition, drilling/penetrating, cutting/tearing, sanding, scraping, screwing/unscrewing, or other similar activities) the following requirements must be met:
1. Contact the Facilities Planning and Operations Department (909-418-6366) to discuss the project and the planned method of construction or installation to occur.
  2. Receive and review the District's Asbestos Hazard Emergency Response Act (AHERA) Management Plan Book that identifies the known location(s) of asbestos and/or lead-based paint containing materials for the subject site to confirm these materials will not be disturbed during the course of your work.
  3. Obtain authorization from the Facilities Planning and Operations Department.
- e) **Fingerprinting.** 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, including but not limited to CONSULTANT if CONSULTANT is among the agents providing services, 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, including 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 (Exhibit A).
- f) **Indemnification.** 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) **Insurance Requirements.** 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. **General Liability Insurance.** Commercial general liability insurance, covering bodily injury liability, property damage liability and personal injury liability of CONSULTANT with respect to the services provided by, or on behalf of, CONSULTANT under this Agreement. The policy limits shall not be less than One Million dollars (\$1,000,000) per occurrence. The policy may not contain an exclusion for coverage of claims arising from claims for sexual molestation or abuse. In the event that CONSULTANT's policy should have an exclusion for sexual molestation or abuse claims, then CONSULTANT shall be required to procure a supplemental policy providing such coverage.
  - a. The DISTRICT requires the Certificate of Liability Insurance to show the DISTRICT as the "Certificate Holder" and "Additional Insured" on the CONSULTANT'S general liability insurance policy. Requested wording in the "Description box" is as follows:

*The Ontario-Montclair School District, its departments, officers, agents, and employees are additional insureds with regard to liability and defense of suits arising from the operations and uses performed by or on behalf of the named "Insured."*

2. **Auto Liability Insurance.** CONSULTANT agrees that services in conjunction with this agreement will be conducted in CONSULTANT's office or at a DISTRICT school site and CONSULTANT will not drive Student in private or commercial vehicle to conduct assessments or conduct other business in conjunction with this agreement. Accordingly, commercial automobile insurance will not be required in conjunction with this agreement. Should CONSULTANT need to provide services in conjunction with this agreement that do require Student transportation in a private or commercial vehicle, the DISTRICT and CONSULTANT will mutually agree on services to be provided, and CONSULTANT will provide insurance as follows: Business auto liability insurance covering the use of "owned, non-owned and hired" autos by or on behalf of CONSULTANT respect to the services to be performed under this Agreement. The policy limits shall not be less than One Million dollars (\$1,000,000) per occurrence. The Auto Liability Insurance policy shall include waiver of subrogation via separate endorsement.
3. **Workers' Compensation Insurance.** This coverage is required unless CONSULTANT provides written verification it has no employees. Coverage must be at least as broad as that which is required by the State of California, with Statutory Limits. CONSULTANT must also maintain Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Workers' compensation policy shall include waiver of subrogation via separate endorsement.

The policies of insurance described in Paragraph (4g.1-3) listed 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 (4g.1-3) shall be provided to DISTRICT prior to the commencement of services under this Agreement. CONSULTANT agrees that it shall not cancel or change the coverage provided by the policies of insurance described in Paragraph (4g.1-3) 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) **Written Consent.** 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) **Professional Services.** 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) **Indemnification.** 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 for 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 officers, employees, agents, or staff.

## 6. **TERMINATION OF AGREEMENT**

- a) **Termination without Cause.** 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) **Termination for Breach.** Should CONSULTANT or DISTRICT default in the performance of this Agreement or breach any of its provisions, the injured party shall notify the party in breach in writing of the breach. The party in breach may attempt to cure the breach within ten (10) day of receiving the written notification of breach. If the breach has not been cured within ten (10) days, the injured party may provide a notice of termination. Termination will be effective fifteen (15) days after receiving the notice of termination.
- c) **Immediate Suspension/Termination by District.** 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) **Effect of Termination.** 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.

NA

## 7. **GENERAL PROVISIONS**

- a) **Notices.** 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) **Validity of Agreement.** 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) **Court Findings.** 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) **California Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- e) **Audit.** 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) **Contractual/Equitable Remedies.** CONSULTANT agrees that the DISTRICT is the sole entity against whom the CONSULTANT may seek either contractual or equitable remedies, and further agrees not to seek contractual or equitable remedies (including, but not limited to injunctive relief and quantum meruit) against DISTRICT employees or beneficiaries of the Agreement.
- g) **Board of Trustees Approval.** 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.

<p>“DISTRICT”</p> <hr/> <p style="text-align: center;">Signature</p> <hr/> <p style="text-align: center;">Date</p> <p style="text-align: center;">Phil Hillman, Chief Business Official</p> <hr/> <p style="text-align: center;">Printed Name/Title</p> <p style="text-align: center;">Ontario-Montclair School District 950 West D Street Ontario, CA 91762</p> <p style="text-align: center; color: red;">Approved by OMSD Board:</p> <hr style="border: 1px solid red;"/>	<p>“CONSULTANT”</p> <hr/> <p style="text-align: center;">Signature</p> <p style="text-align: center;">Javier John Dutrey, Mayor</p> <hr/> <p style="text-align: center;">Printed Name/Title</p> <hr/> <p style="text-align: center;">Date</p> <hr/> <p style="text-align: center;">Email Address/</p> <p style="text-align: center;">5111 Benito Street</p> <hr/> <p style="text-align: center;">Street Address</p> <p style="text-align: center;">Montclair, CA 91763</p> <hr/> <p style="text-align: center;">City, State, Zip Code</p> <p style="text-align: center;">(909) 626-8571</p> <hr/> <p style="text-align: center;">Telephone Number</p> <p>Attest: _____</p> <p style="text-align: center;">Andrea Phillips, City Clerk</p>
--	--

Exhibit A

Certification of Compliance with California Education Code Section 45125.1

I hereby certify that all owners and employees of City of Montclair  
[name of CONSULTANT] (“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 INFORMATION

\_\_\_\_\_  
Signature  
Javier John Dutrey, Mayor  
\_\_\_\_\_  
Printed Name/Title  
  
\_\_\_\_\_  
Date  
  
\_\_\_\_\_  
Email Address/  
5111 Benito Street  
\_\_\_\_\_  
Street Address  
Montclair, CA 91763  
\_\_\_\_\_  
City, State, Zip Code  
(909) 626-8571  
\_\_\_\_\_  
Telephone Number

END OF AGREEMENT FOR CONSULTANT SERVICES

## Attachment A

**CONSULTANT:** City of Montclair

Services to be performed by **CONSULTANT:**

**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):

- I. **CONSULTANT** will provide staff and materials to operate the expanded learning program services at the following sites:
  - a. El Camino
  - b. Howard
  - c. Kingsley
  - d. Lehigh
  - e. Mission
  - f. Monte Vista
  - g. Moreno
  - h. Montera
  - i. Ramona
  - j. Serrano
  - k. Vernon.
- II. **CONSULTANT** will have the following responsibilities in support of the ASES program:
  - a. Coordinate the academic assistance, homework support, and enrichment portions (including time for physical activity) of the ASES program at each school site.
  - b. Hire, train, and supervise site staff, including the site coordinators and program leaders.
  - c. Seek regular input from principals regarding performance evaluations, including recommendations for retraining and terminating a site coordinator and/or other site staff.
  - d. Participate in all cross-training for site coordinators and program leaders.
  - e. Maintain ongoing communication between City of Montclair staff and school staff regarding student needs and progress, including, but not limited to attendance at school-day meetings and/or one-on-one meetings with teachers.
  - f. Coordinate ASES activities with school staff to assure program supports current academic goals of teachers and administrators.
  - g. Provide academic assistance and other activities specifically supporting, but not duplicating, daytime curriculum and academic goals.
  - h. Foster communication with and involvement of parents through parent orientations, parent handbook, development and distribution of periodic newsletters, and hosting, at a minimum, one parent night.
  - i. Regularly attend and participate in regularly scheduled operation meetings with **DISTRICT** liaison.
  - j. Provide the **DISTRICT**, in a timely manner, with any required documentation, such as, but not limited to, monthly program evaluations, attendance, and supper counts.
- III. In the event **DISTRICT** implements a distance learning model for delivering education services for a part of, or the entire school year, the expanded learning programs, which include programs after school and summer programs may also move to a distance learning format, if permitted by the California Department of Education. Such distance learning formats include, but are not limited to, prerecorded video lessons, printed assignments, or live video lessons. If the expanded learning programs move to a distance learning format, **CONSULTANT** will implement checks to obtain reasonable assurance of student attendance. Such checks may include, but are not limited to virtual roll calls, parental contact, or email confirmations.

## Attachment B

**CONSULTANT:** City of Montclair

### Compensation:

- I. Except as otherwise provided in this Agreement, **DISTRICT** agrees to compensate **CONSULTANT** for services rendered under this Agreement as follows:
  - a. For the 2020-21 school year only:
    - i. If the California Department of Education (henceforth **CDE**) per-student, per-day rate is \$7.50 or less, the **CONSULTANT** will be paid 99.0% of **DISTRICT**'s grant award from **CDE**, according to Schedule A, attached hereto.
      1. Administrative costs may not exceed 1.0% of grant award from **CDE**, according to Schedule A, attached hereto.
    - ii. If the **CDE** per-student, per-day rate is \$8.19, the **CONSULTANT** will be paid 95.75% of **DISTRICT**'s grant award from **CDE**, according to Schedule B, attached hereto.
      1. Administrative costs may not exceed 4.25% of grant award from **CDE**, according to Schedule B, attached hereto.
    - iii. If the **CDE** per-student, per-day rate is \$8.88 or more, the **CONSULTANT** will be paid 92.5% of **DISTRICT**'s grant award from **CDE**, according to Schedule C, attached hereto.
      1. Administrative costs may not exceed 7.5% of grant award from **CDE**, according to Schedule C, attached hereto.
    - iv. If the **CDE** per-student, per-day rate is between \$7.50 and \$8.88, the **CONSULTANT** will be paid a pro rata rate between 92.5% and 99.0%.
  - b. If **DISTRICT** fails to receive ASES grant funding, **CONSULTANT** will hold **DISTRICT** harmless for any financial liabilities or obligations it has incurred.
  - c. Timing and amounts of payments will be made according to Schedule A, attached hereto. If the funds received from **CDE** change, a pro rata adjustment to the maximum amount available for payment to **CONSULTANT** will be made.
  - d. **CONSULTANT** fee will only be paid out of funds received by **DISTRICT** from the State and only up to the limits of this agreement.
  - e. **CONSULTANT** is to provide documentation necessary for annual independent audits, in accordance with **CDE** requirements. Any additional audit cost bill to **DISTRICT** due to lack of documentation will be billed to **CONSULTANT** for payment.
  - f. **DISTRICT** may reduce funding if the annual attendance average does not meet at least 75% of the attendance required by **CDE** in a single year or is less than 85% in two consecutive years.

Ontario-Montclair School District  
 ASES Payment Schedule—City of Montclair  
 July 1, 2020 through June 30, 2021

No.	School	Program	Schedule A		OMSD's Balance	Tenthly Payment
			Estimated Allocation	99.00% To Montclair		
060	El Camino	ASES After-school Base	92,856.98	91,928.41	928.57	9,192.84
064	Howard	ASES After-school Base	112,474.13	111,349.38	1,124.75	11,134.94
065	Kingsley	ASES After-school Base	120,032.40	118,832.08	1,200.32	11,883.21
066	Lehigh	ASES After-school Base	122,821.80	121,593.58	1,228.22	12,159.36
071	Mission	ASES After-school Base	71,163.00	70,451.37	711.63	7,045.14
072	Monte Vista	ASES After-school Base	133,858.65	132,520.06	1,338.59	13,252.01
045	Montera	ASES After-school Base	112,474.13	111,349.38	1,124.75	11,134.94
073	Moreno	ASES After-school Base	112,474.13	111,349.38	1,124.75	11,134.94
074	Ramona	ASES After-school Base	112,474.13	111,349.38	1,124.75	11,134.94
382	Serrano	ASES After-school Base	102,577.95	101,552.17	1,025.78	10,155.22
383	Vernon	ASES After-school Base	60,498.60	59,893.61	604.99	5,989.36
			<u>1,153,705.88</u>	<u>1,142,168.80</u>	<u>11,537.08</u>	<u>114,216.90</u>

Ontario-Montclair School District  
 ASES Payment Schedule—City of Montclair  
 July 1, 2020 through June 30, 2021

No.	School	Program	Schedule B		OMSD's Balance	Tenthly Payment
			Estimated Allocation	95.75% To Montclair		
060	El Camino	ASES After-school Base	101,399.82	97,090.32	4,309.50	9,709.03
064	Howard	ASES After-school Base	122,821.74	117,601.82	5,219.92	11,760.18
065	Kingsley	ASES After-school Base	131,075.38	125,504.68	5,570.70	12,550.47
066	Lehigh	ASES After-school Base	134,121.41	128,421.25	5,700.16	12,842.13
071	Mission	ASES After-school Base	77,710.00	74,407.32	3,302.68	7,440.73
072	Monte Vista	ASES After-school Base	146,173.65	139,961.27	6,212.38	13,996.13
045	Montera	ASES After-school Base	122,821.74	117,601.82	5,219.92	11,760.18
073	Moreno	ASES After-school Base	122,821.74	117,601.82	5,219.92	11,760.18
074	Ramona	ASES After-school Base	122,821.74	117,601.82	5,219.92	11,760.18
382	Serrano	ASES After-school Base	112,015.12	107,254.48	4,760.64	10,725.45
383	Vernon	ASES After-school Base	66,064.47	63,256.73	2,807.74	6,325.67
			<u>1,259,846.82</u>	<u>1,206,303.33</u>	<u>53,543.49</u>	<u>120,630.33</u>



Ontario-Montclair School District  
 ASES Payment Schedule—City of Montclair  
 July 1, 2020 through June 30, 2021

No.	School	Program	Schedule C		OMSD's Balance	Tenthly Payment
			Estimated Allocation	92.50% To Montclair		
060	El Camino	ASES After-school Base	109,942.66	101,696.96	8,245.70	10,169.70
064	Howard	ASES After-school Base	133,169.40	123,181.70	9,987.70	12,318.17
065	Kingsley	ASES After-school Base	142,118.38	131,459.50	10,658.88	13,145.95
066	Lehigh	ASES After-school Base	145,420.98	134,514.41	10,906.57	13,451.44
071	Mission	ASES After-school Base	84,257.00	77,937.73	6,319.27	7,793.77
072	Monte Vista	ASES After-school Base	158,488.60	146,601.96	11,886.64	14,660.20
045	Montera	ASES After-school Base	133,169.40	123,181.70	9,987.70	12,318.17
073	Moreno	ASES After-school Base	133,169.40	123,181.70	9,987.70	12,318.17
074	Ramona	ASES After-school Base	133,169.40	123,181.70	9,987.70	12,318.17
382	Serrano	ASES After-school Base	121,452.27	112,343.35	9,108.92	11,234.34
383	Vernon	ASES After-school Base	71,630.32	66,258.05	5,372.27	6,625.81
			<u>1,365,987.81</u>	<u>1,263,538.76</u>	<u>102,449.05</u>	<u>126,353.89</u>



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	HSV030
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-49 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT TO SUPPORT THE MONTCLAIR AFTER-SCHOOL SUMMER EXPANDED LEARNING PROGRAM		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-49 with Ontario-Montclair School District (OMSD) to support the Montclair After-School Summer Expanded Learning Program.

**BACKGROUND:** The Human Services Department has delivered after-school programs within OMSD schools since 1999. Funding for this program originates from the California Department of Education, After-School Education and Safety (ASES) Supplemental Expanded Learning program through grants made available to local education authorities, such as OMSD. The purpose of the funding is to provide communities with enhanced community-based after-school services in an effort to strengthen healthy child development.

Proposed Agreement No. 20-49 would provide funding for summer expanded learning from May to June 2021 at the following five school sites: Kingsley, Lehigh, Mission, Monte Vista, and Serrano.

The funding for these school sites would be used to support summer academic, recreational, and enrichment activities for children in the 2021 summer expanded learning programs.

**FISCAL IMPACT:** Should the City Council approve proposed Agreement No. 20-49, OMSD would provide no less than \$108,334.91 to fund personnel, training, supplies, and grant oversight. The term of proposed Agreement No. 20-49 is July 2, 2020, through June 30, 2021.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-49 with the Ontario-Montclair School District to support the Montclair After-School 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 2nd day of July, 2020 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) **Scope of Work.** 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):

Provide staff and materials for the ASES Supplemental expanded learning program. See Attachment A for details.

- b) **Staffing.** 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) **Independent Contractor.** 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) **Public Entity Employee.** 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:

See Attachment B and Schedules A, B, and C for details.

- b) **Travel Expenses.** DISTRICT will pay no additional amount for travel or other expenses of CONSULTANT under this Agreement unless specified below under section 2(c). 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.
- c) **Summary of Compensation**
- |  |              |
|--|--------------|
| Services:  | \$108,334.91 |
| Travel Expense:  | NA           |
| <hr/>  |              |
| Total contract amount not to exceed ( <i>services + travel</i> ) | \$108,334.91 |
- d) **Retired STRS or PERS.** 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).
- e) **Income Tax.** 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.
- f) **Documentation Required For Payment.** 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, 2020 through June 30, 2021, 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) **Services Performed.** 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) **Use of District Space and Resources.** 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) **Regulatory Compliance.** CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.
- d) **Asbestos Hazard Emergency Response Act (AHERA) and Lead Based Paint Compliance.** CONSULTANT shall comply with the DISTRICT's Asbestos Hazard Emergency Response Act (AHERA) and Lead Based Paint compliance procedures. Prior to starting any construction work at a DISTRICT facility (including demolition, drilling/penetrating, cutting/tearing, sanding, scraping, screwing/unscrewing, or other similar activities) the following requirements must be met:
  1. Contact the Facilities Planning and Operations Department (909-418-6366) to discuss the project and the planned method of construction or installation to occur.
  2. Receive and review the District's Asbestos Hazard Emergency Response Act (AHERA) Management Plan Book that identifies the known location(s) of asbestos and/or lead-based paint containing materials for the subject site to confirm these materials will not be disturbed during the course of your work.
  3. Obtain authorization from the Facilities Planning and Operations Department.
- e) **Fingerprinting.** 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, including but not limited to CONSULTANT if CONSULTANT is among the agents providing services, 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, including 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 (Exhibit A).
- f) **Indemnification.** 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) **Insurance Requirements.** 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. **General Liability Insurance.** Commercial general liability insurance, covering bodily injury liability, property damage liability and personal injury liability of CONSULTANT with respect to the services provided by, or on behalf of, CONSULTANT under this Agreement. The policy limits shall not be less than One Million dollars (\$1,000,000) per occurrence. The policy may not contain an exclusion for coverage of claims arising from claims for sexual molestation or abuse. In the event that CONSULTANT's policy should have an exclusion for sexual molestation or abuse claims, then CONSULTANT shall be required to procure a supplemental policy providing such coverage.
  - a. The DISTRICT requires the Certificate of Liability Insurance to show the DISTRICT as the "Certificate Holder" and "Additional Insured" on the CONSULTANT'S general liability insurance policy. Requested wording in the "Description box" is as follows:

*The Ontario-Montclair School District, its departments, officers, agents, and employees are additional insureds with regard to liability and defense of suits arising from the operations and uses performed by or on behalf of the named "Insured."*

2. **Auto Liability Insurance.** CONSULTANT agrees that services in conjunction with this agreement will be conducted in CONSULTANT's office or at a DISTRICT school site and CONSULTANT will not drive Student in private or commercial vehicle to conduct assessments or conduct other business in conjunction with this agreement. Accordingly, commercial automobile insurance will not be required in conjunction with this agreement. Should CONSULTANT need to provide services in conjunction with this agreement that do require Student transportation in a private or commercial vehicle, the DISTRICT and CONSULTANT will mutually agree on services to be provided, and CONSULTANT will provide insurance as follows: Business auto liability insurance covering the use of "owned, non-owned and hired" autos by or on behalf of CONSULTANT respect to the services to be performed under this Agreement. The policy limits shall not be less than One Million dollars (\$1,000,000) per occurrence. The Auto Liability Insurance policy shall include waiver of subrogation via separate endorsement.
3. **Workers' Compensation Insurance.** This coverage is required unless CONSULTANT provides written verification it has no employees. Coverage must be at least as broad as that which is required by the State of California, with Statutory Limits. CONSULTANT must also maintain Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Workers' compensation policy shall include waiver of subrogation via separate endorsement.

The policies of insurance described in Paragraph (4g.1-3) listed 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 (4g.1-3) shall be provided to DISTRICT prior to the commencement of services under this Agreement. CONSULTANT agrees that it shall not cancel or change the coverage provided by the policies of insurance described in Paragraph (4g.1-3) 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) **Written Consent.** 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) **Professional Services.** 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) **Indemnification.** 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 for 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 officers, employees, agents, or staff.

## 6. TERMINATION OF AGREEMENT

- a) **Termination without Cause.** 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) **Termination for Breach.** Should CONSULTANT or DISTRICT default in the performance of this Agreement or breach any of its provisions, the injured party shall notify the party in breach in writing of the breach. The party in breach may attempt to cure the breach within ten (10) day of receiving the written notification of breach. If the breach has not been cured within ten (10) days, the injured party may provide a notice of termination. Termination will be effective fifteen (15) days after receiving the notice of termination.
- c) **Immediate Suspension/Termination by District.** 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) **Effect of Termination.** 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.

NA

## 7. GENERAL PROVISIONS

- a) **Notices.** 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) **Validity of Agreement.** 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) **Court Findings.** 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) **California Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- e) **Audit.** 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) **Contractual/Equitable Remedies.** CONSULTANT agrees that the DISTRICT is the sole entity against whom the CONSULTANT may seek either contractual or equitable remedies, and further agrees not to seek contractual or equitable remedies (including, but not limited to injunctive relief and quantum meruit) against DISTRICT employees or beneficiaries of the Agreement.
- g) **Board of Trustees Approval.** 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.

<p>“DISTRICT”</p> <hr/> <p style="text-align: center;">Signature</p> <hr/> <p style="text-align: center;">Date</p> <p style="text-align: center;">Phil Hillman, Chief Business Official</p> <hr/> <p style="text-align: center;">Printed Name/Title</p> <p style="text-align: center;">Ontario-Montclair School District 950 West D Street Ontario, CA 91762</p> <p style="text-align: center; color: red;">Approved by OMSD Board:</p> <hr style="border: 1px solid red;"/>	<p>“CONSULTANT”</p> <hr/> <p style="text-align: center;">Signature</p> <p style="text-align: center;">Javier John Dutrey, Mayor</p> <hr/> <p style="text-align: center;">Printed Name/Title</p> <hr/> <p style="text-align: center;">Date</p> <hr/> <p style="text-align: center;">Email Address/</p> <p style="text-align: center;">5111 Benito Street</p> <hr/> <p style="text-align: center;">Street Address</p> <p style="text-align: center;">Montclair, CA 91763</p> <hr/> <p style="text-align: center;">City, State, Zip Code</p> <p style="text-align: center;">(909) 626-8571</p> <hr/> <p style="text-align: center;">Telephone Number</p> <p>Attest: _____</p> <p style="text-align: center;">Andrea Phillips, City Clerk</p>
--	--



Exhibit A

Certification of Compliance with California Education Code Section 45125.1

I hereby certify that all owners and employees of City of Montclair  
[name of CONSULTANT] (“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 INFORMATION

\_\_\_\_\_  
Signature  
Javier John Dutrey, Mayor  
\_\_\_\_\_  
Printed Name/Title  
  
\_\_\_\_\_  
Date  
  
\_\_\_\_\_  
Email Address/  
5111 Benito Street  
\_\_\_\_\_  
Street Address  
Montclair, CA 91763  
\_\_\_\_\_  
City, State, Zip Code  
(909) 626-8571  
\_\_\_\_\_  
Telephone Number

END OF AGREEMENT FOR CONSULTANT SERVICES

## Attachment A

**CONSULTANT:** City of Montclair

Services to be performed by **CONSULTANT:**

**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):

- I. **CONSULTANT** will provide staff and materials to operate the expanded learning program services at the following sites:
  - a. Kingsley
  - b. Lehigh
  - c. Mission
  - d. Monte Vista
  - e. Serrano
- II. **CONSULTANT** will have the following responsibilities in support of the ASES Supplemental program:
  - a. Coordinate the academic assistance, homework support, and enrichment portions (including time for physical activity) of the ASES Supplemental program at each school site.
  - b. Hire, train, and supervise site staff, including the site coordinators and program leaders.
  - c. Seek regular input from principals regarding performance evaluations, including recommendations for retraining and terminating a site coordinator and/or other site staff.
  - d. Participate in all cross-training for site coordinators and program leaders.
  - e. Maintain ongoing communication between City of Montclair staff and district staff regarding student needs and progress, including, but not limited to attendance at school-day meetings and/or one-on-one meetings with teachers.
  - f. Coordinate ASES Supplemental activities with appropriate district staff to assure program supports current academic goals.
  - g. Provide academic assistance and other activities specifically supporting, but not duplicating, daytime curriculum and academic goals.
  - h. Foster communication with and involvement of parents.
  - i. Regularly attend and participate in regularly scheduled operation meetings with **DISTRICT** liaison.
  - j. Provide the **DISTRICT**, in a timely manner, with any required documentation, such as, but not limited to, monthly program evaluations, attendance, and supper counts.
- III. In the event **DISTRICT** implements a distance learning model for delivering education services for a part of, or the entire school year, the expanded learning programs, which include programs after school and summer programs may also move to a distance learning format, if permitted by the California Department of Education. Such distance learning formats include, but are not limited to, prerecorded video lessons, printed assignments, or live video lessons. If the expanded learning programs move to a distance learning format, **CONSULTANT** will implement checks to obtain reasonable assurance of student attendance. Such checks may include, but are not limited to virtual roll calls, parental contact, or email confirmations.

## Attachment B

**CONSULTANT:** City of Montclair

### Compensation:

- I. Except as otherwise provided in this Agreement, **DISTRICT** agrees to compensate **CONSULTANT** for services rendered under this Agreement as follows:
  - a. For the 2020-21 school year only:
    - i. If the California Department of Education (henceforth **CDE**) per-student, per-day rate is \$7.50 or less, the **CONSULTANT** will be paid 99.0% of **DISTRICT**'s grant award from **CDE**, according to Schedule A, attached hereto.
      1. Administrative costs may not exceed 1.0% of grant award from **CDE**, according to Schedule A, attached hereto.
    - ii. If the **CDE** per-student, per-day rate is \$8.19, the **CONSULTANT** will be paid 95.75% of **DISTRICT**'s grant award from **CDE**, according to Schedule B, attached hereto.
      1. Administrative costs may not exceed 4.25% of grant award from **CDE**, according to Schedule B, attached hereto.
    - iii. If the **CDE** per-student, per-day rate is \$8.88 or more, the **CONSULTANT** will be paid 92.5% of **DISTRICT**'s grant award from **CDE**, according to Schedule C, attached hereto.
      1. Administrative costs may not exceed 7.5% of grant award from **CDE**, according to Schedule C, attached hereto.
    - iv. If the **CDE** per-student, per-day rate is between \$7.50 and \$8.88, the **CONSULTANT** will be paid a pro rata rate between 92.5% and 99.0%.
  - b. If **DISTRICT** fails to receive ASES Supplemental grant funding, **CONSULTANT** will hold **DISTRICT** harmless for any financial liabilities or obligations it has incurred.
  - c. Timing and amounts of payments will be made according to Schedule A, attached hereto. If the funds received from **CDE** change, a pro rata adjustment to the maximum amount available for payment to **CONSULTANT** will be made.
  - d. **CONSULTANT** fee will only be paid out of funds received by **DISTRICT** from the State and only up to the limits of this agreement.
  - e. **CONSULTANT** is to provide documentation necessary for annual independent audits, in accordance with **CDE** requirements. Any additional audit cost bill to **DISTRICT** due to lack of documentation will be billed to **CONSULTANT** for payment.
  - f. **DISTRICT** may reduce funding if the annual attendance average does not meet at least 75% of the attendance required by **CDE** in a single year or is less than 85% in two consecutive years.

Ontario-Montclair School District  
 ASES Payment Schedule—City of Montclair  
 July 1, 2020 through June 30, 2021

No.	School	Program	Schedule A		OMSD's Balance	Tenthly Payment
			Estimated Allocation	99.00% To Montclair		
065	Kingsley	ASES Supplemental	23,003.63	22,773.59	230.04	2,277.36
066	Lehigh	ASES Supplemental	20,797.88	20,589.90	207.97	2,058.99
071	Mission	ASES Supplemental	18,369.90	18,186.20	183.70	1,818.62
072	Monte Vista	ASES Supplemental	30,628.95	30,322.66	306.29	3,032.27
382	Serrano	ASES Supplemental	16,628.85	16,462.56	166.29	1,646.26
			<u>109,429.20</u>	<u>108,334.91</u>	<u>1,094.29</u>	<u>10,833.50</u>

Ontario-Montclair School District  
 ASES Payment Schedule—City of Montclair  
 July 1, 2020 through June 30, 2021

No.	School	Program	Schedule B		OMSD's Balance	Tenthly Payment
			Estimated Allocation	95.75% To Montclair		
065	Kingsley	ASES Supplemental	25,119.96	24,052.36	1,067.60	2,405.24
066	Lehigh	ASES Supplemental	22,711.28	21,746.05	965.23	2,174.61
071	Mission	ASES Supplemental	20,059.93	19,207.38	852.55	1,920.74
072	Monte Vista	ASES Supplemental	33,446.81	32,025.32	1,421.49	3,202.53
382	Serrano	ASES Supplemental	18,158.70	17,386.96	771.74	1,738.70
			<u>119,496.69</u>	<u>114,418.07</u>	<u>5,078.62</u>	<u>11,441.82</u>

Ontario-Montclair School District  
 ASES Payment Schedule—City of Montclair  
 July 1, 2020 through June 30, 2021

No.	School	Program	Schedule C		OMSD's Balance	Tenthly Payment
			Estimated Allocation	92.50% To Montclair		
065	Kingsley	ASES Supplemental	27,236.28	25,193.56	2,042.72	2,519.36
066	Lehigh	ASES Supplemental	24,624.64	22,777.79	1,846.85	2,277.78
071	Mission	ASES Supplemental	21,749.92	20,118.68	1,631.24	2,011.87
072	Monte Vista	ASES Supplemental	36,264.69	33,544.84	2,719.85	3,354.48
382	Serrano	ASES Supplemental	19,688.56	18,211.92	1,476.64	1,821.19
			<u>129,564.09</u>	<u>119,846.79</u>	<u>9,717.30</u>	<u>11,984.68</u>



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	PDT175/PDT362
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	POLICE
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	M. BUTLER
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-56 WITH THE COUNTY OF SAN BERNARDINO RELATED TO DISTRIBUTION OF 2019 JUSTICE ASSISTANCE GRANT PROGRAM AWARD FUNDS		
	CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO SIGN SAID AGREEMENT		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-56 with the County of San Bernardino related to distribution of 2019 Justice Assistance Grant (JAG) Program Award funds and authorizing City Manager Edward C. Starr to sign said Agreement..

A copy of proposed Agreement No. 20-56 is attached for the City Council's review and consideration.

**BACKGROUND:** The Police Department has been notified it is eligible to receive a \$14,709 JAG Program award. The JAG Program requires that the state's allocation for municipal agencies in the region be distributed and administered directly through San Bernardino County. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, shall disburse appropriate grant allocations to eligible jurisdictions, less a 5 percent administrative fee as allowable under JAG guidelines. Such appropriations must be released within 60 days of receipt of grant funds by the JAG Program Administrator. Before receiving grant funds, the City must enter into a sub-award grant agreement (Memorandum of Understanding) with the County.

The Edward Byrne Memorial JAG Program is the primary provider of federal criminal justice funding to states and units of local government and furthers the Department of Justice's mission to prevent or reduce crime and violence. JAG Program awards are for the exclusive use of law enforcement services and programs and are designed to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. These funds shall supplement existing services and shall not be used to supplant any existing funding for law enforcement services.

**FISCAL IMPACT:** Approval of proposed Agreement No. 20-56 would result in a \$14,709 JAG Program fund allocation to the Police Department's Fiscal Year 2020-21 Budget. The San Bernardino County Board of Supervisors would retain a 5 percent administrative fee of \$774.

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

1. Approve Agreement No. 20-56 with the County of San Bernardino related to distribution of 2019 Justice Assistance Grant Program Award funds.
2. Authorize City Manager Edward C. Starr to sign said Agreement.



Contract Number

---

SAP Number

---

**Agreement No. 20-56**

## Law and Justice Group Administration

<b>Department Contract Representative</b>	G. Christopher Gardner, Chair
<b>Telephone Number</b>	909-387-5005
<b>Contractor</b>	U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance
<b>Contractor Representative</b>	Gerardo Velazquez, BJA State Policy Advisor
<b>Telephone Number</b>	202-353-8645
<b>Contract Term</b>	10/1/2018 – 9/30/2022
<b>Original Contract Amount</b>	\$637,997
<b>Amendment Amount</b>	N/A
<b>Total Contract Amount</b>	\$637,997
<b>Cost Center</b>	113-000-2374

**Briefly describe the general nature of the contract:** *Agreement between the County, the town of Apple Valley, and the cities of Adelanto, Barstow, Chino, Colton, Fontana, Hesperia, Highland, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Victorville as disparate jurisdictions for the 2019 Justice Assistance Grant. The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance requires disparate jurisdictions to enter into a Memorandum of Understanding (MOU) that outlines who will serve as the applicant/fiscal agent for the joint funds. The MOU provides for allocations to the participating Subrecipient agencies in the amount of \$545,883, and \$60,214 for the County. The MOU also provides for a 5% administrative fee of \$31,900, which will be used to offset staffing expenses for the Law and Justice Group. No matching funds are required. The term of the agreement is from October 1, 2018 to September 30, 2022.*

**FOR COUNTY USE ONLY**

Approved as to Legal Form  _____ Katherine Hardy, County Counsel  Date _____	Reviewed for Contract Compliance  _____  Date _____	Reviewed/Approved by Department  _____  Date _____
---	---	--



INTERLOCAL AGREEMENT  
BETWEEN THE TOWN OF APPLE VALLEY, THE CITIES OF ADELANTO, BARSTOW,  
CHINO, COLTON, FONTANA, HESPERIA, HIGHLAND, MONTCLAIR, ONTARIO, RANCHO  
CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, UPLAND, VICTORVILLE,  
AND THE COUNTY OF SAN BERNARDINO, CA

CONCERNING DISTRIBUTION OF THE  
2019 JUSTICE ASSISTANCE GRANT AWARD

This Agreement is made and entered into this 9th day of June, 2020, by and between THE COUNTY OF SAN BERNARDINO, acting by and through its governing body, the Board of Supervisors (hereinafter referred to as "COUNTY"), and the aforementioned TOWN (hereinafter referred to as "TOWN") and named CITIES (hereinafter referred to as "CITIES"), acting by and through their respective governing bodies, the Town Council and City Councils, all of whom are situated within the County of San Bernardino, State of California, as follows:

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

**WHEREAS**, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

**WHEREAS**, the COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected on Appendix 1 here attached and hereby incorporated by reference as part of this agreement; and COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of TOWN's and CITIES' programs during the entire permissible duration of said programs; and TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with JAG guidelines; and TOWN and CITIES each agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected on Appendix 1 for administrative fees toward the administration of this program; and additionally the TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines, and that the interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines; and

**WHEREAS**, the TOWN, CITIES and COUNTY believe it to be in their best interests to reallocate the JAG funds,

**NOW THEREFORE, the COUNTY and TOWN and CITIES agree as follows:**

**Section 1.**

COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected in Appendix 1 here attached and hereby incorporated by reference as part of this Agreement, and; COUNTY agrees to use the five percent (5%) of JAG award funds received from

TOWN and CITIES under this agreement for administrative fees toward the administration of the TOWN's and CITIES' programs during the entire permissible duration of said programs.

**Section 2.**

TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with the JAG guidelines; and TOWN and CITIES agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected in Appendix 1, for administrative fees toward the administration of this program, and; TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines and that all interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines.

**Section 3.**

TOWN and CITIES agree to enter into a sub-award grant agreement with the COUNTY in order to acknowledge receipt of the federal award information and applicable compliance requirements, including special conditions for each sub-award, before receiving grant funds.

**Section 4.**

TOWN and CITIES agree to provide COUNTY with sufficient timely information as necessary within five business days after receiving written request from COUNTY to meet JAG requirements for quarterly and annual financial and performance reports.

**Section 5.**

Nothing arising from this Agreement shall impose any liability for claims or actions against COUNTY other than what is authorized by law.

**Section 6.**

Nothing arising from this Agreement shall impose any liability for claims or actions against TOWN and/or CITIES other than what is authorized by law.

**Section 7.**

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable to any other party to this Agreement for any claim or action arising from the services provided under this Agreement.

**Section 8.**

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

**Section 9.**

By entering into this Agreement, the parties do not intend to create any obligations, either express or implied, other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

**WHEREFORE**, all parties freely and voluntarily agree to all of the above terms.

TOWN OF APPLE VALLEY, CA

COUNTY OF SAN BERNARDINO, CA

\_\_\_\_\_  
Town Manager

\_\_\_\_\_  
Curt Hagman  
Chair, County Board of Supervisors

ATTEST:

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

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Lynna Monell  
Clerk of the Board of Supervisors  
of the County of San Bernardino

\_\_\_\_\_  
Town Attorney

APPROVED AS TO FORM:

\_\_\_\_\_  
\*Michelle Blakemore  
County Counsel

\_\_\_\_\_  
by: Katherine Hardy, Deputy

\*By law, the County Counsel's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our clients. Our approval of this document was offered solely for the benefit of our clients. Other parties should not rely on this approval and should seek review and approval by their own respective attorneys.



































**2019 Justice Assistance Grant  
Appendix 1**

<b>Jurisdiction</b>	<b>Allocation</b>	<b>5% Administrative Fee</b>	<b>Award</b>
San Bernardino County	\$63,383	(\$3,169)	\$60,214
Adelanto	\$17,005	(\$850)	\$16,155
Apple Valley	\$18,247	(\$912)	\$17,335
Barstow	\$22,158	(\$1,108)	\$21,050
Chino	\$15,342	(\$767)	\$14,575
Colton	\$15,061	(\$753)	\$14,308
Fontana	\$55,934	(\$2,797)	\$53,137
Hesperia	\$23,798	(\$1,190)	\$22,608
Highland	\$14,686	(\$734)	\$13,952
Montclair	\$15,483	(\$774)	\$14,709
Ontario	\$42,911	(\$2,146)	\$40,765
Rancho Cucamonga	\$20,120	(\$1,006)	\$19,114
Redlands	\$15,295	(\$765)	\$14,530
Rialto	\$29,818	(\$1,491)	\$28,327
San Bernardino	\$196,285	(\$9,814)	\$186,471
Upland	\$16,560	(\$828)	\$15,732
Victorville	\$55,911	(\$2,796)	\$53,115
<b>Total</b>	<b>\$637,997</b>	<b>(\$31,900)</b>	<b>\$606,097</b>



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	PER250
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	ADMIN. SVCS.
<b>ITEM NO.:</b>	5	<b>PREPARER:</b>	J. HAMILTON
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-59 WITH LIEBERT CASSIDY WHITMORE FOR PARTICIPATION IN THE EAST INLAND EMPIRE EMPLOYMENT RELATIONS CONSORTIUM		

---

**REASON FOR CONSIDERATION:** The City's current Agreement with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium (ERC) is scheduled for renewal on July 1, 2020. The City Council is requested to consider approval of proposed Agreement No. 20-59 with Liebert Cassidy Whitmore, a copy of which is attached for the City Council's review and consideration.

**BACKGROUND:** For over 30 years, the City of Montclair has participated in the Liebert Cassidy Whitmore ERC. The City's participation entitles officials and employees to receive five (5) one-day group training sessions, unlimited free telephone consultations with the law firm's attorneys, and a monthly employment-relations newsletter. Participating agencies may also receive specialized training for an added cost. As laws are constantly evolving related to employment relations, participating in this consortium is crucial to keeping City employees abreast of such changes.

The term of the proposed Agreement is for one-year: July 1, 2020 to June 30, 2021.

**FISCAL IMPACT:** The annual fee for participating in the Consortium is \$3,045.00. Funds to cover the cost of the training sessions and consulting service are included in the Fiscal Year 2020-2021 Budget.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-59 with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium.

**AGREEMENT FOR SPECIAL SERVICES**

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

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

WHEREAS Agency has determined that no less than thirty (30) public agencies in the East Inland Empire area have the same need and have agreed to enter into identical agreements with Attorney; and

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

NOW, THEREFORE, Agency and Attorney agree as follows:

**Attorney's Services:**

During the year beginning July 1, 2020, Attorney will provide the following services to Agency (and the other aforesaid public agencies):

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

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

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

**Fee:**

Attorney will provide these special services to Agency for a fee of Three Thousand Forty Five Dollars (\$3,045.00) payable in one payment prior to August 1, 2020. The fee, if paid after August 1, 2020 will be \$3,145.00.

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

**Additional Services:**

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

The range of hourly rates for Attorney time is from Two Hundred Ten to Three Hundred Ninety Dollars (\$210.00 - \$390.00) per hour for attorney staff, Two Hundred Forty Dollars (\$240.00) per hour for Labor Relations/HR Consultant and from One Hundred Thirty-Five to One Hundred Seventy-Five Dollars (\$135.00 - \$175.00) per hour for services provided by paraprofessional and litigation support staff. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour. Attorney reviews its hourly rates on an annual basis and if appropriate, adjusts them effective July 1.

**Independent Contractor:**

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

**Term:**

The term of this Agreement is twelve (12) months commencing July 1, 2020. The term may be extended for additional periods of time by the written consent of the parties.

**Condition Precedent:**

It is understood and agreed that the parties' aforesaid rights and obligations are contingent on no less than thirty (30) local agency employers entering into a substantially identical Agreement with Attorney on or about July 1, 2020.

**LIEBERT CASSIDY WHITMORE**  
A Professional Corporation

**CITY OF MONTCLAIR**  
A Municipal Corporation

By:   
J. Scott Tiedemann / Managing Partner

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

Date: 6/19/2020

Name: \_\_\_\_\_

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

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



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	HSV044
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	6	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-60 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT FOR UTILIZATION OF THE FAMILY RESOURCE CENTER FOR CASE MANAGEMENT SERVICES AND TO SUPPORT OPERATING COSTS OF THE FACILITY		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-60 with Ontario-Montclair School District (OMSD) for utilization of the family resource center (FRC) for case management services and support of operating costs of the facility.

A copy of proposed Agreement No. 20-60 is attached for City Council review and consideration.

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

Continuing the MCC partnership, OMSD has used the FRC located at 9916 Central Avenue since 2011 to provide case management services, parenting classes, and counseling for students and their families. Proposed Agreement No. 20-60 would continue OMSD's use of the FRC and assist in paying for operation costs including utilities, maintenance, and cleaning.

**FISCAL IMPACT:** Should the City Council approve Agreement No. 20-60, OMSD will provide the City with \$28,500 for operating costs including utilities, maintenance, and cleaning at the Family Resource Center from July 1, 2020, through June 30, 2021.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-60 with OMSD for utilization of the FRC for case management services and to support operating costs of the facility.



## AGREEMENT FOR SERVICES ONTARIO-MONTCLAIR SCHOOL DISTRICT

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

**THIS AGREEMENT** is made and entered into this 1st day of July 2020 by and between the **Ontario-Montclair School District**, hereinafter referred to as the "**DISTRICT**," and **City of Montclair**, hereinafter referred to as the "**CONSULTANT**."

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

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

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

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

### **2. COMPENSATION**

- a) **Compensation for Services**

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

\$28,500.00 for the duration of this agreement.

**Travel Expenses**

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



1. The not to exceed amount stated, or
2. The actual amount expended. Supporting documentation for the authorized travel or other expenses shall be attached to this Agreement.

NONE

**Summary of Compensation**

**Services: \$28,500.00**

**Travel Expense: NONE**

**Total contract amount not to exceed (*services + travel*) \$28,500.00**

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

**3. TERM OF AGREEMENT**

The term of this Agreement is from July 1, 2020 through June 30, 2021, 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"

ONTARIO-MONTCLAIR SCHOOL DISTRICT

CITY OF MONTCLAIR

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

Signature

Phil Hillman

Printed Name

Chief Business Official

Title

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

Signature

Javier John Dutrey

Printed Name

Mayor

Title

5111 Benito Street  
Address

Montclair, CA 91763  
City, State, Zip

(909) 625-8571  
Telephone Number

ATTEST:

Signature

Andrea M. Phillips

Printed Name

City Clerk

Title

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

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

Date of Board of Trustees Approval:

## Certification of Compliance with California Education Code Section 45125.1

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

### CONSULTANT

\_\_\_\_\_  
Signature

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

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

5111 Benito Street  
\_\_\_\_\_  
Address

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

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

ATTEST:

\_\_\_\_\_  
Signature

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

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

**END OF AGREEMENT FOR CONSULTANT SERVICES**

## Appendix A

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

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

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

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

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

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

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

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

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

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



**City of Montclair**

Subcontractor Budget FY 2019-2020

San Bernardino Department of Behavioral Health

Prevention and Early Intervention Family Resource Center

<b>CATEGORY</b>	<b>Expenses</b>
Operating Costs at the Central Avenue Facility	
Utilities/Internet/Security	\$ 9,000.00
Janitorial/Custodial Services	\$ 19,500.00
<b>Total Operating Expenses</b>	<b>\$ 28,500.00</b>



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	HSV043
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	7	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-62 WITH SERVICEMASTER 360 PREMIER CLEANING TO PROVIDE CUSTODIAL SERVICES AT THE FAMILY RESOURCE CENTER		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-62 with ServiceMaster 360 Premier Cleaning to provide custodial services for the Family Resource Center (FRC).

A copy of proposed Agreement No. 20-62 is attached for City Council review and consideration.

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

Through the MCC partnership, Ontario-Montclair School District (OMSD) has used the FRC, located at 9916 Central Avenue, since 2011 to provide case management services, parenting classes, and counseling for OMSD students and their families. OMSD requested cleaning services at FRC; however, the City's current custodial staff is not able to take on this additional task at this time. Estimated overtime costs for City Staff to clean the FRC is \$22,000 at one day per week; whereas, the cost of one year with ServiceMaster 360 Premier Cleaning Service for five days per week is \$1,625 per month, or \$19,500 for 12 months.

The term of proposed Agreement No. 20-62 is July 1, 2020, through June 30, 2021.

**FISCAL IMPACT:** OMSD's use of the FRC from July 1, 2020 through June 30, 2021 is on the current council agenda for consideration under Agreement No. 20-60. Funds received from OMSD through Agreement No. 20-60 will pay for the cleaning service at \$1,625 per month, and there will be no impact to the City's General Fund.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-62 with ServiceMaster 360 Premier Cleaning to provide custodial services for the Family Resource Center.

# JANITORIAL SERVICES PROPOSAL

Agreement No. 20-62



Respectfully Submitted to:

---

Marcia Richter  
5111 Benito St. or  
P.O. Box 2308  
Montclair, CA  
Phone: (909) 625-9453  
[mrichter@cityofmontclair.org](mailto:mrichter@cityofmontclair.org)

Respectfully Submitted by:

---

Pete Santos Jr  
ServiceMaster 360 Premier Cleaning  
17096 Sequoia # 115  
Hesperia, CA 92345  
760-947-9962  
Fax 760-948-4108  
[Pete@sm360pc.com](mailto:Pete@sm360pc.com)



June 22, 2020

Marcia Richter  
5111 Benito St or  
P.O. Box 2308  
Montclair, CA

Dear Marcia,

Thank you for the opportunity to Re-submit this ServiceMaster Clean Proposal for Environmental services at your facilities located in Montclair California.

The following pages contain detailed exhibits for each segment of this proposal:

***Description***

- **Task Schedule** • **Pricing Analysis** • **Agreement**

It was great talking with you and discussing your facilities needs. I want to ensure you that with our service you will get an extraordinary clean and dependability. One of our top priorities is to maintain communication and quality.

We have plans and steps put into place to ensure your facility is being maintained properly. There will be monthly quality inspections and communication log on site. You will also have direct contact with me by phone day or night.

We fully understand the importance of having a quality individual to clean your facility. All of our employees receive background checks and drug screening. Our number one concern is to provide a safe environment for your staff and our employees.

We also offer Emergency Service. What is your plan when a pipe bursts flooding your facility, or your facility has smoke damage from a fire? ServiceMaster Clean can help you strategize a solution to ensure that your facility is back up and running in no time and also help to limit the damage to your facility and cost of repair. Please call me if you are interested in getting an Emergency Service Plan together.

Please look over the task schedule and let me know if there is anything else that might need to be added or changed. This task schedule will be place in the communication log on site to ensure that it is being followed.

I again, thank you for the opportunity to summit this proposal. We look forward to the opportunity to serve you. We are prepared to begin a partnership with your company that

will provide you with “the cleaning you expect and the service you deserve,” allowing you to focus your energy in your other areas of responsibility.

If you have any concerns or questions with the proposal please call me.

Sincerely,

Pete Santos Jr  
ServiceMaster 360 Premier Cleaning

## **COMMITMENT AND GUARANTEE**

At ServiceMaster Clean, we are committed to providing you with excellent service that we guarantee it. Our 5-Point ServiceMaster Guarantee states:

- We will answer your call anytime, day or night
- We will respond to your service needs within 12 hours after receiving your call
- We will provide open communication on a daily basis
- We will perform all services as agreed upon in our contract
- We will show we care by our professional appearance and manner, and by the products and procedures we use.

## **STATEMENT OF CONFIDENTIALITY**

The data herein and any data accompanying this document or made available to Montclair human services department in connection with this request for proposal are confidential and proprietary to ServiceMaster Residential/Commercial Services LP (ServiceMaster 360 Premier Cleaning)

Disclosure to Customer is solely for the purpose of soliciting a Service Proposal or Contract from your company. The Customer shall treat the information contained in this document and all accompanying materials as confidential. Accordingly, the Customer shall not copy, distribute, or otherwise disclose the information contained in this document to any party other than its employees and advisors with a need to know in order to provide Customer with the information contained in this document.

Exception will be made where the information is available in the public domain through no breach of confidence by the Customer or where it is available from some source other than ServiceMaster Clean without a breach of confidentiality with Customer.

**CLEANING TASK SCHEDULE**  
**Human Services Department City of Montclair**  
**5111 Benito St 5x week service**  
**Facility approx. 1,024 sq. ft.**

<b>Offices and General Areas</b>	
Empty Trash & spot Clean	5 x a Week
Spot Clean walls by trash can	5 x a Week
Dust Horizontal surfaces with vacuum dust wand	5 x a Week
Dusting of Blinds	1x a Week
Spot Clean All doors, door jams and window sills	5 x a Week
Spot Clean Vents	5 x a Week
High Dust with wand	5 x a Week
Low dust with wand	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Vacuum Traffic Lanes	5 x a Week
Vacuum carpet mats	5 x a Week
Mop floor	5 x a Week
Inspect	5 x a Week
<b>Restrooms</b>	
Sweep floor	5 x a Week
Refill dispensers	When Needed
Empty trash	5 x a Week
Clean mirrors	5 x a Week
Clean sinks	5 x a Week
Clean flushable	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Mop floor	5 x a Week
Inspect	5 x a Week
Wipe Down Walls	5 x a Week
<b>Interior Windows</b>	
Clean	1x a Month

**CLEANING TASK SCHEDULE**  
**Human Services Department City of Montclair**  
**9916 Central Ave 5x week service**  
 Facility approx. 1,250 sq. ft.

<b>Offices and General Areas</b>	
Empty Trash & spot Clean	5 x a Week
Spot Clean walls by trash can	5 x a Week
Dust Horizontal surfaces with vacuum dust wand	5 x a Week
Dusting of Blinds	5 x a Week
Spot Clean All doors, door jams and window sills	5 x a Week
Spot Clean Vents	5 x a Week
High Dust with wand	5 x a Week
Low dust with wand	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Vacuum Traffic Lanes	5 x a Week
Vacuum carpet mats	5 x a Week
Mop Hard Surface flooring	5 x a Week
Inspect	5 x a Week
<b>Restrooms</b>	
Sweep floor	5 x a Week
Refill dispensers	When Needed
Empty trash	5 x a Week
Clean mirrors	5 x a Week
Clean sinks	5 x a Week
Clean flushable	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Mop floor	5 x a Week
Inspect	5 x a Week
Wipe Down Walls	5 x a Week
<b>Interior Windows</b>	
Clean	1x a Month



GENERAL CLEANING

ServiceMaster personnel will notify building contact of any irregularities such as defective plumbing, unlocked doors, and lights left on.

ServiceMaster personnel will turn off all lights except those to be left on, close windows and secure building

Daily review/check communication log

Monthly customer visit by Account Manager

SERVICEMASTER CLEAN PRICING  
Human Services Department City of Montclair

Option #1

5 Days a week cleaning  
*(2.5 hours allotted per Day  
Mon-Friday)*

\$1,625.00/Monthly

FLOOR MAINTENANCE PROGRAM

Wood Tile sealer

\$365.40/Per Occurrence

*(Recommended Every 6 Months)*

Our prices included all labor, cleaning materials, equipment, taxes, insurance, and supervision necessary to perform contracted services. Services will be billed at the beginning of service agreement and are due 14 days after receiving invoice.

All paper products, trash container liners, and hand soaps are agreed by both parties to be supplied under the following terms: *Customer Supplied or ServiceMaster Supplied*

A Certificate of Insurance will be provided upon request. This quote will expire on July 4, 2020.

ServiceMaster Clean  
Contract Cleaning Services Agreement

THIS AGREEMENT made this June day 22<sup>nd</sup> 2020, by and between ServiceMaster 360 Premier Cleaning (“ServiceMaster Clean”) and the City of Montclair (“City”).

Whereas, ServiceMaster conducts a janitorial service rendered on an individual basis in commercial facilities, office buildings, schools, stores and other locations, as an independent business licensed by ServiceMaster Residential/Commercial Services L.P., DBA ServiceMaster Clean (“Franchisor”) and not an agent or partner of its Franchisor.

Whereas, City desires ServiceMaster to supply contract-cleaning services to the properties commonly known as:

Human Services Department  
City of Montclair  
5111 Benito St. or  
P.O. Box 2308  
Montclair, CA 91763

NOW THEREFORE, the parties agree as follows:

1. Task Schedule. Beginning on July 1, 2020 ServiceMaster Clean will provide contract cleaning services for the area to be serviced described in the “Task Schedules,” a true and accurate copy of which is attached to this agreement. ServiceMaster Clean agrees that the janitorial services to be provided shall be conducted according to the guidelines agreed upon between the City and ServiceMaster Clean. ServiceMaster Clean guarantees they will respond to service needs within (12) twelve hours after being contacted and will perform all services as agreed upon in the contact. ServiceMaster Clean guarantees to maintain professional appearance and manner, and by the products and procedures used.
2. Personnel. All personnel furnished by ServiceMaster Clean are employees of ServiceMaster Clean, and ServiceMaster Clean will pay all salaries and expenses of, and all applicable federal and state taxes relating to, such personnel. For all purposes of this contract, ServiceMaster Clean will be considered an independent contractor of the City, and will not act as an agent, servant or employee of the City, or make any commitments or incur any obligations on behalf of the City without its express written consent. City may request the removal of any ServiceMaster Clean employee whose conduct is unsatisfactory to City.
3. Covenants. During the term of this agreement and for one (1) year thereafter, the City shall not directly or indirectly hire any person employed by ServiceMaster Clean. City shall not, at any time, disclose to a competitor any pricing or bid information designated as confidential by ServiceMaster Clean.

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

Initials: ServiceMaster Clean \_\_\_\_\_

4. Terms. The terms of the task schedule or of the price stated in paragraph 5, may be modified at any time by mutual execution of written change orders by the Parties on the form prescribed by the “Change Order” attached hereto. All executed change orders shall become part of this agreement. ServiceMaster Clean will give the City thirty (30) days prior notice of any price change for services rendered pursuant to the Task Schedule. City will notify ServiceMaster Clean of any changes in service times, any alterations to the furnishings, floor, wall or ceiling surfaces at the City premises, or any other change that affects the Task Schedule and consequently the contract price. This agreement shall continue in effect from the date services are to begin, for a period of two months (2), last day of this contract will be June 30<sup>th</sup> at which point services will revert back to original contract pricing and task schedule unless terminated.
  
5. Payment. The City shall make payment to ServiceMaster Clean for services rendered at the rate of \$1,625.00 per month. The First billing will be made on the first day services are rendered and shall be payable in fourteen (14) days. Subsequent billings and due dates will be net 15. City’s failure to pay the full amount due within thirty (30) days of any invoice shall, at the election of ServiceMaster Clean, be deemed to be a default and termination without notice by City. A late charge calculated at 1½ % per month will be charged to City on any overdue unpaid balance. City shall pay ServiceMaster Clean its costs and expenses, including reasonable attorney’s fees paid or incurred in enforcing terms of this Agreement.
  
6. Services. ServiceMaster Clean will perform all services required under this Agreement, except when prevented by strike, lockout, act of God, accident or other circumstances beyond its control.
  
7. Insurance. ServiceMaster Clean shall provide the insurance coverage set forth below, and deliver to City certificates of insurance upon request.
  
8. “ To the full extent permitted by Law, ServiceMaster Clean shall indemnify, defend and hold harmless City, and its employees, officials, and agents any liability, claims, actions, loss, expense or cost of any kind, including attorney fees, court cost and expert witness fees, arising out of the performance of this Agreement by ServiceMaster Clean, its officers, employees, agents or subcontractors.”

Comprehensive Liability:

Bodily Injury Liability: \$1,000,000.00 per person and \$1,000,000.00 per occurrence. Property

Damage Liability: \$1,000,000.00 per occurrence and \$2,000,000.00 aggregates Workers

Compensation Coverage: \$1,000,000.00 or as required by law. Bond: \$10,000 per occurrence

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

Initials: ServiceMaster Clean \_\_\_\_\_

9. Termination. This Agreement may be terminated by either party by giving thirty (30) days notice by certified mail, return receipt requested, addressed to the other party at the address indicated below. In the event thirty (30) days notice is not given, or if City is deemed to have terminated by default by failing to tender payment when due, or by City's conduct, which makes ServiceMaster Cleans' performance impossible (including a demand for the return of all City's keys) then ServiceMaster Clean shall have no obligation to continue its performance, and City shall pay ServiceMaster Clean an amount equal to an additional thirty (30) days of billing as liquidated damages. This additional thirty (30) days of billing shall be calculated from a) the date upon which Contract Service are last performed; or b) the last date of the billing period during which any default or un proper termination occurs, whichever is later. **\*If ServiceMaster Clean breaches the terms of the task Schedule, for any reason deemed applicable by the City, the City may terminate ServiceMaster Clean Immediately.**

10. This Agreement contains all of the convents between the parties, and may not be modified except in writing, signed by both parties

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

**Client: Human Services Department  
City of Montclair**

**ServiceMaster Clean DBA:  
ServiceMaster 360 Premier  
Cleaning**

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Signed

Javier John Dutrey, Mayor  
\_\_\_\_\_  
Printed

\_\_\_\_\_  
Printed

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

\_\_\_\_\_  
Date

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



# CITY COUNCIL AGENDA REPORT

---

<b>DATE:</b>	JULY 6, 2020	<b>FILE I.D.:</b>	PUB115A
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	8	<b>PREPARER:</b>	N. CASTILLO
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-63 WITH AGA ENGINEERS, INC. REPLACING AND SUPERSEDING AGREEMENT NO. 19-42 WITH ALBERT GROVER & ASSOCIATES FOR TRAFFIC ENGINEERING SERVICES		

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-63 with AGA Engineers, Inc. replacing and superseding Agreement No. 19-42 with Albert Grover & Associates for traffic engineering services.

Albert Grover & Associates has provided traffic engineering services to the City since 1990, and is currently performing the consultant work under existing Agreement No. 19-42, with a five-year contract term. Due to a recent acquisition of the company, AGA Engineers, Inc. will be purchasing assets from Albert Grover & Associates. Although the existing contract allows for the assignment with the City's written consent, the City Attorney has determined that a new contract would be advantageous to allow for the update of the latest indemnification provisions of the contract.

A copy of proposed Agreement No. 20-63 is attached for City Council review and consideration.

**BACKGROUND:** In 2019, the City entered into Agreement No. 19-42 with Albert Grover & Associates to provide traffic engineering services. The agreement commenced July 1, 2019 and can remain in effect until June 30, 2024. AGA Engineers Inc. will be purchasing assets from Albert Grover & Associates, the City will now enter into Agreement No. 20-63 essentially assigning AGA Engineers Inc. the agreement with Albert Grover & Associates.

**FISCAL IMPACT:** There would be no fiscal impact to the City's General Fund should the City Council approve the agreement. Agreement No. 20-63 would simply replace and continue the terms of Agreement No. 19-42 through June 30, 2024.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-63 with AGA Engineers, Inc. replacing and superseding Agreement No. 19-42 with Albert Grover & Associates for traffic engineering services.

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

THIS AGREEMENT is made effective as of July 1, 2020, between the City of Montclair, a municipal corporation ("City") and AGA Engineers, Inc., a California Corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on July 1, 2020 and shall remain and continue in effect for a period approximately three years, expiring on June 30, 2024, unless sooner terminated pursuant to the provisions of this Agreement. This Agreement supersedes and replaces Agreement No. 19-42 by and between City and Albert Grover & Associates.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

City's City Manager shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant.

5. **PAYMENT**

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

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set

forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City's City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

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

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

**6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at not less than thirty (30) calendar days' prior written notice. The Consultant may only terminate this Agreement for cause, and by giving the City prior notice in writing with a reasonable opportunity to cure any purported default. If the Agreement is terminated by the City, and provided Consultant is not then in breach, the Consultant shall be paid for services satisfactorily rendered to the last working day the Agreement is in effect, and the Consultant shall have no other claim against the City by reason of such termination. The Agreement may be extended beyond the term only by the written agreement of both Parties prior to the expiration of the term of the Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant on a pro-rata basis the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 5(c).

**7. DEFAULT OF CONSULTANT**

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes



beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Defense, Indemnity and Hold Harmless. Consultant shall defend, indemnify, and hold harmless the City, its present and former officers, directors, employees, agents, staff, volunteers, mayor, council, boards, committees, and representatives, as broadly interpreted (collectively, the "Indemnified Parties"), of and from all claims, suits, demands, obligations, losses, damages, sums, or any other matters threatened or presently asserted, including but not limited to all legal fees, costs of defense and litigation expenses (including legal fees, expert fees and any other costs

or fees, including those of adverse parties imposed on or sought against the Indemnified Parties), arising directly or indirectly out of any liability or claim of loss or liability for personal injury, bodily injury to persons, contractual liability, errors or omissions, breach, failure to perform, damage to or loss of property, or any other loss, damage, injury or other claim of any kind or nature arising out of the work to be performed by Consultant herein, caused by or arising out of the negligent acts or omissions, or intentional misconduct of Consultant, including its subcontractors, employees, agents, and other persons or entities performing work for Consultant.

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

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

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

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

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

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

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

## 10. INSURANCE

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

(a) Types of Required Coverages

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

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

(b) Endorsements

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

- (1) Commercial General Liability

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

Additional Insured Endorsements shall not:

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

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

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

(2) Auto Liability

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

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

(3) Workers' Compensation

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

(c) Notice of Cancellation

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

(d) Waiver of Subrogation

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

(e) Evidence of Insurance

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

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

(f) Deductible or Self-Insured Retention

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

(g) Contractual Liability/Insurance Obligations

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

(h) Failure to Maintain Coverage

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

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

(i) Acceptability of Insurers

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

(j) Claims Made Policies

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

(k) Insurance for Subconsultants/Subcontractors

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

**11. INDEPENDENT CONSULTANT**

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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



obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

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

16. NOTICES

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

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

To Consultant: Chalap Sadam  
Vice-President  
AGA Engineers, Inc.  
211 East Imperial Highway, Suite 208  
Fullerton, CA 92835

17. ASSIGNMENT AND SUBCONTRACTING

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. PRIORITY OF AGREEMENT

To the extent any provisions of Consultant's Service Contract attached hereto as Exhibit A conflicts with the terms and provisions of this Agreement, the terms and provisions of this Agreement shall control and shall take precedence over those contained in Consultant's Service Contract.

22. CONFIDENTIALITY

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

Agreement.

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

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

25. CLAIMS AGAINST CITY

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

26. AUTHORITY TO EXECUTE THIS AGREEMENT

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

27. NO THIRD PARTY BENEFICIARIES

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

28. COST OF LITIGATION

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

29. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on

behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

30. COUNTERPARTS

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

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

**CITY OF MONTCLAIR**

**AGA ENGINEERS, INC.**

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

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

Attest:

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

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

Approved as to Form:

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

# Technical Proposal

to Provide

# Traffic and Transportation Engineering Services



Submitted:

July 1, 2020





July 1, 2020

Mr. Noel Castillo, P.E.  
Public Works Director/City Engineer  
City of Montclair  
5111 Benito Street  
Montclair, California 91763

**Re: Proposal to Provide On-call Traffic and Transportation Engineering Services**

Dear Mr. Castillo:

AGA Engineers, Inc. (AGA) is pleased to present this proposal to provide on-call traffic and transportation engineering services to the City. AGA purchased certain assets from Albert Grover & Associates, Inc., which has been under continuous contract with the City for over 20 years providing transportation planning, traffic design, and traffic signal system monitoring services. The same employees who have worked with the City have been retained, so the City would be hard pressed to find another consultant with more history, experience and knowledge of the City and its street network. We are confident that AGA is uniquely qualified to continue providing on-call services to the City in a professional, timely, and cost-effective manner.

AGA is a premiere full-service transportation consulting firm with sufficient in-house staffing and skills to provide all the services required by the City. Our proposal describes our firm's traffic and transportation expertise and experience, including our planning, engineering and operational experience with municipal agencies, and provides local references. It also describes the relevant experience of dedicated team members, including summary resumes. It is our goal to work with you and your staff seamlessly as a part of a highly efficient team completing the important work of the City; getting it right the first time with minimal demands on you and your staff.

We at AGA look forward building a relationship with the City as we assist you in making the City of Montclair a better place to live, work, shop, and play. If you have any questions or would like further details on any aspect of our submittal, please don't hesitate to give me a call.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Chalap K. Sadam".

Chalap K. Sadam, P.E., T.E.  
*President*  
AGA Engineers, Inc.

Proposals\Montclair\On-Call 2019\Updated...\Montclair On-Call 19-21 Letter.docx

**AGA Engineers, Inc.**

211 Imperial Highway, Suite 208, Fullerton, CA 92835  
(714) 992-4592 Email: [aga@agaengineersinc.com](mailto:aga@agaengineersinc.com)

## SECTION I Company Information

AGA Engineers, Inc. (AGA) is a multidiscipline engineering firm specializing in municipal and transportation engineering. Through the utilization of today's most sophisticated computer-aided equipment by highly skilled and tenured professional engineers, we are able to provide clients with quality professional services in a timely manner. Our services are not just routine, but rather the application of experience and knowledge to first properly identify a problem and then to provide the most appropriate and cost-effective solution. Each project is carried out with the highest degree of pride and professionalism and a dedication to satisfy the client's need. We offer professional services that range from the planning and conceptual design stage through the construction supervision and "as-built" stage, placing us among the forerunners in the total service concept. AGA's unique blend of Civil Engineers, Traffic Engineers, and skilled technical field maintenance/monitoring personnel provides a synergy that typically results in project success beyond expectations.

### Company Ownership, Location, and Profile

AGA is a California corporation which is providing professional traffic engineering services to local municipalities and the private sector. AGA currently has 16 employees, all of whom work out of the company office located on Imperial Highway in the City of Fullerton.

AGA's wide range of services offered can be divided into the following primary areas of expertise: traffic engineering, day-to-day traffic signal operations, transportation planning, civil engineering and construction management, and communication and operational control of traffic signal systems. It should also be noted that AGA operates over four hundred traffic signals on behalf of seven cities in Southern California. Those traffic signals are remotely monitored and controlled from a Traffic Management Center located in AGA's Fullerton office.

AGA possesses all of the necessary qualifications and experience required to successfully provide the transportation services anticipated by the City. We fully understand the importance of dealing with the development, implementation and coordination of various traffic and transportation engineering projects, as well as dealing with projects ranging from simple neighborhood parking issues to long-range transportation planning matters. Our approach to providing on-call engineering services is focused on getting the job done right the first time without placing burdens on agency staff.

### Company's Health and Stability

AGA is an independent, privately owned company that is financially sound with ample reserves. AGA has not had any contract terminated by any public agency or private client, nor has it been a party to any legal or collections actions. Chalap K. Sadam, P.E., T.E., President, has no plans to relocate the firm from its current offices in Fullerton, sell the company, or merge with another

firm. There are no foreseen conditions which could impede AGA’s ability to provide the required project services.

### Company’s Experience Providing Similar Services to Other Municipalities

Our approach to on-call professional services and projects is to do more than simply provide labor or prepare design plans and traffic signal timing – *we actually improve traffic operations and safety in everything we touch.* We are not a company that simply provides engineering labor to complete client designated tasks; rather, AGA provides a high level of intellectual support to accomplish client objectives. Our unique blend of Civil Engineers, Traffic Engineers, and skilled traffic signal system and communications technicians provides a synergy which results in successful projects beyond client expectations.

The City will be hard pressed to find another consultant with such far-reaching municipal traffic engineering, traffic operations, and transportation planning experience in Southern California. As a matter of fact, AGA is currently under contract with two Southern California counties and numerous municipal jurisdictions in the region for a variety of projects ranging from on-site staffing, to traffic signal improvement projects, to traffic signal monitoring, to on-call planning and engineering services. Additionally, AGA staff is very experienced with completing traffic signal improvement and synchronization projects, having retimed more than 6,000 traffic signals for cities and counties throughout Orange, San Bernardino, Riverside, and Los Angeles counties.

AGA provides an on-site City Traffic Engineer for the Cities of San Dimas and Victorville. In addition, we are on-call and have current task orders or recently executed contracts with Los Angeles County Department of Public Works, Orange County Transportation Authority, and the cities of Huntington Beach, Irvine, Costa Mesa, and Orange, to name a few.

*Santa Ana TMC under construction*



*Providing support at the Huntington Beach TMC*



*Fullerton TMC*



Based on our understanding of the City’s on-call needs, we feel that our most important qualifications relate not only to providing traffic planning, traffic investigation, traffic studies, and traffic design services, but also problem solving and a willingness to develop alternative solutions while maintaining public safety. We are committed to finding the best solutions to complex traffic and transportation challenges for our clients. This more comprehensive view of our roles as traffic engineers, planners, and technicians has evolved from many years of the individual experiences of our staff while employed at various public agencies.

**Company’s Experienced Staff Makes the Difference**

AGA staff’s extensive municipal experience as both agency employees and as contract City Traffic Engineers has been invaluable in helping our staff quickly and efficiently identify and meet the needs and desires of cities across Southern California. Understanding basic concerns and constraints, as viewed from the City’s perspective, is a key qualification. AGA staff have represented Montclair at various state and regional transportation functions, meetings, workshops, seminars, etc., and have helped establish both operational and Capital Improvement Program (CIP) budgets.

*AGA at work!*



AGA’s approach to providing traffic engineering services involves far more than simply providing contract labor on an hourly basis. We consider it our function to serve as an extension of City staff as well as expert advisors, forming an integrated team to creatively provide solutions to traffic engineering and transportation planning problems. We propose to utilize key senior staff members as managers for each anticipated task; however, AGA’s entire staff will be available and on-call at all times to provide specific required services vis-à-vis each individual’s specific expertise. This includes not only any scheduled meetings at City Hall for both public and City staff liaison, but also attendance at evening City and neighborhood meetings as required, field studies and analyses, and all other required functions. Our staff’s wide range of expertise is ideal to provide the City with nearly instantaneous access to any area of traffic engineering expertise needed. No project or task order is too large or too small.

Our staff's knowledge of current traffic engineering considerations and best practices is obtained via our attendance at regional forums, such as the Institute of Transportation Engineers and the City Traffic Engineers Association, and national conferences, such as those by the Institute of Transportation Engineers. AGA's engineers are considered amongst some of the most innovative in Southern California when designing and implementing fresh new approaches to traffic control and safety challenges. Our familiarity with and sensitivity to public needs and concerns, combined with our real world (as opposed to textbook) approach to safety issues, will ensure that alternative solutions to problems can be achieved while at the same time compromising neither safety nor public needs and desires. We also stay abreast of the latest policy activities at both the state and federal levels, which is an important aspect of attracting grant funding and developing successful local programs, policies, and procedures.

### **Company's Non-Traditional Traffic Engineering Services Available to the City**

In addition to traditional professional traffic engineering services provided by most consultants, AGA would like to highlight four specialty areas that set our company apart from most traffic engineering firms. These specialty areas are outlined below and can be a part of the services provided to the City under the proposed contract.

**Traffic Signal System Monitoring and Support Services:** This is real-time monitoring of city traffic signal systems and traffic signal timing performance, which AGA currently provides to the City of Montclair as well as a large number of public agencies. Under contractual agreements, we have complete responsibility for signal timing operations for more than four hundred traffic signals, ranking us as one of the largest TMC's in all of Southern California. AGA's contractual responsibilities include daily monitoring of signal operations, updating and fine-tuning signal timing, and responding to construction activities, emergencies, and citizen complaints. Development, implementation and maintenance of coordination timing plans is critical to optimizing the efficiency of the existing infrastructure.

Since traffic patterns change when construction or additional development occurs, adjustments to timing plans are often required. Only by frequent monitoring of traffic operations can these timing plans be kept current. In addition to AGA's expert traffic engineering staff, the company also employs several experienced traffic signal technicians who are highly skilled and well versed on all types of traffic signal control hardware and systems, video equipment and control systems, communications, networking, and security systems. Our technicians are commonly contacted by municipalities, equipment vendors, and other consultants to assist in the troubleshooting and repair of complex communications and networking issues. AGA can tailor a traffic signal monitoring and support services arrangement with the City to assist staff in keeping its traffic signal system functioning at its best and safe from cyber-attack.

**Transportation Grant Funding Services:** Another area wherein AGA can assist the City is with our knowledge of potential funding opportunities and following through to obtain such grants. Staff at AGA have prepared a variety of county, state, and federal grant applications from Measure M, to OTS, to HSIP, to ATP for various cities throughout Southern California. Extensive

knowledge of various funding sources enables creative structuring and tiering of various grant applications which can result in 100% grant funding with no direct City matching funds being required. For example, several years ago our staff prepared, submitted and obtained a several hundred thousand dollar grant from the SCAQMD for a signal interconnect and coordination timing project for the City of La Habra to reduce mobile source emissions. We likewise prepared, submitted, and obtained a grant from OCTA Measure M to provide the required 20% City matching funds. The City did not need to spend any of their dollars on the project to obtain an interconnected and coordinated traffic signal control system. Additionally, once a grant is obtained, AGA has staff available who are familiar with the proper administration of the grant proceeds such that the City obtains maximum reimbursement of its costs.

**Design-Build Project Delivery:** AGA is one of only a few traffic engineering firms in Southern California which has the capability and track-record of completing design-build projects for both public and private sector clients. Should the City have a need to rush the design and completion of a transportation improvement project due to budgetary or political considerations, AGA can provide turn-key project delivery in a timely and cost-effective manner.

### **Company's Contracts for Similar Engineering Services**

The following is list of client cities and other governmental agencies for which AGA staff has provided similar traffic engineering services to those which have been requested by the City over the last five years:

- County of Los Angeles
- County of Orange
- Orange County Transportation Authority (OCTA)
- City of San Dimas
- City of Brea
- City of Buena Park
- City of Costa Mesa
- City of Rancho Cucamonga
- City of Cypress
- City of Fountain Valley
- City of Fullerton
- City of Huntington Beach
- City of Irvine
- City of La Habra
- City of Chino
- City of Highland

## SECTION II

### Approach to the Provision of On-Call Traffic Engineering Services

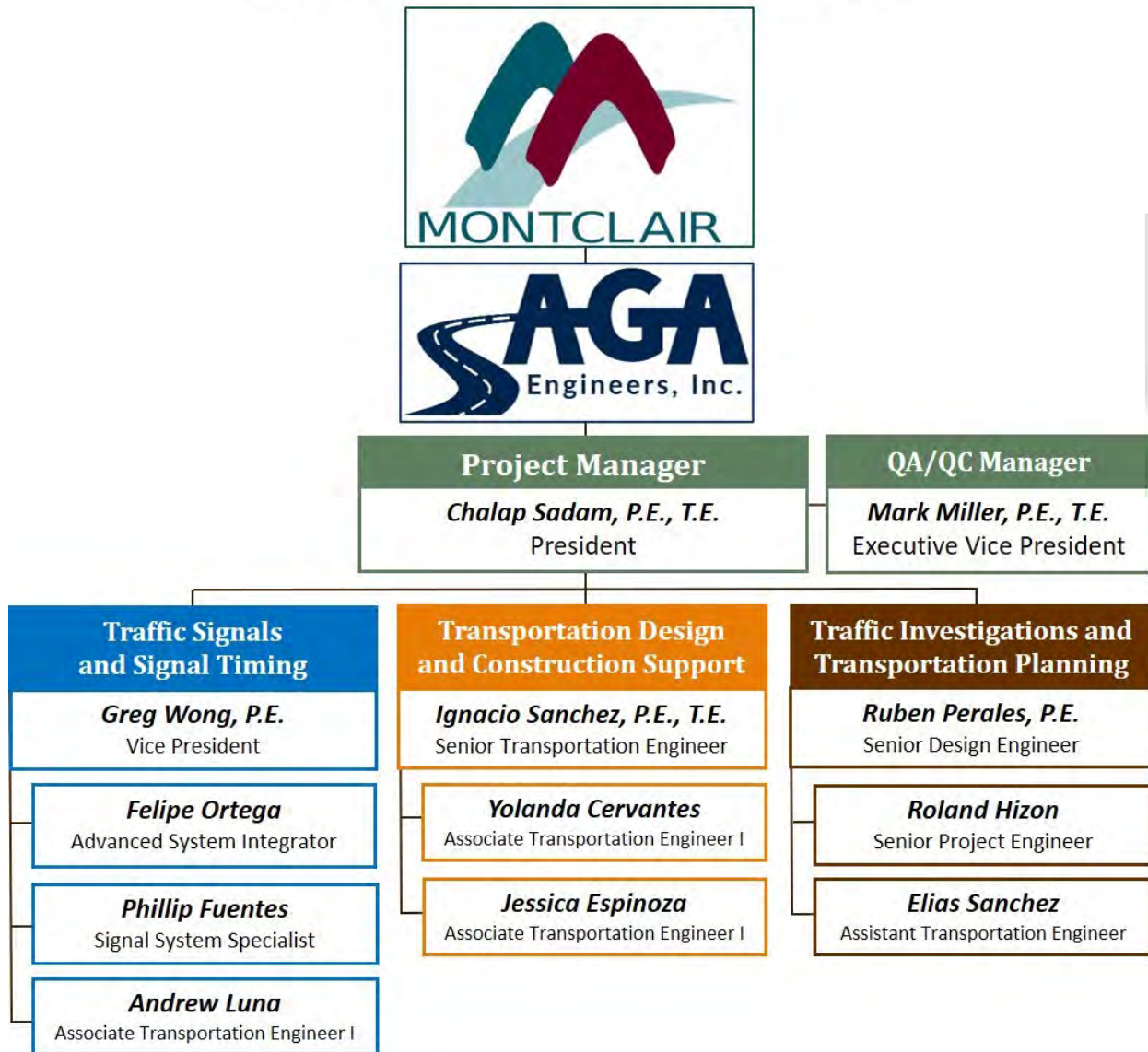
We believe that the most effective way to practice municipal traffic engineering is to have seasoned senior level staff members be hands-on in the assessment and direction of work tasks. It is more efficient and cost-effective to have an experienced traffic engineer who can quickly observe and assess situations and issues on-site to provide quick and accurate advice or to set a course of study or traffic design. Many other firms rely on junior or mid-level staff to attend meetings, speak with constituents, conduct field investigations, and set direction on designs or studies while senior level staff operate primarily in more of a contract management or oversight role. Such an arrangement can have an initial low cost but typically results in delays, less than optimum design, a lack of innovation, and rework costing significantly more in the long term. We get our experienced senior staff out of the office to interact with City staff and the public to quickly get to the root of safety, planning, design, or operational issues and concerns. By putting our best and most experienced people front and center, good decisions can be made without the delay for less experienced staff to research or study the problem or potential solutions.

#### Project and Work Task Management

We propose that our President, **Mr. Chalap Sadam, P.E., T.E.**, be the primary City contact. As such Mr. Sadam will conduct, or direct, the day-to-day work under the proposed contract. Assisting Mr. Sadam on an as needed basis will be AGA's Executive Vice-President, **Mr. Mark Miller, P.E., T.E.**, who will provide Quality Assurance/Quality Control to ensure all projects and tasks meet our rigorous standards. Additional AGA staff will be available to provide specific required services. A Service Delivery Organization Chart is provided on the following page. This chart outlines how staff at AGA will be organized to provide services to the City based on the type of work requested.

Strong results-oriented leadership is a key element of AGA's project management approach to fully leverage the expertise and experience of our team members. As such, Mr. Sadam will be responsible for the daily management of work tasks and services provided to the City and he will direct staff in their duties. He will arrange/chair all formal meetings required as a part of the work tasks performed on behalf of the City, and he will make any and all required presentations to the City Council, City staff, other agencies, and the public. He will also be responsible for adherence to deadlines and project schedules, as well as maintaining quality control of all work products with the help of Mr. Miller. Both Mr. Sadam and Mr. Miller will do everything necessary to ensure that project assignments provided by the City are completed on time, within budget, and in a manner which fulfills the goals and objectives of the City. Additionally, Mr. Sadam will fully leverage AGA's administrative team's experience in managing City work tasks and services, including project budget control and invoicing, tracking of project schedules, regular project updates, City staff comment dispositions, document control, and filing.

## SERVICE DELIVERY ORGANIZATION CHART



Currently, City staff regularly make inquiries of various AGA staff directly without the need for formal task orders or contact procedures. Typically, such inquiries are to request an opinion, conduct a quick investigation, or implement a traffic signal timing change. It is anticipated that this informal relationship, or method of contact, will continue in that it works for the City and it allows our staff to be as responsive to City needs as possible. For larger work tasks or projects, Mr. Sadam can conduct a project kick-off meeting where the project objectives, priorities, and specific project schedule will be finalized, and any relevant documents and/or information will be obtained from the City. At such a meeting, he will typically discuss the specifics of the approach and performance of the work with the purpose of gaining any additional insight from City staff in order to efficiently and appropriately conduct the work requested. As the work progresses, in most cases, it will be typical that a written synopsis of the work completed will be

provided once a month along with a billing summary. As necessary, Mr. Sadam will communicate either by phone, e-mail, or in person key findings and outcomes of the work so that City staff can remain apprised of the progress and provide input as needed. Once the work is complete, the final work products will be submitted and Mr. Sadam will be prepared to present the work, if need be, to staff and other interested parties. Once the work project submittal is finalized and accepted by the City, the final billing summary will be prepared and the project or work task will be closed out.

Unlike most engineering work, which is highly regimented with standards and requirements, traffic engineering work is much more focused on human behavior. It is commonplace for politicians and the public to have an emotional investment in not only the outcome of traffic investigations and studies, but also the process by which the work is conducted; therefore, we do not just assign projects or tasks to junior level engineers to “find their way”. We have senior level experienced staff clearly articulate the work to be done, actively direct staff in performing the work, and communicate progress regularly to the City and the public as appropriate. In all of our communications, be it written or orally, we strive to use plain, easy-to-understand English rather than a “mumbo-jumbo” of technical terms which only serve to confuse both City staff and the public alike. It is this clear communication of what we are going to do, what we have done, the findings/results, and our recommendations which eliminate issues and problems that cause inefficient project delays and rework.

### **Balancing Common-Sense Engineering with Creativity and Innovation**

AGA’s approach to providing traffic engineering and transportation services involves far more than simply providing contract labor on an hourly basis. We consider it our function to serve as an extension of City staff, forming an integrated team to creatively provide solutions to traffic engineering and transportation planning problems. The key aspect of our approach is that we will utilize our staff’s comprehensive knowledge and experience, acquired via providing similar services to a wide range of cities, as well as our previous service as full time City Traffic Engineers to creatively solve the City’s traffic engineering and transportation planning challenges. This unique experience in viewing problems “from both sides of the fence” has in the past, and will continue in the future, to greatly enhance our ability to serve the City.

Another key factor in providing services to the City is to stay attuned to both the overall direction and the specific requirements of City staff and the City Council. Because of our extensive experience in providing similar services to other cities, and our staff’s knowledge of our client’s standards, technical preferences and practices, we can avoid recommending strategies and solutions that are not viable. Because of our active involvement with multiple agencies and professional organizations, we can bring fresh new ideas and best practices to the City for consideration. We pride ourselves on being aware of state-of-the-art traffic engineering approaches and methodologies and how they could be applied in Southern California. By combining our local and national knowledge of the latest products and approaches in the traffic engineering industry, we can optimize the service we provide to the City.

Our knowledge of and sensitivity to public needs and concerns, combined with our real-world approach to engineering standards and safety issues, will ensure that creative alternative solutions to complex challenges can be achieved, while at the same time compromising neither safety nor public needs and desires. We also completely understand the necessity of balancing the economic advantages to the City of increased development and redevelopment projects with the potential negative impacts to traffic flow and circulation of such projects, and have managed to develop mitigations that are both technically and economically feasible for projects ranging from a gas station with a convenience market to a 1.25 million square foot retail mall.

AGA's relationships with Caltrans staff are especially important relative to coordination of freeway access issues. In addition to developing and assisting Caltrans in implementing coordinated timing plans involving both State highway and freeway ramp signals, AGA staff have successfully negotiated with Caltrans on the behalf of various cities to allow those cities to actually control such State signals. For example, in the City of Fullerton AGA staff worked with Caltrans District 12 to draft a Co-Operative agreement for traffic signal operations to significantly improve traffic flow at freeway interchanges. That initial Co-Operative agreement created seamless traffic flow at the interchanges and provided for cost sharing. It has since become a statewide model for such agreements. In south Orange County, we brought together Caltrans, the City of Rancho Santa Margarita, and the County of Orange to share a common fiber optic communications system saving each agency millions of dollars in construction and operations costs.

### Quality Assurance/Quality Control

An effective quality assurance/quality control (QA/QC) review will minimize or eliminate additional costs to the City related to reengineering or contractor claims during construction and liability after project completion. Delivering a quality product that is right the first time is the primary focus of AGA's comprehensive QA/QC process. It is an integral part of our regular engineering design and study processes and the delivery of every investigation, study, report, or document we produce. This added layer of independent work product review will be conducted at no additional cost to the City.

Our QA/QC program requires that all deliverables leaving our office be reviewed prior to submittal to the client. All personnel performing work on this project are responsible to ensure its implementation. We have the philosophy that QA/QC is a continuous process to be utilized on plan preparation from conceptual design to final PS&E, as well as when conducting various other professional engineering tasks. Our technical staff is trained to always review work products prior to finalization. Our experienced QC Manager will conduct an objective review of each work product. When several disciplines are involved in a project, the QC Manager may also seek review assistance when needed from other individuals specializing in those disciplines to verify that all project concepts are being met and all constructability issues are addressed prior to delivery of the project.

### SECTION III Qualifications of Staff

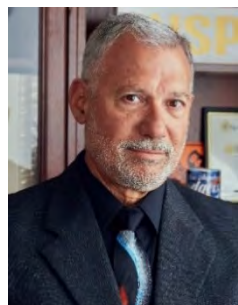
AGA's staff has extensive experience in providing all of the services requested by the City of Montclair. Most key members of our staff have experience working for both municipal agencies and private developers on a wide range of transportation projects covering all areas of expertise potentially required by the City. Our proposed team will be headed up by one of the firm's most experienced members, Mr. Chalap Sadam, who will serve as the Project Manager overseeing the provision of services to the City and be the City's primary contact. As such, Mr. Sadam will remain engaged in this role throughout the contract period and will not be replaced without written authorization of the City.

Mr. Sadam will be supported by other dedicated members of the AGA staff, including Mr. Mark Miller who will provide quality assurance/quality control for all work products, Mr. Greg Wong and Mr. Felipe Ortega will be responsible for all traffic signal operations and signal timing, Mr. Ignacio Sanchez will be responsible for design and construction support, and Mr. Ruben Perales will be responsible for all traffic investigations and transportation planning activities. A brief summary of key staff members' experience is included below and a complete list of personnel and qualifications is provided at the end of this section.



**Mr. Chalap Sadam, P.E., T.E., President**, is a registered Civil and Traffic Engineer with a Master of Science, Civil Engineering (Transportation) degree from Virginia Polytechnic Institute and State University, and a Master of Business Administration degree from the University of Southern California. As a founding member of AGA, he provides expertise in the preparation of traffic impact studies, development of transportation planning models to evaluate long range impacts, development of signal coordination master plans, preparation of traffic

signal coordination timing plans, design and operation of traffic signal systems, design of intersection improvement plans, traffic signal interconnect plans with the latest advances in ITS technologies, traffic accident analysis and recommendation of mitigation measures, and the preparation of freeway interchange feasibility studies and Major Investment Studies (MIS).



**Mr. Mark Miller, P.E., T.E., PTOE, Executive Vice President**, is a registered Civil and Traffic Engineer, as well as a certified Professional Traffic Operations Engineer (PTOE) with more than 35 years' experience, including serving as the City Traffic Engineer for the City of Fullerton for the past 18 years. As such, he has an excellent understanding of not only the technical duties that are required of a City Traffic Engineer, but also the significant amount of interface required with other staff members, elected/appointed officials, and the public. He has directed, supervised and conducted the day-to-day traffic

engineering and transportation planning functions that comprise the many tasks facing a City



Traffic Engineer. He has written and reviewed Traffic Impact Studies for a wide variety of projects, including the development of appropriate mitigation measures and Conditions of Approval. He has directed the installation and maintenance of traffic signals, signing, striping, pavement markings, parking restrictions and other traffic controls; conducted warrant analyses for signals, stop signs, etc.; prepared and reviewed PS&E and bid packages for various traffic engineering improvements; and conducted Citywide traffic control device inventories. He has evaluated and responded to citizen and Council member inquiries and complaints; attended community group and school meetings to resolve traffic related issues and problems; and made written and oral presentations to Traffic Commissions, Planning Commissions, and City Councils. His familiarity with local and regional traffic issues, development plans, and politics make him the ideal candidate to assist in providing the requested services to the City of Montclair.



**Mr. Greg Wong, P.E., Vice President**, is a registered Civil Engineer with an extensive background in signal timing, optimization, and implementation. He also has wide-ranging experience with various traffic control systems and both arterial and grid type traffic signal coordination timing. He has been instrumental in developing hundreds of signal timing plans, including timing plans for almost every city in Orange County under the OCTA traffic signal synchronization program. He is a registered Civil Engineer with 22 years of transportation planning and traffic engineering expertise. As with many AGA staff, prior to joining AGA in 2001 he worked in the public sector

(for the County of Los Angeles Public Works Department as a Civil Engineering Assistant of Transportation).



**Felipe Ortega, Advanced System Integrator**, is a Level 3 Signal Technician and recognized expert in traffic signal controller technology and communications systems. He has been providing technical expertise and been responsible for conducting field evaluations at several hundred signalized intersections throughout Southern California and has been a valuable team member on many large-scale traffic signal synchronization projects completed by AGA. He is a recognized expert in IP/Ethernet communications as well as various traffic signal controller/cabinet hardware and software and a multitude of

central traffic signal systems including Centracs, MaxView, QuicNet Pro, TransSuite, and Naztec/Trafficware systems. He resolves signal system communication problems, addressing both internal communication issues and multijurisdictional issues. He also willingly shares his technical knowledge and provides training to multiple cities on the various traffic signal control systems. His familiarity with signal maintenance procedures and personnel are great assets in the implementation, fine-tuning, operation, monitoring, and troubleshooting of various signal systems. Mr. Ortega's years of experience in the field ensure that AGA clients have the support of extremely knowledgeable personnel for all aspects of on-call communications troubleshooting.



**Ruben Perales, P.E., T.E., Senior Design Engineer**, has ample experience overseeing the preparation of Plans, Specifications and Cost Estimate (PS&E) packages and has provided construction engineering services for many projects. He is instrumental in completing all design plans accurately and in a timely fashion. He also has experience in preparing traffic signal and signal interconnect plans. He is a registered Civil and Traffic Engineer who joined AGA in 2005 as a Transportation Engineering Assistant. His projects for AGA include multiple conceptual improvement plans, intersection level of service analyses, signal design and signal modification plans and specifications (PS&E), and intersection improvement plans to upgrade controllers and connect existing fiber for communication purposes, often in cooperation with Caltrans. As a Senior Design Engineer, he performs a wide variety of traffic engineering tasks, as well as providing leadership on many projects. Mr. Perales has prepared design plans and overseen construction of ITS system improvements for multiple OCTA-led and city-led corridor projects, has prepared plans for flashing yellow arrow conversions (FYA), and worked on multiple Traffic Signal Synchronization Projects throughout Orange and Los Angeles Counties.

AGA's Staff Qualifications table is on the following page. It includes all staff listed in the Service Delivery Organization Chart and shows at a glance their qualifications.

AGA's Staff Qualifications

Name	Certification/ Registration	Years of Experience	Education Training	Position	Project Assignment
Chalap Sadam	P.E., Civil #74080 P.E., Traffic #1813	30	MS-Civil, 1990 MBA, 2002	President	Project Manager
Mark Miller	P.E., Civil #40956 P.E., Traffic #1575 P.T.O.E. #234	46	BS-Civil, 1975	Executive Vice President	QA/QC Manager
Greg Wong	P.E., Civil #64349	24	BS-Civil, 1996	Vice President	Task Manager Traffic Signals & Signal Timing
Felipe Ortega	Level 3-Signal Technician	25	Signal Technician Level 3	Advanced System Integrator	Traffic Signals & Signal Timing
Phillip Fuentes	C-10 License	31	Signal Technician Level 2	Signal System Specialist	Traffic Signals & Signal Timing
Andrew Luna	E.I.T. #156851	4	BS-Civil, 2016	Associate Transportation Engineer I	Traffic Signals & Signal Timing
Ignacio Sanchez H.	P.E., Civil #72073 P.E., Traffic #2344	32	BS-Civil 1986	Senior Transportation Engineer	Task Manager Transportation Design & Construction Support
Yolanda Cervantes	E.I.T. #162276	5	BS-Civil, 2016	Associate Transportation Engineer I	Transportation Design & Construction Support
Jessica Espinoza	E.I.T. #160008	4	BS-Civil, 2016	Associate Transportation Engineer I	Transportation Design & Construction Support
Ruben Perales	P.E., Civil #83169 P.E., Traffic #2838	17	BS-Civil, 2004	Senior Design Engineer	Task Manager Traffic Investigations & Transportation Planning
Roland Hizon		31	BS-Civil, 1982	Senior Project Engineer	Traffic Investigations & Transportation Planning
Elias Sanchez		1	BS-Mathematics, 2016 MS-Civil, 2020	Assistant Transportation Engineer	Traffic Investigations & Transportation Planning

## SECTION IV Company & Staff References

### AGA's Client References

AGA engineers, planners, and technicians have worked for more than a hundred governmental agencies in Orange, Los Angeles, San Bernardino, Riverside, and Ventura counties. With such an extensive list of clients, it can be difficult to choose just a few for the City to consider. Therefore, we have chosen to include four reference clients for which AGA is currently providing on-call and project related traffic engineering services. Each reference includes the client name, contact information, and a detailed description of the project or services provided. We encourage the City to contact the individuals listed to confirm the technical accuracy, quality, timeliness, and professionalism of our work products, as well as the creativity and customer service provided by our staff.

#### CITY OF FULLERTON

Contract traffic engineering and transportation planning services. This includes actually providing consultant personnel at City Hall one day per week, and attending the Traffic Commission, Planning Commission and City Council Meetings as a staff representative. Services provided include development of a Citywide transportation model; review of and recommendations for modifications to the City's General Plan Circulation Element; conducting a Citywide radar speed survey; preparing PS&E, and overseeing construction, for interconnect of dozens of signalized intersections; preparing, implementing and fine-tuning coordination timing plans; developing local signal timing parameters; developing parking management plans; designing and modifying traffic signal installations, including conversion to protected/permissive left turn operations; preparations/checking of traffic control plans; conducting neighborhood traffic studies and attending neighborhood meetings; conducting and/or reviewing traffic impact studies for proposed developments; providing guidelines to developers and other consultants for traffic impact studies; conducting capacity and level of service analyses; and providing various other as-needed transportation and traffic engineering services. It should also be noted that, under a separate contract, AGA previously completed for the City of Fullerton a station and route location feasibility study for the proposed OCTA Urban Rail Project, as well as developing a Parking Management Plan for the Transportation Center including the Urban Rail Station, the MetroLink Station and several restaurants.

Contact: Mr. Dave Langstaff, Traffic Engineering Analyst  
303 West Commonwealth Avenue, Fullerton, CA 92832-1710  
(714) 738-6858  
davel@ci.fullerton.ca.us

**CITY OF LA HABRA**

On-call traffic engineering and transportation planning services, which include presentations at the Traffic Commission, Planning Commission and/or City Council meetings; traffic signal warrant analyses and subsequent traffic signal designs; residential and school traffic studies; traffic impact analyses; development of press releases and videos for local cable television relative to various traffic engineering issues; preparing grant applications; representation at Countywide functions; contract administration and construction management. Since 1991, staff of AGA have operated the City's signal control system from our offices.

Contact: Mr. Michael Plotnik, Traffic Manager  
201 East La Habra Boulevard, La Habra, CA 90633-0337  
(562) 383-4162  
mplotnik@lahabraca.gov

**CITY OF TORRANCE**

Citywide traffic and safety evaluation; street lighting evaluation and project designs; citywide signing upgrades; Hawthorne Boulevard and Western Avenue beautification projects; citywide engineering & traffic surveys, travel time surveys; oversize vehicle parking permit fee study; traffic signal designs/modifications; neighborhood traffic evaluations/recommendations; and traffic impact analysis.

Contact: Mr. Steven Finton, Engineering Manager  
20500 Madrona Avenue, Torrance, CA 90503-3690  
(310) 781-6900  
sfinton@torranceca.gov

**CITY OF CYPRESS**

On-call traffic engineering services and Contract City Traffic Engineer. Conduct of Citywide engineering & traffic surveys, traffic control and safety investigations, traffic signal system evaluations, crossing guard studies, transportation fee studies, transportation designs, special event planning, and transportation planning.

Contact: Mr. Kamran Dadbeh, Assistant City Engineer  
5275 Orange Avenue, Cypress, CA 90630-2957  
(714) 229-6756  
kdadbeh@ci.cypress.ca.us

**SECTION V**

**SCHEDULE OF HOURLY RATES**

President	\$ 275
Executive Vice President	\$ 250
Vice President	\$ 225
Principal Transportation Engineer	\$ 225
Senior Transportation Engineer	\$ 200
Senior Design Engineer/Senior Project Development Manager	\$ 185
Advanced System Integrator	\$ 180
Senior Associate/Senior Project Engineer	\$ 175
Transportation Engineer/System Integrator	\$ 170
Senior Signal Systems Specialist/Construction Inspector	\$ 165
Design Engineer/ Signal Systems Specialist	\$ 150
Associate Transportation Engineer III	\$ 140
Associate Transportation Engineer II	\$ 135
Associate Transportation Engineer I	\$ 125
Project Coordinator	\$ 120
Associate Engineer II	\$ 115
CADD Operator/Associate Engineer I	\$ 110
Assistant Transportation Engineer/Assistant Project Coordinator	\$ 90
Traffic Enumerator, Engineering Aide II	\$ 75
Engineering Aide I	\$ 50
Council/Commission Meetings, Hearings, etc. (Billing Rate + \$50 Surcharge)	\$1,000.00
Expert Witness (Billing Rate + \$50 Surcharge)	\$1,000.00
Expert Witness - Deposition/Court (Billing Rate + \$100 Surcharge)	\$1,000.00
Subconsultants will be billed at cost plus 20%	

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

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