

## **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, August 3, 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. Please*

*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**

- A. Community Activities Commission Presentation of the 2020 Home Beautification Awards

**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**

- A. Consider Adoption of Resolution No. 20-3281 Establishing Vehicle Miles Traveled (VMT) Thresholds for the Purpose of Analyzing Transportation Impacts Under the California Environmental Quality Act in Accordance with the Requirements of Senate Bill 743 [CC]

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- B. First Reading — Consider Ordinance No. 20-989 Adding Chapter 3.31 to Title 3 of the Montclair Municipal Code Related to Imposing a General Transactions and Use Tax to be Administered by the California Department of Tax and Fee Administration (Subject to Final Approval by the Voters at the Tuesday, November 3, 2020 General Municipal Election) [CC]  
  
Consider Setting a Public Hearing for Second Reading and Adoption of Ordinance No. 20-989 for Monday, August 17, 2020 at 7:00 p.m. [CC] 12

**VIII. CONSENT CALENDAR**

A. Approval of Minutes

- 1. Regular Joint Meeting — July 20, 2020 [CC/SA/MHC/MHA/MCF]

B. Administrative Reports

- 1. Consider Approval of Warrant Register & Payroll Documentation [CC] 23
- 2. Consider Authorizing a \$7,000 Appropriation from the Federal Asset Forfeiture Fund to Purchase Push-Button Gunlock Switches for 16 Police Department Black and White Patrol Vehicles [CC] 24

C. Agreements

- 1. Consider Approval of Agreement No. 20-64 with the California Office of Traffic Safety (OTS) for Acceptance of a Selective Traffic Enforcement Program Grant [CC]  
  
Consider Authorizing a \$40,000 Appropriation from the Public Safety Grant Fund to Cover all Project Expenses Associated with Participation in the OTS Grant Program [CC] 25
- 2. Consider Approval of Agreement No. 20-67 with the San Bernardino County Fire Protection District Authorizing the Receipt of \$16,500 from the FY 2019 Homeland Security Grant Program [CC]  
  
Consider Authorizing a \$16,500 Appropriation from the Public Safety Grant Fund to Purchase an Electronic Message Board Trailer [CC] 45
- 3. Consider Approval of Agreement No. 20-68 with Suzanne Yoakum to Provide Case Management Services for the Human Services Department [CC] 66
- 4. Consider Approval of Agreement No. 20-69 with Ontario-Montclair School District to Provide a Licensed Clinical Social Worker for the Montclair Community Collaborative Case Management Program [CC] 80

D. Resolutions

- 1. Consider Adoption of Resolution No. 20-3279 Authorizing Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Accounts [CC] 86
- 2. Consider Adoption of Resolution No. 20-3283 Ordering the Submission to the Voters of the City of Montclair a Measure to Consider a General Transactions and Use Tax at the General Municipal Election to be Held on November 3, 2020; Directing the City Attorney to Prepare an Impartial Analysis of the Measure; and Providing for the Filing of Arguments and Rebuttal Arguments in Favor of and Against the Measure [CC] 93

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. COMMUNICATIONS**

- A. Department Reports
- B. City Attorney
- C. City Manager/Executive Director
  - 1. COVID-19 Update
- D. Mayor/Chairperson
- E. Council Members/Directors
- F. Committee Meeting Minutes *(for informational purposes only)*

- 1. Public Works Committee Meeting — May 21, 2020 [CC] 108
- 2. Public Works Committee Meeting — June 18, 2020 [CC] 113

**XI. 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, August 17, 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 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. (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 Thursday, July 30, 2020.*



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 3, 2020	<b>FILE I.D.:</b>	ENV075
<b>SECTION:</b>	PUBLIC HEARINGS	<b>DEPT.:</b>	COMMUNITY DEV.
<b>ITEM NO.:</b>	A	<b>PREPARER:</b>	M. DIAZ

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 20-3281 ESTABLISHING VEHICLE MILES TRAVELED (VMT) THRESHOLDS FOR THE PURPOSE OF ANALYZING TRANSPORTATION IMPACTS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN ACCORDANCE WITH THE REQUIREMENTS OF SENATE BILL 743

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 20-3281 establishing “vehicles miles traveled,” or VMT, as the method to measure transportation impacts under the California Environmental Quality Act (CEQA) for projects within the City of Montclair. Local agencies are encouraged to develop, publish, and adopt thresholds of significance for VMT by means of an ordinance, resolution, rule, or regulation through a public review process. The City Council is the responsible body for adopting City policy.

A copy of proposed Resolution No. 20-3281 is attached for City Council review and consideration.

**BACKGROUND:** In 2013, Governor Brown signed into law Senate Bill 743 (SB 743), requiring a change in how transportation impacts of development projects in the State must be identified and analyzed during the CEQA review process. After the Office of Planning and Research (OPR) studied a number of possible methods, VMT was determined to be the preferred means for complying with the intent of SB 743. VMT requirements were subsequently incorporated into the State’s CEQA Guidelines in Section 15064.7, *Thresholds of Significance*.

The key element of the change in the law as it pertains to CEQA analysis of traffic impacts was to eliminate or deemphasize reliance on vehicle delay, level of service (LOS), and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant impacts. Simply defined, VMT refers to the amount of and distance of automobile travel attributable to a project. As such, the change to VMT is intended to be a tool to assist in balancing the needs of congestion management with statewide goals related to the promotion of infill development, public health through active transportation, and the reduction of greenhouse gas emissions. However, SB 743 does not prevent a city or county from continuing to analyze delay or LOS as part of other plans (i.e., the general plan), studies, congestion mitigation, or ongoing network monitoring; but these metrics may no longer constitute the sole basis for CEQA impacts. Although VMT will govern future CEQA impacts, the City has identified that LOS is still of value. Therefore, the update of the General Plan will include policies that address LOS and identify LOS standards for the City to strive to attain.

Since SB 743 represents a significant departure from current practice, City staff participated in a collaborative study led by the San Bernardino County Transportation Authority (SBCTA), which evaluated the tools, thresholds, and mitigation options appropriate for the San Bernardino County region. SBCTA was assisted in the effort by the transportation consultant firm of Fehr & Peers, who also helped the City prepare a threshold and methodology policy for adoption by the City. The result of the effort by

SBCTA and Fehr & Peers was the production of options to measure VMT goals and a screening map for each City depicting the location of any low VMT areas and transit priority areas within the City (see Attachment A). On March 30, 2020, Fehr & Peers presented to a joint meeting of the City Council and Planning Commission an overview of SB 743 and an approach for the City to consider in meeting the requirements SB 743. Upon adoption of the proposed Resolution regarding VMT, all new projects submitted for discretionary review would be subject to the new VMT Policy.

Based on the foregoing discussion, City staff has determined the best approach for the City to take in complying with the requirements of SB 743 would be to:

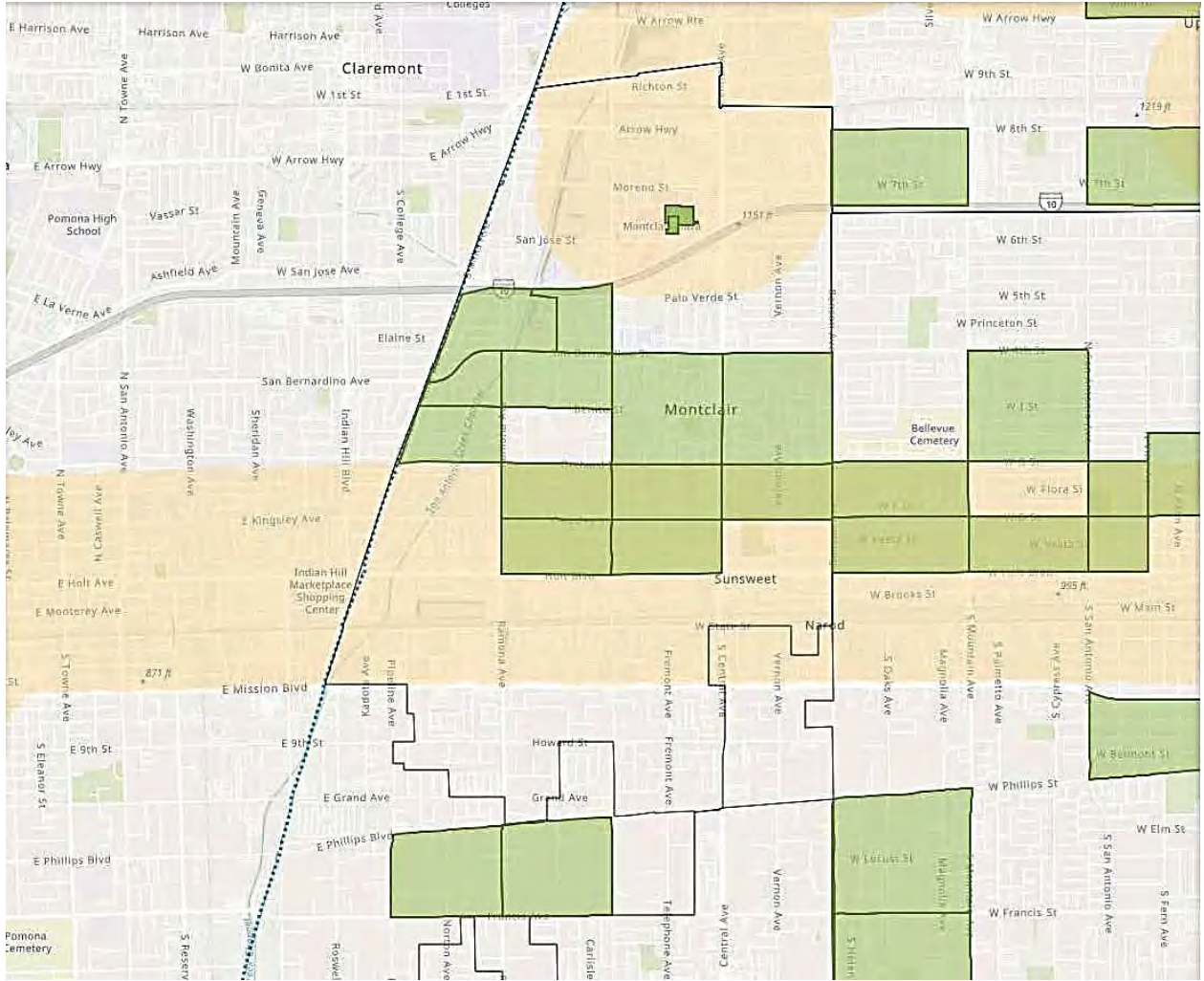
1. Utilize the San Bernardino County Travel Demand Model (SBTAM) as its preferred methodology to measure VMT. This model includes all of the land use growth and roadway network improvements used to estimate travel in the region. The goal of this option would be the reduction of VMT by 15 percent below existing VMT per capita.
2. Utilize the San Bernardino County Travel Demand Model (SBTAM) as its preferred method to analyze individual projects VMT impact.
3. Utilize threshold-screening criteria as provided in Attachment B. Projects and types of projects, as listed in Attachment B, could be “screened” from a VMT analysis, meaning they would be automatically found to have no significant traffic impact. If a project does not pass the initial screening test, then a full impact analysis would be required through the SBTAM model to determine if it has significant VMT impact.

Further, the *Montclair VMT Screening Map* (Attachment A) indicates that the majority of the City is within either a Transit Priority Zone (TPA) or a Low VMT zone, where the presumption is that projects will have a less-than-significant VMT impact. Of particular note is the TPA area found in the northern portion of the City where, since 2006, the City Council has demonstrated foresight in pioneering the approval of transit-oriented development (TOD) policies and specific plans to promote quality infill and higher density development in the areas surrounding the Montclair Transcenter and Montclair Place. Given that the majority of this area will likely be the focus of development activity in the near future, the City will be well positioned to comply with the requirements of SB 743.

**FISCAL IMPACT:** There would be no fiscal impact to the City’s General Fund as a result of the City Council’s adoption of Resolution No. 20-3281.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 20-3281 establishing Vehicle Miles Traveled (VMT) thresholds for the purpose of analyzing transportation impacts under the California Environmental Quality Act in accordance with the requirements of Senate Bill 743.

**Attachment A**  
**Montclair VMT Screening Map**



## Attachment B

### Summary of VMT Threshold

Upon the adoption of VMT Thresholds and Guidelines for the City, the process for complying would be as follows:

1. Screen proposed projects for exemption from VMT analysis pursuant to the following classifications/criteria thresholds:

<b>Type of Projects Screened from VMT Analysis</b> Source: OPR Technical Advisory
<ul style="list-style-type: none"><li>• Projects that generates less than 110 daily trips (or 836 VMT)</li></ul>
<ul style="list-style-type: none"><li>• Local serving retail less than 50,000 s.f.</li></ul>
<ul style="list-style-type: none"><li>• Local Serving Project (e.g., schools, day care, public institutions)</li></ul>
<ul style="list-style-type: none"><li>• Affordable Housing (100 percent of units)</li></ul>
<ul style="list-style-type: none"><li>• Development in a Transit Priority Area (TPA)<sup>1</sup> and consistent with the Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS). This presumption would not apply if the project:<ol style="list-style-type: none"><li>1. Has a Floor Area Ratio (FAR) of less than 0.75;</li><li>2. Includes more parking for use by residents, customers, or employees of the project than required by the jurisdiction (if the jurisdiction requires the project to supply parking);</li><li>3. Is inconsistent with applicable Sustainable Communities Strategy (as determined by the lead agency, with input from the Metropolitan Planning Organization); or</li><li>4. Replaces affordable residential units with a smaller number of moderate- or high-income residential units.</li></ol></li></ul>
<ul style="list-style-type: none"><li>• Development in a low VMT generating area consistent with a RTP/SCS and consistent with existing land use that is generating low VMT/SP. This will include both a land use (type, density, demographics, etc.) comparison.</li></ul>
<p><sup>1</sup>Projects located within Transit Priority Areas (TPAs) or High Quality Transit Areas (HQTAs) as determined by the most recent Southern California Association of Governments (SCAG). TPAs are defined as a ½-mile radius around an existing or planned major transit stop or an existing stop along a high quality transit corridor. HQTAs are defined as a corridor with fixed route bus service with service intervals no longer, than 15 minutes during peak commute hours.</p> <p>A map of HQTAs can be reviewed on SCAG's website currently located here (but should be verified by the engineer/planner related to the criteria for these areas): <a href="http://gisdata.scag.ca.gov/Pages/GISStaticMaps.aspx">http://gisdata.scag.ca.gov/Pages/GISStaticMaps.aspx</a>.</p> <p><b>Attachment A</b>, attached to the City Council staff report, depicts the TPAs in Montclair.</p> <p>Please note that projects that are in TPAs/HQTAs will also be required to complete a secondary screening step to verify the proposed project's consistency with the assumptions from the RTP/SCS. This consistency can be a land use review (e.g. are the proposed land uses already included in the RTP/SCS) or can be reviewed from a VMT/SP perspective (e.g. does the resulting land use increase or decrease the VMT/SP in the Traffic Analysis Zone (TAZ) compared to the RTP/SCS assumptions).</p>



## Attachment B

### Summary of VMT Threshold

(continued)

2. For projects that do not meet any of the screening criteria above, a traffic impact study completing a full VMT assessment will be required. To complete this assessment, the applicant will be required to evaluate the Project-generated VMT and the Project Effect on VMT.
  - a. If the following condition is satisfied in the cumulative conditions then the Project-generated VMT has a significant impact under CEQA; the project generated VMT per service population exceeds 15% below what the County of San Bernardino average VMT per service population.
  - b. If the following condition is satisfied in the cumulative conditions then the Project Effect on VMT has a significant impact under CEQA: the link-level boundary VMT per service population increases Citywide under the plus project condition compared to the no project condition.
3. A project is determined to have a significant impact would need to be mitigated to be at or below the threshold standard. Mitigation would consist of one or both the following alternatives:
  - a. Preparation and Implement of a Transportation Demand Management Plan (TDM) for the project to reduce impacts, consistent with Chapter 7 of the California Air Pollution Control Officers Association (CAPCOA) *Quantifying Greenhouse Gas Mitigation Measures* (August 2010), approved by the City; or
  - b. Modify the project to reduce VMT impacts to be at or below established thresholds.

RESOLUTION NO. 20-3281

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ESTABLISHING VEHICLE MILES TRAVELED (VMT) THRESHOLDS OF SIGNIFICANCE FOR THE PURPOSE OF ANALYZING TRANSPORTATION IMPACTS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, the California Environmental Quality Act Guidelines (“CEQA Guidelines”) encourage public agencies to develop and publish generally applicable “thresholds of significance” to be used in determining the significance of a project’s environmental effects; and

**WHEREAS**, CEQA Guidelines section 15064.7(a) defines a threshold of significance as “an identifiable quantitative, qualitative or performance level of a particular environmental effect, noncompliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant”; and

**WHEREAS**, CEQA Guidelines section 15064.7(b) requires that thresholds of significance must be adopted by ordinance, resolution, rule, or regulations, developed through a public review process, and be supported by substantial evidence;

**WHEREAS**, pursuant to CEQA Guidelines section 15064.7(c), when adopting thresholds of significance, a public agency may consider thresholds of significance adopted or recommended by other public agencies provided that the decision of the agency is supported by substantial evidence; and

**WHEREAS**, Senate Bill 743, enacted in 2013 and codified in Public Resources Code section 21099, required changes to the CEQA Guidelines regarding the criteria for determining the significance of transportation impacts of projects; and

**WHEREAS**, in 2018, the Governor’s Office of Planning and Research (“OPR”) proposed, and the California Natural Resources Agency certified and adopted, new CEQA Guidelines section 15064.3 that identifies vehicle miles traveled (“VMT”) – meaning the amount and distance of automobile travel attributable to a project – as the most appropriate metric to evaluate a project’s transportation impacts; and

**WHEREAS**, as a result, automobile delay, as measured by “level of service” (“LOS”) and other similar metrics, will generally no longer constitute a significant environmental effect under CEQA; and

**WHEREAS**, CEQA Guidelines section 15064.3 requires agencies to stop treating automobile delay/LOS as an environmental impact effective on July 1, 2020, though public agencies may elect to be governed by this section immediately; and

**WHEREAS**, the City’s project review process will retain “level of service” analysis to ensure consistency with the General Plan and compliance with the City’s traffic impact fee program;

**WHEREAS**, the City of Montclair wishes to adopt the VMT thresholds of significance for determining the significance of transportation impacts that are recommended in an analysis conducted by the San Bernardino County Transportation Authority on behalf of its member jurisdictions.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby declares that the City of Montclair shall take the following actions to comply with the provisions of SB 743:

1. Utilize the San Bernardino County Travel Demand Model (SBTAM) as its preferred methodology to measure VMT. This model includes all of the land use growth and roadway network improvements used to estimate travel in the region.
2. Utilize the San Bernardino County Travel Demand Model (SBTAM) as its preferred method to analyze individual projects VMT impact.

3. Utilize threshold-screening criteria as provided in Attachment B. If a project does not pass the initial screening test, then a full impact analysis would be required through the SBTAM model to determine if it has significant VMT impact.

**APPROVED AND ADOPTED** this XX day of XX, 2020.

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Mayor

**ATTEST:**

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City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 20-3281 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2020, and that it was adopted by the following vote, to-wit:

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

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Andrea M. Phillips  
City Clerk



# CITY COUNCIL AGENDA REPORT

**DATE:** AUGUST 3, 2020

**FILE I.D.:** TAX495

**SECTION:** PUBLIC HEARINGS

**DEPT.:** CITY MGR.

**ITEM NO.:** B

**PREPARER:** M. FUENTES

**SUBJECT:** FIRST READING — CONSIDER ORDINANCE NO. 20-989 ADDING CHAPTER 3.31 TO TITLE 3 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO IMPOSING A GENERAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (SUBJECT TO FINAL APPROVAL BY THE VOTERS AT THE TUESDAY, NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION)

CONSIDER SETTING A PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 20-989 FOR MONDAY, AUGUST 17, 2020, AT 7:00 P.M.

**REASON FOR CONSIDERATION:** The City Council is requested to consider conducting the first reading of Ordinance No. 20-989 imposing a general Transactions and Use Tax (TUT) to be administered by the California Department of Tax and Fee Administration (CDTFA), which is subject to final approval by the voters at the November 3, 2020 General Municipal Election, and setting a public hearing for the second reading and adoption of Ordinance No. 20-989 for Monday, August 17, 2020, at 7:00 p.m.

The City Council's approval of Resolution No. 20-3283, which is on the August 3, 2020 City Council meeting agenda for its consideration, would place Ordinance No. 20-989 on the ballot as a tax measure to be voted upon at the November 3, 2020 General Municipal Election. Ordinance No. 20-989 shall only go into effect upon voter approval.

A copy of proposed Ordinance No. 20-989 is attached for City Council's review and consideration.

**BACKGROUND:** At its June 17, 2019 meeting to consider adoption of the Fiscal Year 2019-20 Annual Budget, the City Council directed the City Manager to explore several options to address projected budget deficits, including a potential tax measure for consideration by Montclair voters for the purpose of improving the City's fiscal profile, maintaining essential public services, improving public safety services, continue developing the City's infrastructure, maintaining a program of paving roadways, improving traffic control and pedestrian safety, maintaining direct services to community residents, expanding and improving parkland, promoting community safety and appearance, and providing for the public health, safety and welfare.

At its October 7, 2019 meeting, the City Council approved Agreement No. 19-92 with Fairbank, Maslin, Maullin, Metz & Associates (FM3) for polling, educational, and outreach services to conduct a community issues survey. The survey was conducted the week of January 7 to 16, 2020, and the results were presented at a Council workshop held on February 18, 2020. At the end of their presentation, FM3 recommended that an additional "tracking survey" be conducted in order to provide an additional "snap shot" in time as to the view of the voters closer to the election, and the City Council directed staff to prepare a report related to presenting Montclair voters with a November 3, 2020 ballot measure regarding a local TUT.

On June 1, 2020, the City Council received and filed the City Manager's report of a proposed November 3, 2020 ballot measure for a TUT for the City of Montclair, approved Agreement No. 20-50 with Cerrell for community education and outreach services related to the ballot measure, and provided the City Manager with the direction to set the proposed tax rate at one percent.

At its following meeting on June 15, 2020, the City Council approved Agreement No. 20-57 with FM3 to conduct a tracking survey to allow the City to better understand how recent nationwide events, including the ongoing COVID-19 pandemic and civil unrest, have impacted voters' opinions and attitudes since the baseline survey was conducted at the beginning of the year.

At the Monday, July 20, 2020 workshop of the City Council, a presentation was made by FM3 regarding the results of the tracking survey and the potential for placing on the November 3, 2020 ballot a TUT measure.

At its regular meeting following the conclusion of the FM3 presentation, the City Council directed the City Manager to present at the next regularly scheduled City Council meeting a resolution ordering the submission to the voters of the City of Montclair a measure to consider a Transactions and Use Tax at the General Municipal Election to be held on November 3, 2020.

### ***Transactions and Use Tax***

Pursuant to the provisions of Part 1.6, commencing with §7251, of Div. 2 of the Revenue & Taxation Code (RTC), "the combined rate of all [transactions and use] taxes imposed pursuant to §7251.1 in any county shall not exceed two percent [2.00%], nor shall the tax be considered if, upon its adoption, the combined tax rate will exceed two percent [2.00%]."

The City Council has proposed a tax rate of one percent (1.00%) for the November 3, 2020 Municipal Election ballot measure. When combined with the existing one-quarter percent (0.25%) Montclair Transactions and Use Tax (2004) rate and the County's one-half percent (0.50%) Measure I transportation tax rate, the total transaction and use tax rate in Montclair would be equal to, or less than, one and three-quarters percent (1.75%), below the combined rate of two percent (2.00%) pursuant to RTC Div. 2 §7251.1.

- ***Transactions Tax***

The transactions tax portion shall be imposed for the privilege of selling tangible personal property at retail, and the adopting ordinance shall include provisions in substance as follows:

1. A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the City at a rate of one-eighth of one percent, or a multiple thereof, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the City.
2. Provisions identical to those in RTC Part 1 (commencing with §6001), insofar as they relate to sales taxes and are not inconsistent with RTC Part 1.6.
3. A provision that all amendments subsequent to the effective date of RTC Part 1.6 (commencing with §6001) relating to sales tax and not inconsistent with RTC Part 1.6 shall automatically become a part of the transactions and use tax ordinance.

4. A provision that the amount subject to tax shall not include the amount of sales tax or use tax imposed by the State or by the City or County pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.
5. A provision that there are exempted from the tax the gross receipts from the sale of tangible personal property, other than fuel and petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusive in the use of the aircraft as common carriers of persons or property under the authority of the laws of California, the United States, or any foreign government.
6. A provision that the sales of property to be used outside the City which are shipped to a point outside the City, pursuant to the contract of sale, by delivery to that point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point, are exempt from the tax.
7. A provision that the sale of tangible personal property is exempt from tax if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operated date of the ordinance. A lease of tangible personal property which is a continuing sale of that property is exempt from tax for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance. The sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

For the purposes of a transactions tax imposed by an ordinance adopted pursuant to RTC Part 1.6, all retail transactions are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or its agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which the delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail are consummated for the purpose of a transactions tax imposed by an ordinance adopted pursuant to RTC Part 1.6 shall be determine under rules and regulations to be prescribed and adopted by CDTFA.

- ***Use Tax***

The use tax portion of any transactions and use tax ordinance shall impose a complementary tax upon the storage, use, or other consumption in the City of tangible personal property purchased from any retailer for storage, use, or other consumption in the City. The tax shall be at a rate of one-eighth of one percent, or a multiple thereof, of the sale price of the property whose storage, use, or other consumption is subject to the tax, and the adopting ordinance shall include provisions in substance as follows:

1. Provisions identical to those in RTC Part 1 (commencing with §6001), insofar as they relate to use taxes and are not inconsistent with RTC Part 1.6.
2. Except as provided in paragraph (3), below, a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible

personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

3. A retailer engaged in business in the City shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with §40000) of Div. 3 of the Vehicle Code, aircraft licensed in compliance with §21411 of the Public Utilities Code, or undocumented vessels registered under Div. 3.5 (commencing with §9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
4. A provision that all amendments to the provisions of RTC Part 1 (commencing with §6001) relating to the use tax and not inconsistent with RTC Part 1.6 shall automatically become a part of the adopting ordinance. However, no amendment shall operate so as to affect the rate of tax imposed by City Council.
5. A provision that the amount of subject tax shall not include the amount of any sales tax or use tax imposed by the State or by the County pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (RTC Part 1.5, commencing with §7200) or the amount of any state-administered transactions or use tax.
6. A provision that any person subject to a use tax under the City-adopted ordinance pursuant to RTC Part 1.6 shall be entitled to credit against that tax or any transactions tax, or to reimbursement for a transactions tax, paid to the City or retailer in the City imposing a transactions and use tax subject to RTC Part 1.6.
7. A provision that, in addition to the exemption provided in §6366 & 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel and petroleum products, purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from the use tax.
8. A provision that the storage, use, or other consumption in the City of tangible personal property is exempt from the tax if the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. The possession of, or the exercise of any or power over, tangible personal property under a lease which is a continuing purchase of the property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to the operative date of the ordinance. For purposes of this subdivision, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

### ***Effective Date of Transactions and Use Tax***

An ordinance adopted pursuant to RTC Part 1.6 must go into effect on the first day of a calendar quarter after more than 110 days of its adoption by the voters have passed. Therefore, should the proposed measure be approved by the voters on November 3, 2020, the ordinance would go into effect on April 1, 2021.

Prior to the operative date of any ordinance imposing a TUT pursuant to RTC Part 1.6, the City shall contract with CDTFA to perform all functions incident to the administration and operation of the ordinance. The contract shall contain a provision that the City shall reimburse CDTFA for and hold CDTFA harmless from any and all costs, losses, or refunds of any kind whatsoever. The contract shall also contain a provision that, in the event that a legal action is commenced challenging the validity of the tax in its entirety, as opposed to its application to an individual taxpayer, the City shall place the tax proceeds into an interest-bearing escrow account until the legality of the tax is finally resolved by a final and non-appealable decision rendered by a court of competent jurisdiction. That provision shall be enforceable by any interested person in a proceeding for a writ of mandate. The City shall be entitled to indemnity for any and all costs, losses, or refunds from any entity, except the state, that participated in the imposition of the tax. The City currently has an operational contract with CDTFA to administer operation of the one-quarter of one percent TUT currently in effect in Montclair.

### ***Administration of Transactions and Use Tax***

All TUTs collected by CDTFA pursuant to contract with the City are transmitted by CDTFA to the City periodically as promptly as feasible, but at least twice in each calendar quarter.

In addition to the amounts for preparatory costs, CDTFA charges for its services in administering the TUT. The amount charged is based on the City's proportional share of the revenue after weighting the revenue to equalize the differences in the City's tax rates, and CDTFA shall, by June 1st of each year, notify the City of the amount that it anticipates will be assessed for the succeeding fiscal year.

Proceeds of the TUT would be deposited into the City's General Fund to be used for general government needs of the City, which may include, but not be limited to capital equipment requirements, capital improvement projects, fire and police protection, 911 emergency response, preventing the contamination of local water sources, street and park maintenance, planning and engineering services, code enforcement, youth and senior citizen programs, operational expenses, fiduciary responsibilities, indebtedness, and general obligations of the City. A transactions and use tax imposed by the voters of Montclair would be intended to be a general tax, the proceeds of which shall be spent as the City Council, in its discretion, shall, from time-to-time, determine.

While it is possible to amend the existing TUT Ordinance of the City of Montclair to reflect a change to the current rate of 0.25%, the preferred course of action by CDTFA is to propose a separate tax district at a rate determined by the City Council.

### ***Ordinance No. 20-989***

Proposed Ordinance No. 20-989 would establish the structure and procedures for the implementation of the "Montclair 2020 General Transactions and Use Tax Ordinance" and subsequent other legal requirements, as noted above, required by state law to facilitate the submission of the Montclair Essential Services Protection measure to the voters of Montclair.



Ordinance No. 20-989 contains the following sections required by state law:

- *Operative Date;*
- *Purpose;*
- *Contract with State;*
- *Transactions Tax Rate;*
- *Place of Sale;*
- *Use Tax Rate;*
- *Adoption of Provision of State Law;*
- *Limitations on Adoption of State Law and Collection of Use Taxes;*
- *Permit Not Required; and*
- *Exemptions and Exclusions.*

In addition to the legal requirements stated above, Ordinance No. 20-989 includes language requiring that the City of Montclair retain an auditor independent of the City to audit the accounting of the receipt and expenditures of the proceeds of the TUT to ensure compliance with sections and subsections of Ordinance No. 20-989.

Ordinance No. 20-989 would also require that the Montclair City Council discuss the findings of the auditor's report at a regular scheduled City Council meeting and to have the report posted on the City of Montclair website.

If Ordinance No. 20-989 is approved by the City Council, with subsequent approval by the voters of the City of Montclair at the General Municipal Election to be held on November 3, 2020, the "Montclair 2020 General Transactions and Use Tax Ordinance" would be operative beginning on April 1, 2021.

**FISCAL IMPACT:** There would be no direct fiscal impact in relation to the City Council's adoption of Ordinance No. 20-989; however, voter approval of proposed Montclair Essential Services Protection Measure would put the ordinance into effect and produce an estimated annual revenue stream of \$7 million at the proposed one-percent tax rate.

In addition, should Ordinance No. 20-989 go into effect upon voter approval, the City would pay CDTFA its costs of preparing to administer and operate the TUT ordinance including costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing of forms, developing instructions for CDTFA staff and for taxpayers, and other necessary preparatory costs which shall include CDTFA's direct and indirect costs as specified by §11256 of the Government Code. The maximum amount of all preparatory costs to be paid by the City shall not exceed \$175,000.

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

1. Conduct the first reading of Ordinance No. 20-989 adding Chapter 3.31 to Title 3 of the Montclair Municipal Code related to imposing a General Transactions and Use Tax to be administered by the California Department of Tax and Fee Administration; and
2. Set a public hearing for second reading and adoption of Ordinance No. 20-989 for Monday, August 17, 2020, at 7:00 p.m.

ORDINANCE NO. 20-989

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADDING CHAPTER 3.31 TO TITLE 3 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO IMPOSING A GENERAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (SUBJECT TO FINAL APPROVAL BY THE VOTERS AT THE TUESDAY, NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION)

WHEREAS, the City of Montclair is authorized to levy a Transactions and Use Tax for general purposes pursuant to California Revenue and Taxation Code §7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIII(C), §2 of the California Constitution (Proposition 218); and

WHEREAS, pursuant to California Elections Code §9222, the City Council has the authority to place local measures on the ballot to be considered at a Municipal Election; and

WHEREAS, on August 3, 2020, the City Council adopted Resolution No. 20-3283 ordering the submission to the voters of Montclair a measure to consider a one percent Transactions and Use Tax at the General Municipal Election of November 3, 2020 (the "Measure"); and

WHEREAS, the City Council has reviewed the form and content of this Ordinance and by its adoption approves this Ordinance as the complete text of the Measure subject to approval by the voters of the City of Montclair.

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

**SECTION I. Amendment to Code.** Chapter 3.31 is hereby added to Title 3 the Montclair Municipal Code with the following provisions:

**3.31.010. Title.**

- A. This chapter shall be known as the "2020 General Transactions and Use Tax Ordinance of the City of Montclair."
- B. The City of Montclair hereinafter shall be called "City."
- C. This ordinance shall be applicable in the incorporated territory of the City.

**3.31.020. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**3.31.030. Purpose.**

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax increase in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the

California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

- D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

**3.31.040. Contract with State.**

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

**3.31.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

**3.31.060. Place of Sale.**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

**3.31.070. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**3.31.080. Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

**3.31.090. Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

C. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

**3.31.100. Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

**3.31.110. Exemptions and Exclusions.**

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of

Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

**SECTION II. Amendments.** All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

**SECTION III. Enjoining Collection Forbidden.** No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

**SECTION IV. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION V. Effective Date.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

**SECTION VI. Independent Audits.** The City shall at least annually retain an auditor independent of the City to audit the accounting of the receipt and expenditures of the proceeds of the tax imposed by this ordinance to ensure compliance with its requirements. The City Council shall discuss the auditor's report at a regular Council meeting and the report shall be posted to the City's website.

**SECTION VII. Execution.** The Mayor shall sign and the City Clerk shall attest to the adoption of this ordinance upon certification by the City Council of the results of the election approving this ordinance.

**APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 20-989 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2020, and finally passed not less than five (5) days thereafter at a regular meeting on the XX day of XX, 2020, by the following vote, to-wit:

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

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



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 3, 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		

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

**BACKGROUND:** Mayor Pro Tem Raft has examined the Warrant Register dated August 3, 2020, and the Payroll Documentation dated July 5, 2020, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated August 3, 2020, totals \$1,441,044.13; and the Payroll Documentation dated July 5, 2020, totals \$629,585.99 gross, with \$431,978.85 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

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<b>DATE:</b>	AUGUST 3, 2020	<b>FILE I.D.:</b>	PDT175
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	POLICE
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	B. VENTURA
<b>SUBJECT:</b>	CONSIDER AUTHORIZING A \$7,000 APPROPRIATION FROM THE FEDERAL ASSET FORFEITURE FUND TO PURCHASE PUSH-BUTTON GUNLOCK SWITCHES FOR 16 POLICE DEPARTMENT BLACK AND WHITE PATROL VEHICLES		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider authorizing a \$7,000 appropriation from the Federal Asset Forfeiture Fund to purchase push-button gunlock switches for 16 Police Department black and white vehicles.

**BACKGROUND:** The Police Department recently identified a deficiency in the electronic equipment that unlocks the firearm stored inside the patrol black and white vehicles. Currently, each patrol black and white vehicle has a single push-button gunlock release switch that only unlocks the firearm when the vehicle is running. This may create an unfavorable condition for an officer in the event the firearm is needed for deployment when the vehicle is not running.

The Police Department has 16 black and white patrol vehicles that needs to be retrofitted with two additional independent push-button gunlock switches that will release the firearm whether the patrol vehicle is running or not. The Department's current vehicle electronic equipment vendor is 10-8 Retrofit, which holds the current schematic for the patrol vehicles. Seeking a new vendor would result in a new schematic, thus adding additional costs and time. Staff opted to keep the existing electronic equipment vendor to keep costs down, therefore, did not seek additional cost quotations.

**FISCAL IMPACT:** If authorized by the City Council, funding for the purchase of push-button gunlock switches would result in an expenditure of \$7,000 from the Federal Asset Forfeiture Fund (1144).

**RECOMMENDATION:** Staff recommends the City Council authorize a \$7,000 appropriation from the Federal Asset Forfeiture Fund to purchase push-button gunlock switches for 16 Police Department black and white patrol vehicles.





# CITY COUNCIL AGENDA REPORT

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**DATE:** AUGUST 3, 2020                      **FILE I.D.:** PDT905  
**SECTION:** CONSENT - AGREEMENTS                      **DEPT.:** POLICE  
**ITEM NO.:** 1    **PREPARER:** M. BUTLER  
**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 20-64 WITH THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) FOR ACCEPTANCE OF A SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT

CONSIDER AUTHORIZING A \$40,000 APPROPRIATION FROM THE PUBLIC SAFETY GRANT FUND TO COVER ALL PROJECT EXPENSES ASSOCIATED WITH PARTICIPATION IN THE OTS GRANT PROGRAM

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-64 with the California Office of Traffic Safety (OTS) for acceptance of the 2021 Federal Fiscal Year Selective Traffic Enforcement Program (STEP) grant, and to authorize a \$40,000 appropriation from the Public Safety Grant Fund to cover all project expenses associated with participation in the OTS grant program. The program is designed to reduce traffic-related deaths and injuries through directed traffic enforcement operations, provide educational programs, and promote awareness campaigns that deter impaired and distracted driving.

A copy of proposed Agreement No. 20-64 is attached for City Council review and consideration.

**BACKGROUND:** OTS partners with government subdivisions of the state, such as law enforcement agencies, to address California's highway safety needs at the state, county, and local level. These subdivisions are invited to submit projects for possible incorporation into OTS's Highway Safety Plan to receive grant funding, which would be used to implement strategies that focus on reducing the number of persons killed and injured in crashes involving alcohol and other primary crash factors. The Police Department recently received notification from OTS that its application for funding a traffic safety program was approved in the amount of \$40,000. Participation in the OTS grant program would require the City to initially pay for project expenses, including personnel overtime, travel expenses, phlebotomy services, one radar device, and educational materials. The City would then invoice OTS for reimbursement of all costs incurred during the grant period of October 1, 2020, through September 30, 2021.

Acceptance of the grant agreement would enable the Police Department to further accomplish the goals and objectives established for the Department's Traffic Safety Division. The funded strategies of STEP include, but are not limited to, training of sworn personnel in impaired driving enforcement; DUI checkpoints and saturation patrols; traffic enforcement operations; motorcycle safety enforcement operations; and implementation of public awareness campaigns designed to educate the public on occupant protection, pedestrian and bicycle safety, and the dangers of impaired and distracted driving.

**FISCAL IMPACT:** If approved by the City Council, all project expenses associated with participation in the OTS grant program would result in an appropriation from the Public Safety Grant Fund (1163) in the amount of \$40,000. The City would receive full reimbursement from the 2021 OTS STEP grant.

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

1. Approve Agreement No. 20-64 with the California Office of Traffic Safety for acceptance of a Selective Traffic Enforcement Program grant.
2. Authorize a \$40,000 appropriation from the Public Safety Grant Fund to cover all project expenses associated with participation in the OTS grant program.

<b>1. GRANT TITLE</b> <b>Selective Traffic Enforcement Program (STEP)</b>	
<b>2. NAME OF AGENCY</b> <b>Montclair</b>	<b>3. Grant Period</b> From: 10/01/2020 To: 09/30/2021
<b>4. AGENCY UNIT TO ADMINISTER GRANT</b> <b>Montclair Police Department</b>	
<b>5. GRANT DESCRIPTION</b> Best practice strategies will be conducted to reduce the number of persons killed and injured in crashes involving alcohol and other primary crash factors. The funded strategies may include impaired driving enforcement, enforcement operations focusing on primary crash factors, distracted driving, night-time seat belt enforcement, special enforcement operations encouraging motorcycle safety, enforcement and public awareness in areas with a high number of bicycle and pedestrian crashes, and educational programs. These strategies are designed to earn media attention thus enhancing the overall deterrent effect.	
<b>6. Federal Funds Allocated Under This Agreement Shall Not Exceed: \$40,000.00</b>	
<b>7. TERMS AND CONDITIONS:</b> The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement: <ul style="list-style-type: none"> <li>• Schedule A – Problem Statement, Goals and Objectives and Method of Procedure</li> <li>• Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)</li> <li>• Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable)</li> <li>• Exhibit A – Certifications and Assurances</li> <li>• Exhibit B* – OTS Grant Program Manual</li> <li>• Exhibit C – Grant Electronic Management System (GEMS) Access</li> </ul> <p>*Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto.</p> <p>These documents can be viewed at the OTS home web page under Grants: <a href="http://www.ots.ca.gov">www.ots.ca.gov</a>.</p> <p>We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.</p> <p>IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.</p>	
<b>8. Approval Signatures</b>	
<b>A. GRANT DIRECTOR</b>  NAME: Jim Michel TITLE: Lieutenant EMAIL: <a href="mailto:jmichel@cityofmontclair.org">jmichel@cityofmontclair.org</a> PHONE: (909) 448-3606 ADDRESS: 4870 Arrow Highway Montclair, CA 91763  _____ (_____) (_____)	<b>B. AUTHORIZING OFFICIAL</b>  ADDRESS: Javier John Dutrey Mayor <a href="mailto:jdutrey@cityofmontclair.org">jdutrey@cityofmontclair.org</a> (909) 625-9400 5111 Benito Street Montclair, CA 91763  _____ (_____) (_____)
<b>C. FISCAL OFFICIAL</b>  ADDRESS: Janet Kulbeck Finance Manager <a href="mailto:jkulbeck@cityofmontclair.org">jkulbeck@cityofmontclair.org</a> (909) 625-9411 5111 Benito Street Montclair, CA 91763  _____ (_____) (_____)	<b>D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY</b>  ADDRESS: Barbara Rooney Director <a href="mailto:barbara.rooney@ots.ca.gov">barbara.rooney@ots.ca.gov</a> (916) 509-3030 2208 Kausen Drive Suite 300 Elk Grove, CA 95758  _____ (_____) (_____)

<p>E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY</p> <p>NAME: Carolyn Vu  ADDRESS: 2208 Kausen Drive, Suite 300  Elk Grove, CA 95758</p>	<p><b>9. DUNS INFORMATION</b></p> <p>DUNS #: 084976919  REGISTERED  ADDRESS: 5111 Benito Street  CITY: Montclair  ZIP+4: 91763-2808</p>
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10. PROJECTED EXPENDITURES						
FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
402PT-21	20.600	0521-0890-101	2020	2020	BA/20	\$20,000.00
164 AL-21	20.608	0521-0890-101	2020	2020	BA/20	\$20,000.00
					<b>AGREEMENT TOTAL</b>	<b>\$40,000.00</b>
					AMOUNT ENCUMBERED BY THIS DOCUMENT	
					<b>\$40,000.00</b>	
<i>I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.</i>					PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT	
					<b>\$ 0.00</b>	
OTS ACCOUNTING OFFICER'S SIGNATURE			DATE SIGNED		TOTAL AMOUNT ENCUMBERED TO DATE	
					<b>\$40,000.00</b>	

Schedule A

**1. PROBLEM STATEMENT**

The City of Montclair covers 5.54 square miles with a population of approximately 40,000. The city's population has steadily grown with an 8% increase from 2010 to 2018 according to American Fact Finder. New residential developments have been added to the city with many multi-story housing projects still under construction. Also, the city's main shopping mall, Montclair Place, has undergone several recent redevelopments including the addition of a 17,000 square foot music and entertainment venue and an 11,000 square foot indoor playground designed for kids. A new 2-level, 134,000 square foot entertainment and dining wing featuring a dine-in theatre is also currently in development. Along with an increase in population and newly desired destinations that promote living, working, shopping, and entertainment experiences comes an increase in motorists traveling the city's streets. While city officials are committed to making the city a transit-oriented community, the burdening of city streets and the need for traffic enforcement cannot be overlooked. The Montclair Police Department has identified traffic safety related problems that OTS grant funding will assist in efforts to attain an optimum traffic safety program.

While the residential, commercial, and transitory population has and will continue to grow, the Montclair Police Department's front-line law enforcement staff has been operating for several years below optimal deployment levels. In 2019, the agency operated with a 15% shortage in patrol officers. Due to vacancies, the agency has been unable to staff its Traffic Safety Division, which includes two motor officers, in order to meet the community's law enforcement needs. The increase in population and commercial development coupled with staffing shortages of sworn personnel significantly diminishes the department's ability to effectively address traffic enforcement-related concerns. Through training, educational presentations, equipment, and special enforcement operations funded by OTS, the agency hopes to reduce the number of persons killed and injured in traffic collisions, including pedestrians, bicyclists, and motorcyclists.

According to OTS Crash Rankings for 2017, the City of Montclair ranked the second worst city out of 94 other cities with similar-sized populations in the State of California for alcohol-involved collisions. Through in-house statistical data research, it was discovered that out of a total of 487 collisions in 2017, 44 were alcohol-involved collisions (9%); out of which 23 resulted in injury (52%) with a total of 36 injured persons. In 2018, 9% of all traffic collisions were also alcohol-involved with 10% in 2019 with a total of 64 persons injured. There was also one fatal collision in 2019 that was alcohol related. The Montclair Police Department was awarded a FFY 2018 OTS STEP grant, which began in October of 2017 and ended on September 30, 2018. The agency noted 135 DUI arrests in 2017 and 145 in 2018; however, this number decreased to 105 in 2019. While the rate of DUI arrests has decreased by 28%, the rate of alcohol-involved collisions has been consistent for the past three years clearly demonstrating the need for enforcement operations focusing on impaired drivers.

Injury collisions have been a continual problem in the past three years, as reflected in the traffic data summary chart below. During 2017, 487 traffic collisions occurred on Montclair's roadways, which includes 245 injury collisions (50%) with 320 persons injured. In 2018, there were 538 traffic collisions including 238 injury collisions (44%) with 328 persons injured. A total of 349 persons were injured in 2019 out of 585 traffic collisions. Each year there has been approximately 10% more traffic collisions with a 9% increase in persons injured from 2017 to 2019. Each year saw one traffic collision resulting in a fatality as well. According to OTS Crash Rankings for 2017, the City of Montclair ranked the third worst city out of 94 other cities with similar-sized populations in the State of California for total fatal and injury collisions.

The city's injury collisions are not just the result of impaired drivers. There have been three top primary collision factors (PCF) that account for 36% of all injury collisions in the past three years: unsafe speed, unsafe turns, and failure to stop for a red light or stop sign. In 2018, which was during the FFY 2018 OTS STEP grant, 240 drivers were cited for speed violations compared to only 161 drivers in 2019—a 33% reduction. There has been a decline in citations for unsafe turns (331 to 311) and failure to stop (1,158 to 770) since 2018 as well and yet these remain the city's top primary collision factors for injury collisions. There is undoubtedly a need for traffic enforcement operations focusing on PCF violations.

Also of concern is drivers violating California Vehicle Code (VC) 23123 concerning drivers using handheld cell phones and texting while driving; VC 27315(a)—the mandatory seat belt law; and VC 27360 that requires a child under 8 years of age on a highway in a motor vehicle to be properly secured in a rear seat in an appropriate child passenger restraint system. In 2017, 217 drivers in Montclair were cited for violation of VC 23123; 111 were cited in 2018; and only 42 in 2019. There was a 50% decrease in the amount of drivers cited for nighttime seat belt violations from 2018 to 2019; and only 10 drivers were cited in 2019 for VC 27360 compared to 23 citations in 2017. Grant-funded distracted driving enforcement operations, click-it or ticket enforcement operations, and a child passenger safety educational presentation would focus on these types of violations.

Efforts have been made to reduce injury collisions by adjusting speed limits on roadways based on traffic engineering surveys. The intersection of Mission Boulevard and Ramona Avenue has been among the top two intersections in the city with a high frequency of collisions often resulting in injuries. Based on the 2018 City of Montclair Engineering and Traffic Survey report, 85% percent of all vehicles traveled at 48 mph in this intersection. Although the indicated speed for most of this roadway is 50 mph, the posted speed limit is 45 mph. Another high-frequency collision intersection is Central Avenue and Holt Boulevard. The posted speed limit on Central Avenue at this intersection is 10 mph below the indicated speed and 5 mph below the indicated speed on Holt Boulevard. Despite these adjustments, these two intersections remain problem areas that with special enforcement efforts could enhance the overall deterrent effect.

According to OTS Crash Rankings for 2017, the City of Montclair ranked 24 out of 94 other cities with similar-sized populations in the State of California for pedestrian-involved collisions. There were 19 injury traffic collisions involving pedestrians with no fatalities in 2017; 22 in 2018 with one fatality; and 26 in 2019 with no fatalities. The fatality in 2018 was an 11-year-old boy walking to school caused by a driver who failed to stop at a stop sign—one of the department's top PCFs. There have been no fatal traffic collisions involving bicyclists in the past three years, but there has been a combined total of 31 injury bicycle traffic collisions. OTS ranked Montclair 11 out of 94 for these type of collisions in 2017. OTS grant-funded operations will focus on these traffic safety related problems as well.

Officers currently enforce traffic violations when observed during performance of their daily primary patrol duties. Oftentimes, officers have very little time for directed traffic enforcement, focusing their efforts instead on responding to calls for service that are criminal in nature. The agency must use overtime funding in order to ensure minimum deployment levels are maintained causing a deficiency in directed traffic enforcement operations. OTS grant funding will allow the agency to put in place a comprehensive traffic program on an overtime basis and schedule directed enforcement operations encompassing traffic-related concerns ranging from drivers using handheld cell phones to DUI enforcement.

The focus of Montclair's traffic enforcement efforts is all persons who utilize roadways whether they live, work, or shop in the city or are just passing through. The overall objective is to make Montclair's roadways safe for all motorists through increased traffic enforcement and education. Impaired and distracted drivers pose a significant risk of injury or death not only to themselves but to their passengers, other motorists, pedestrians, and bicyclists. Through the implementation of the proposed grant activities, the agency hopes to reduce the number of persons killed and injured in traffic collisions.

## **2. PERFORMANCE MEASURES**

### **A. Goals:**

1. Reduce the number of persons killed in traffic crashes.
2. Reduce the number of persons injured in traffic crashes.
3. Reduce the number of pedestrians killed in traffic crashes.
4. Reduce the number of pedestrians injured in traffic crashes.
5. Reduce the number of bicyclists killed in traffic crashes.
6. Reduce the number of bicyclists injured in traffic crashes.
7. Reduce the number of persons killed in alcohol-involved crashes.
8. Reduce the number of persons injured in alcohol-involved crashes.
9. Reduce the number of persons killed in drug-involved crashes.
10. Reduce the number of persons injured in drug-involved crashes.
11. Reduce the number of persons killed in alcohol/drug combo-involved crashes.
12. Reduce the number of persons injured in alcohol/drug combo-involved crashes.

13. Reduce the number of motorcyclists killed in traffic crashes.
14. Reduce the number of motorcyclists injured in traffic crashes.
15. Reduce hit & run fatal crashes.
16. Reduce hit & run injury crashes.
17. Reduce nighttime (2100 - 0259 hours) fatal crashes.
18. Reduce nighttime (2100 - 0259 hours) injury crashes.

<b>B. Objectives:</b>	<b>Target Number</b>
1. Issue a press release announcing the kick-off of the grant by November 15. The kick-off press releases and media advisories, alerts, and materials must be emailed to the OTS Public Information Officer at pio@ots.ca.gov, and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.	1
2. Participate and report data (as required) in the following campaigns, National Walk to School Day, National Teen Driver Safety Week, NHTSA Winter Mobilization, National Distracted Driving Awareness Month, National Motorcycle Safety Month, National Bicycle Safety Month, National Click it or Ticket Mobilization, NHTSA Summer Mobilization, National Child Passenger Safety Week, and California's Pedestrian Safety Month.	10
3. Develop (by December 31) and/or maintain a "HOT Sheet" program to notify patrol and traffic officers to be on the lookout for identified repeat DUI offenders with a suspended or revoked license as a result of DUI convictions. Updated HOT sheets should be distributed to patrol and traffic officers monthly.	12
4. Send law enforcement personnel to the NHTSA Standardized Field Sobriety Testing (SFST) (minimum 16 hours) POST-certified training.	7
5. Send law enforcement personnel to the NHTSA Advanced Roadside Impaired Driving Enforcement (ARIDE) 16 hour POST-certified training.	7
6. Conduct DUI/DL Checkpoints. A minimum of 1 checkpoint should be conducted during the NHTSA Winter Mobilization and 1 during the Summer Mobilization. To enhance the overall deterrent effect and promote high visibility, it is recommended the grantee issue an advance press release and conduct social media activity for each checkpoint. For combination DUI/DL checkpoints, departments should issue press releases that mention DL's will be checked at the DUI/DL checkpoint. Signs for DUI/DL checkpoints should read "DUI/Driver's License Checkpoint Ahead." OTS does not fund or support independent DL checkpoints. Only on an exception basis and with OTS pre-approval will OTS fund checkpoints that begin prior to 1800 hours. When possible, DUI/DL Checkpoint screeners should be DRE- or ARIDE-trained.	2
7. Conduct DUI Saturation Patrol operation(s).	3
8. Conduct Traffic Enforcement operation(s), including but not limited to, primary crash factor violations.	3
9. Conduct highly publicized Motorcycle Safety enforcement operation(s) in areas or during events with a high number of motorcycle incidents or crashes resulting from unsafe speed, DUI, following too closely, unsafe lane changes, improper turning, and other primary crash factor violations by motorcyclists and other drivers.	1
10. Conduct highly publicized pedestrian and/or bicycle enforcement operation(s) in areas or during events with a high number of pedestrian and/or bicycle crashes resulting from violations made by pedestrians, bicyclists, and drivers.	2
11. Conduct Traffic Safety educational presentation(s) with an effort to reach community members. Note: Presentation(s) may include topics such as distracted driving, DUI, speed, bicycle and pedestrian safety, seat belts and child passenger safety.	1
<b>3. METHOD OF PROCEDURE</b>	
<b>A. Phase 1 – Program Preparation (1<sup>st</sup> Quarter of Grant Year)</b>	
<ul style="list-style-type: none"> <li>• The department will develop operational plans to implement the "best practice" strategies outlined in the objectives section.</li> <li>• All training needed to implement the program should be conducted this quarter.</li> <li>• All grant related purchases needed to implement the program should be made this quarter.</li> </ul>	

- In order to develop/maintain the “Hot Sheets,” research will be conducted to identify the “worst of the worst” repeat DUI offenders with a suspended or revoked license as a result of DUI convictions. The Hot Sheets may include the driver’s name, last known address, DOB, description, current license status, and the number of times suspended or revoked for DUI. Hot Sheets should be updated and distributed to traffic and patrol officers at least monthly.
- Implementation of the STEP grant activities will be accomplished by deploying personnel at high crash locations. Media Requirements
- Issue a press release announcing the kick-off of the grant by November 15, but no earlier than October 1. If unable to meet the November 15 date, communicate reasons to your OTS Coordinator. The kick-off press releases and any related media advisories, alerts, and materials must be emailed for approval to the OTS Public Information Officer at [pio@ots.ca.gov](mailto:pio@ots.ca.gov), and copied to your OTS Coordinator, 14 days prior to the issuance date of the release.

**B. Phase 2 – Program Operations (Throughout Grant Year)**

- The department will work to create media opportunities throughout the grant period to call attention to the innovative program strategies and outcomes. Media Requirements
- Send all grant-related activity press releases, media advisories, alerts and general public materials to the OTS Public Information Officer (PIO) at [pio@ots.ca.gov](mailto:pio@ots.ca.gov), with a copy to your OTS Coordinator. The following requirements are for grant-related activities and are different from those regarding any grant kick-off release or announcement.
- If an OTS-supplied, template-based press release is used, there is no need for pre-approval, however, the OTS PIO and Coordinator should be copied when at the same time as the release is distributed to the press.
- If an OTS-supplied template is not used, or is substantially changed, a draft press release shall be sent to the OTS PIO for approval. Optimum lead-time would be 10 days prior to the release distribution date, but should be no less than 5 working days prior to the release distribution date.
- Press releases reporting the immediate and time-valued results of grant activities such as enforcement operations are exempt from the recommended advance approval process, but still should be copied to the OTS PIO and Coordinator when the release is distributed to the press.
- Activities such as warrant or probation sweeps and court stings that could be compromised by advanced publicity are exempt from pre-publicity, but are encouraged to offer embargoed media coverage and to report the results.
- Use the following standard language in all press, media, and printed materials: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Email the OTS PIO at [pio@ots.ca.gov](mailto:pio@ots.ca.gov) and copy your OTS Coordinator at least 30 days in advance, a short description of any significant grant-related traffic safety event or program so OTS has sufficient notice to arrange for attendance and/or participation in the event.
- Submit a draft or rough-cut of all printed or recorded material (brochures, posters, scripts, artwork, trailer graphics, etc.) to the OTS PIO at [pio@ots.ca.gov](mailto:pio@ots.ca.gov) and copy your OTS Coordinator for approval 14 days prior to the production or duplication.
- Space permitting, include the OTS logo, on grant-funded print materials; consult your OTS Coordinator for specifics and format-appropriate logos.
- Contact the OTS PIO or your OTS Coordinator, sufficiently far enough in advance of need, for consultation when deviation from any of the above requirements might be contemplated

**C. Phase 3 – Data Collection & Reporting (Throughout Grant Year)**

1. Prepare and submit invoice claims (due January 30, April 30, July 30, and October 30)
2. Prepare and submit Quarterly Performance Reports (QPR) (due January 30, April 30, July 30, and October 30)
  - Collect and report quarterly, appropriate data that supports the progress of goals and objectives.
  - Provide a brief list of activity conducted, procurement of grant-funded items, and significant media activities. Include status of grant-funded personnel, status of contracts, challenges, or special accomplishments.
  - Provide a brief summary of quarterly accomplishments and explanations for objectives not completed or plans for upcoming activities.
  - Collect, analyze and report statistical data relating to the grant goals and objectives.



**4. METHOD OF EVALUATION**

Using the data compiled during the grant, the Grant Director will complete the "Final Evaluation" section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary of the grant's accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.

**5. ADMINISTRATIVE SUPPORT**

This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
402PT-21	20.600	State and Community Highway Safety	\$20,000.00
164AL-21	20.608	Minimum Penalties for Repeat Offenders for Driving While Intoxicated	\$20,000.00

COST CATEGORY	FUND NUMBER	UNIT COST OR RATE	UNITS	TOTAL COST TO GRANT
<b>A. PERSONNEL COSTS</b>				
Positions and Salaries <b>Straight Time</b>				\$0.00
<b>Overtime</b>				
DUI/DL Checkpoints	164AL-21	\$6,570.00	2	\$13,140.00
DUI Saturation Patrols	164AL-21	\$2,060.00	3	\$6,180.00
Benefits OT @ 1.45%	164AL-21	\$19,320.00	1	\$280.00
Traffic Enforcement	402PT-21	\$2,061.00	3	\$6,183.00
Motorcycle Safety	402PT-21	\$2,061.00	1	\$2,061.00
Pedestrian and Bicycle Enforcement	402PT-21	\$2,061.00	2	\$4,122.00
Traffic Safety Education	402PT-21	\$515.00	1	\$515.00
Benefits OT @ 1.45%	402PT-21	\$12,881.00	1	\$187.00
Category Sub-Total				\$32,668.00
<b>B. TRAVEL EXPENSES</b>				
In State Travel	402PT-21	\$2,432.00	1	\$2,432.00
				\$0.00
Category Sub-Total				\$2,432.00
<b>C. CONTRACTUAL SERVICES</b>				
Phlebotomist	164AL-21	\$200.00	2	\$400.00
Category Sub-Total				\$400.00
<b>D. EQUIPMENT</b>				
				\$0.00
Category Sub-Total				\$0.00
<b>E. OTHER DIRECT COSTS</b>				
Radar Device	402PT-21	\$4,000.00	1	\$4,000.00
Educational Materials	402PT-21	\$500.00	1	\$500.00
Category Sub-Total				\$4,500.00
<b>F. INDIRECT COSTS</b>				
				\$0.00
Category Sub-Total				\$0.00
<b>GRANT TOTAL</b>				<b>\$40,000.00</b>

**BUDGET NARRATIVE**

**PERSONNEL COSTS**

DUI/DL Checkpoints - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.

DUI Saturation Patrols - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.

Benefits OT @ 1.45% - Medicare Benefits - Overtime @ 1.45%

Traffic Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.

Motorcycle Safety - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.

Pedestrian and Bicycle Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.

Traffic Safety Education - Overtime for grant funded traffic safety presentations or campaigns conducted by appropriate department personnel.

Benefits OT @ 1.45% - Medicare Benefits - Overtime @ 1.45%

**TRAVEL EXPENSES**

In State Travel - Costs are included for appropriate staff to attend conferences and training events supporting the grant goals and objectives and/or traffic safety. Local mileage for grant activities and meetings is included. Anticipated travel may include Lifesavers conference. All conferences, seminars or training not specifically identified in the Budget Narrative must be approved by OTS. All travel claimed must be at the agency approved rate. Per Diem may not be claimed for meals provided at conferences when registration fees are paid with OTS grant funds.

**CONTRACTUAL SERVICES**

Phlebotomist - To draw and collect blood samples from suspected DUI drivers on scene as evidence in support of DUI convictions in a court of law.

**EQUIPMENT**

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**OTHER DIRECT COSTS**

Radar Device - To measure the speed of motor vehicles. This device will be used for speed enforcement.

Educational Materials - Costs of purchasing, developing or printing brochures, pamphlets, fliers, coloring books, posters, signs, and banners associated with grant activities, and traffic safety conference and training materials. Items shall include a traffic safety message and if space is available the OTS logo. Additional items may be purchased if approved by OTS.

**INDIRECT COSTS**

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**STATEMENTS/DISCLAIMERS**

Program Income default statement:  
 There will be no program income generated from this grant.

Enforcement Grant Quota Disclaimer:

Nothing in this "agreement" shall be interpreted as a requirement, formal or informal, that a particular law enforcement officer issue a specified or predetermined number of citations in pursuance of the goals and objectives here under.

**CERTIFICATIONS AND ASSURANCES**  
**HIGHWAY SAFETY GRANTS**  
**(23 U.S.C. CHAPTER 4 AND SEC. 1906, PUB. L. 109-59, AS AMENDED)**

Failure to comply with applicable Federal statutes, regulations, and directives may subject Grantee Agency officials to civil or criminal penalties and/or place State in a high-risk grantee status in accordance with 49 CFR 18.12.

The Officials named on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include but are not limited to the following:

**GENERAL REQUIREMENTS**

- 23 U.S.C. Chapter 4 – Highway Safety Act of 1966, as amended
- 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 49 CFR Part 18- Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 23 CFR part 1300 – Uniform Procedures for State Highway Safety Grant Programs

**NONDISCRIMINATION**

**(applies to subrecipients as well as States)**

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.*), and **Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

“During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

- a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
- e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

#### **POLITICAL ACTIVITY (HATCH ACT)**

**(applies to subrecipients as well as States)**

The state will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

#### **CERTIFICATION REGARDING FEDERAL LOBBYING**

**(applies to subrecipients as well as States)**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

### **RESTRICTION ON STATE LOBBYING**

**(applies to subrecipients as well as States)**

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

### **CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

**(applies to subrecipients as well as States)**

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

#### *Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions*

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification



1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

*Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:*

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **BUY AMERICA ACT**

### **(applies to subrecipients as well as States)**

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

## **PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE**

### **(applies to subrecipients as well as States)**

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

## **POLICY ON SEAT BELT USE**

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at [www.trafficsafety.org](http://www.trafficsafety.org). The NHTSA website ([www.nhtsa.gov](http://www.nhtsa.gov)) also provides information on statistics, campaigns, and program evaluations and references.

## **POLICY ON BANNING TEXT MESSAGING WHILE DRIVING**

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

## INSTRUCTIONS FOR ADDING OR UPDATING GEMS USERS

1. Each agency is allowed a total of **FIVE (5) GEMS Users**.
2. GEMS Users listed on this form will be authorized to login to GEMS to complete and submit Quarterly Performance Reports (QPRs) and reimbursement claims.
3. Complete the form if adding, removing or editing a GEMS user(s).
4. The Grant Director must sign this form and return it with the Grant Agreement.

GRANT DETAILS	
Grant Number:	PT21117
Agency Name:	Montclair Police Department
Grant Title:	Selective Traffic Enforcement Program (STEP)
Agreement Total:	\$40,000.00
Authorizing Official:	Javier John Dutrey
Fiscal Official:	Janet Kulbeck
Grant Director:	Jim Michel

### CURRENT GEMS USER(S)

**1. Marci Butler**

Title: Administrative Aide

Media Contact: No

Phone: (909) 448-3609

Email: mbutler@cityofmontclair.org

Complete the below information if adding, removing or editing a GEMS user(s)

<b>GEMS User 1</b>		Add as a media contact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Add/Change <input checked="" type="checkbox"/>	Remove Access <input type="checkbox"/>		
Marci Butler		Administrative Aide	
Name		Job Title	
mbutler@cityofmontclair.org		(909) 448-3609	
Email address		Phone number	
<b>GEMS User 2</b>		Add as a media contact? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Add/Change <input checked="" type="checkbox"/>	Remove Access <input type="checkbox"/>		
Jim Michel		Lieutenant	
Name		Job Title	
jmichel@cityofmontclair.org		(909) 448-3606	
Email address		Phone number	
<b>GEMS User 3</b>		Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/>		
Name		Job Title	
Email address		Phone number	
<b>GEMS User 4</b>		Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/>		
Name		Job Title	
Email address		Phone number	
<b>GEMS User 5</b>		Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/>		
Name		Job Title	
Email address		Phone number	
Form completed by: Marci Butler		Date: July 20, 2020	
As a signatory I hereby authorize the listed individual(s) to represent and have GEMS user access.			
Signature		Name	
		Grant Director	
Date		Title	



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 3, 2020	<b>FILE I.D.:</b>	PDT362
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	POLICE
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	M. BUTLER

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 20-67 WITH THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AUTHORIZING THE RECEIPT OF \$16,500 FROM THE FY 2019 HOMELAND SECURITY GRANT PROGRAM

CONSIDER AUTHORIZING A \$16,500 APPROPRIATION FROM THE PUBLIC SAFETY GRANT FUND TO PURCHASE AN ELECTRONIC MESSAGE BOARD TRAILER

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-67 with the San Bernardino County Fire Protection District (SBCFPD) authorizing the receipt of \$16,500 from the FY 2019 Homeland Security Grant Program (HSGP), and to authorize a \$16,500 appropriation from the Public Safety Grant Fund to purchase an electronic message board trailer. The Public Safety Grant Fund would be fully reimbursed by the FY 2019 HSGP.

A copy of proposed Agreement No. 20-67 is attached for the City Council's review and consideration.

**BACKGROUND:** The HSGP is designed to assist organizations, government agencies, and communities in implementing programs and measures to prevent, protect against, mitigate, respond to, and recover from threats, hazards, acts of terrorism, and other catastrophic events that pose a significant risk to local communities and the nation.

The State of California Governor's Office of Emergency Services established that the subgrantee of the HSGP for San Bernardino County is the SBCFPD. In its capacity as subgrantee, SBCFPD is tasked with applying for Department of Homeland Security Grant Program funds on behalf of regional jurisdictions. Through this process, the Montclair Police Department would receive \$16,500. After procurement is completed, a request for reimbursement would be submitted to the SBCFPD.

The Department has received approval from the Homeland Security Grants Unit to procure an electronic message board trailer, which would allow effective delivery of information to the public. This message board would assist in relaying information to the public regarding significant threats, hazards, emergencies, and disasters, and thus help protect citizens from such events that pose a great risk. The full-matrix display would allow staff to display messages using text and/or graphic symbols that would direct the public and first responders to supplies during disasters, re-route vehicles when major transportation roads and routes have been compromised, and deliver other such pertinent information during major events. The message board is highly visible and legible in both day and night conditions, the display automatically adjusts to ambient light conditions, it is light weight and easily towed, and its highly efficient solar panel system keeps the long-life batteries charged. Also included is a built-in radar to monitor and internally record traffic patterns on roadways in virtually any location and weather condition.

Bid quotations for the purchase of an electronic message board trailer were received from the following vendors:

<u>Vendor</u>	<u>Bid Amount</u>
Hi-Way Safety, Inc.	\$16,500
Full Traffic Maintenance, Inc.	\$18,293
Right of Way, Inc.	\$19,807

Hi-Way Safety, Inc. is the selected vendor for the purchase of the message board trailer. This vendor has the lowest bid offering competitive pricing and has provided reliable, professional service in the past.

**FISCAL IMPACT:** If approved by the City Council, the purchase of an electronic message board trailer would result in an appropriation from the Public Safety Grant Fund (1163) in the amount of \$16,500. The City would receive full reimbursement from the FY 2019 HSGP.

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

1. Approve Agreement No. 20-67 with the San Bernardino County Fire Protection District authorizing the receipt of \$16,500 from the FY 2019 Homeland Security Grant Program.
2. Authorize a \$16,500 appropriation from the Public Safety Grant Fund to purchase an electronic message board trailer.

**County of San Bernardino  
FY2019 Homeland Security Grant Program  
CFDA 97.067**

**Subrecipient Assurances  
Grant No. 2019-0035**

Name of Applicant: Montclair Police Department (hereafter "Applicant" or "Subrecipient")

Address: 4870 Arrow Highway

City: Montclair State: CA Zip Code: 91763

Telephone Number: 909-448-3600 Fax Number: 909-626-4892

E-Mail Address: ravels@cityofmontclair.org

\*\*\*The Applicant becomes the Subrecipient after obtaining award authorization and approval of these assurances by both Applicant and the County of San Bernardino (hereafter "County")\*\*\*

**As the duly authorized representative of the Applicant, I hereby certify** that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management and completion of the project described in this application, within prescribed timelines.

**Applicant further acknowledges that it is responsible for reviewing and adhering to all requirements within the:**

- a) Applicable Federal Regulations (see below);
- b) Federal Program Notice of Funding Opportunity (NOFO);
- c) Federal Preparedness Grants Manual;
- d) California Supplement to the NOFO; and
- e) Federal and State Grant Program Guidelines
- f) Subrecipient Application Workbook

**Federal Regulations**

Government cost principles, uniform administrative requirements and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (C.F.R.). Updates are issued by the Office of Management and Budget (OMB) and can be found at <http://www.whitehouse.gov/omb/>.

**Significant state and federal grant award requirements (some of which appear in the documents listed above) are set forth below. The Applicant hereby agrees to comply with the following:**

**1. Proof of Authority**

The Applicant will obtain written authorization from the city council, governing board or authorized body in support of this project. The written authorization must specify that the Applicant and the city council, governing board, or authorized body agree:

- a) To provide all matching funds required (if applicable) for the grant project and that any cash match will be appropriated as required;
- b) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body;
- c) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board or authorized body; and
- d) The official executing this agreement is, in fact, authorized to do so.

Where the Applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

#### 5. Non-Discrimination and Equal Employment Opportunity

The Applicant will comply with all federal statutes relating to non-discrimination. These include, but are not limited to, the following:

- a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L. 88-352 and 42 U.S.C. §2000d et. Seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on basis of sex in any federally funded educational program or activity;
- c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794), which prohibits discrimination against those disabilities or access and functional needs;
- d) Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs; (42 U.S.C. §§12101-12213);
- e) Age Discrimination Act of 1975, (42 U.S.C §§6101-6107), which prohibits discrimination on the basis of age;
- f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-2); relating to confidentiality of patient records regarding substance abuse treatment;
- g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);
- h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin;
- i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;
- k) DHS policy to ensure the equal treatment of faith-based organizations, under which all applicants and recipients must comply with equal treatment policies and requirements contained in 6 C.F.R Part 19;
- l) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- m) The requirements of any other nondiscrimination statute(s) which may apply to the application.

In addition to the items listed in (a) through (m), the Applicant will comply with California's Fair Employment and Housing Act (FEHA). FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth, or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (California Government Code §§ 12940, 12945,



12945.2), military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions.

#### 6. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Applicant certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

#### 7. Environmental Standards

The Applicant will comply with state and federal environmental standards, which may be prescribed pursuant to the following, as applicable:

- a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000-21177), to include coordination with the city or county planning agency;
- b) CEQA Guidelines (California Code of Regulation, Title 14, Division 6, Chapter 3, §§ 15000-15387);
- c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;
- e) Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;
- f) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- g) Executive Order 11514 which sets forth the national environmental standards;
- h) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- i) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- j) The Endangered Species Act of 1973, (P.L. 93-205);
- k) Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- l) Conformity of Federal actions to State (Clear Air) Implementation Plans under Sections 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); and
- m) Wild and Scenic Rivers Act of 1968 (16 U.S.C § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

The Applicant shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

#### 8. Audits

For subrecipients expending \$750,000 or more in federal grant funds annually, the Applicant will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

#### 9. Access to Records

In accordance with 2 CFR §200.336, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

#### 10. Conflict of Interest

The Applicant will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

#### 11. Financial Management

False Claims for Payment – The Applicant will comply with the requirements of 31 U.S.C. §§ 3729-3733 which sets forth that no subgrantee, recipient or subrecipient shall submit a false claim for payment, reimbursement, or advance.

#### 12. Reporting and Accountability

The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), specifically (a) the reporting of subawards obligating \$25,000 or more in federal funds and (b) executive compensation data for first-tier subawards. This includes the provisions of FFATA, which includes requirements for executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. part 170 Reporting Subaward and Executive Compensation Information.

#### 13. Whistleblower Protections

The Applicant also must comply with statutory requirements for whistleblower protections at 10 U.S.C. § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. § 4304 and § 4310.

#### 14. Human Trafficking

The Applicant will comply with the requirement of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

#### 15. Labor Standards

The Applicant will comply with the following federal labor standards:

- a) The Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction contracts or subcontracts, and
- b) The Federal Fair Labor Standards Act (29 U.S.C. § 201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

#### 16. Worker's Compensation

The Applicant must comply with provisions which require every employer to be insured to protect workers who may be injured on the job at all times during the performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§ 3700 et seq.

#### 17. Property-Related

If applicable to the type of project funded by this federal award, the Applicant will:

- a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchase;

- b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C §469a-1 et seq.); and
- d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

#### **18. Certifications Applicable Only to Federally-Funded Construction Projects**

For all construction projects, the Applicant will:

- a) Not dispose of, modify the use of, or change the terms of the real property title of other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project;
- b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications; and
- c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

#### **19. Use of Cellular Device While Driving is Prohibited**

Applicants are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving a motor vehicle while using an electronic wireless communication device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.

#### **20. California Public Records Act and Freedom of Information Act**

The Applicant acknowledges that all information submitted in the course of applying for funding under this program, or provided in the course of an entity's grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Act, California Government Code section 6250 et seq. The Applicant should consider these laws and consult its own State and local laws and regulations regarding the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

### **HOMELAND SECURITY GRANT PROGRAM (HSGP) – PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS**

#### **21. Reporting Accusations and Findings of Discrimination**

If during the past three years the subrecipient has been accused of discrimination on any basis the subrecipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS Financial Assistance Office and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at [CRCL@hq.dhs.gov](mailto:CRCL@hq.dhs.gov) or by mail at the U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, Building 410, Mail Stop #0190 Washington, D.C. 20528.

In the event any court or administrative agency makes a finding of discrimination on the grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the subrecipient, or the subrecipients settle a case or matter alleging such discrimination, subrecipients must forward a copy of the complaint and findings to the DHS Financial Assistance Office and the CRCL by email or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

## **22. Acknowledgment of Federal Funding from DHS**

All subrecipients must acknowledge their use of federal funding when issuing statements, press releases, request for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

## **23. Activities Conducted Abroad**

All subrecipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

## **24. Best Practices for Collection and Use of Personally Identifiable Information (PII)**

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All subrecipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Subrecipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template a useful resource respectively.

## **25. Copyright**

All subrecipients must affix the applicable copyright notices of 17 U.S.C §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including award number) to any work first produced under federal financial assistance awards.

## **26. Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude subrecipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

## **27. Energy Policy and Conservation Act**

All subrecipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

## **28. Federal Debt Status**

All subrecipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefits overpayments. See OMB Circular A-129.

## **29. Fly America Act of 1974**

All subrecipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to the Comptroller General Decision B-138942.

## **30. Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, all Applicants must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies

with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. § 2225a.

**31. Non-supplanting Requirement**

All subrecipients who receive federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

**32. Patents and Intellectual Property Rights**

Unless otherwise provided by law, subrecipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All subrecipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14

**33. SAFECOM**

All subrecipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

**34. Terrorist Financing**

All subrecipients must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Subrecipients are legally responsible to ensure compliance with the Order and laws.

**35. Reporting of Matters Related to Recipient Integrity Performance**

If the total value of the subrecipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, the subrecipient must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

**36. USA Patriot Act 2001**

All subrecipients must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c.

**37. Use of DHS Seal, Logo and Flags**

All subrecipients must obtain DHS permission, from the DHS Financial Assistance Office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

**IMPORTANT**

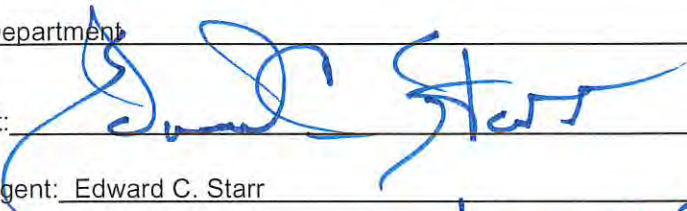
**The purpose of the assurance is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. The Applicant recognizes and agrees that state financial assistance will be extended based on the representations made in this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, etc. Failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.**

All appropriate documentation, as outlined above, must be maintained on file by the Applicant and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both, and the subrecipient may be ineligible for award of any future grants if the Cal OES determines that any of the following has

occurred: (1) the subrecipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of language contained within this document must be included in the award documents for all subawards at all tiers. All subrecipients are bound by the Department of Homeland Security Standard Terms and Conditions 2018, Version 8.1, hereby incorporated by reference, which can be found at: <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

The Undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the said Applicant.

Applicant: Montclair Police Department  
Signature of Authorized Agent:   
Printed Name of Authorized Agent: Edward C. Starr  
Title: City Manager Date: May 20, 2020

The Undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the County. The undersigned is the appropriate contact for all notices and documents to be provided under this agreement.

County of San Bernardino

Signature of Authorized Agent: \_\_\_\_\_  
Printed Name of Authorized Agent: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

**SAN BERNARDINO COUNTY OPERATIONAL AREA  
FY2019 HOMELAND SECURITY GRANT PROGRAM**

**APPLICATION WORKBOOK CERTIFICATION**

I, Robert Avels as the Authorized Agent  
for Montclair Police Department JURISDICTION,  
certify that our jurisdiction has read and acknowledges the Homeland Security Grant Program (HSGP)  
guidelines specified in the document hereof.



Authorized Agent Signature

5-19-20

Date

Robert Avels, Chief of Police  
Print Name



Project Manager Signature

5-20-2020

Date

Marci Butler, Administrative Aide  
Print Name



May 21, 2020

SBCo. Fire, Grants Unit  
 Attn: Tina Sutera  
 157 W. 5<sup>th</sup> Street, Fl. 2  
 San Bernardino, CA 92415

**SUBJECT: FY2019 HOMELAND SECURITY GRANT PROGRAM**

Please find attached the FY2019 Homeland Security Grant Program (HSGP) package and the following documentation for your review.

**Required Documentation:**

- Signed Subrecipient Agreement (in blue ink, initialed at bottom of each page)
- Certification Letter
- Proof of SAM Registration (proof of registration can be fulfilled by providing a screen shot of website registration confirmation or email)

**Certification Box:**

I certify that the necessary documentation for my project is attached to this package.

Print Name:	Robert Avels
Print Title:	Chief of Police
Signature:	
Phone No.:	(909) 448-3602
E-mail Address:	ravel@cityofmontclair.org
Fax No.:	(909) 626-4892

**CITY OF MONTCLAIR**

4870 Arrow Highway, P.O. Box 2308, Montclair, CA 91763 (909) 448-3600 FAX (909) 621-4413





June 10, 2020

San Bernardino County Fire Protection District  
 Grants Unit  
 Attn: Tina Sutera  
 157 W. 5th Street, Floor 2  
 San Bernardino, CA 92415

Subject: City of Montclair Certification Letter  
 Regarding Federal Award FY2019 Homeland Security Grant Program

1) Name of Entity receiving the Award: City of Montclair

2) Amount of Award	3) Funding Agency	4) Federal CFDA Number	5) Award Title
123,540.00	U.S. Department of Health and Human Services	93.045/93.053	Special Programs for the Aging Title III, Part C Nutrition Services, and NSIP
14,454.00	U.S. Department of Health and Human Services	93.044	Special Programs for the Aging Title III, Part B for Supportive Services and Senior Centers
25,043.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – Graffiti Eradication Program
11,000.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – Senior Transportation Services
47,681.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – Code Enforcement
6,121.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – Reeder House
10,962.00	U.S. Department of Homeland Security	97.067	Homeland Security Grant FY 2016
18,565.69	US Department of Transportation (NHTSA)	20.600	Selective Traffic Enforcement Program (STEP)
27,633.20	United States Department of Justice (DOJ)	16.922	Department of Justice Asset Forfeiture Program

- 6) Location of the entity and primary location of performance including city, state, and Congressional District:

Montclair, California  
California State Assembly District 52  
California State Senate District 20  
U.S. Congressional District 35

- 7) Dun & Bradstreet (D & B) DUNS Number of the entity and its parent if applicable:

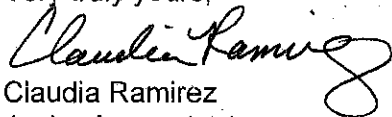
084976919

- 8) Total compensation and names of top five executives, unless the subrecipient is exempt from this requirement as provided in Section (d) of this paragraph.

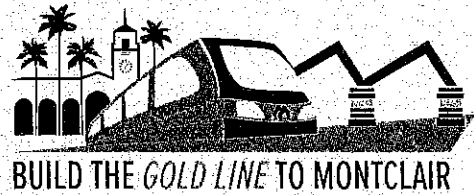
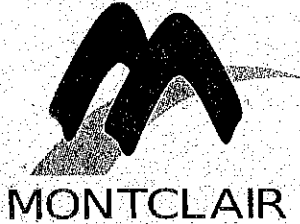
Not applicable

If you have any questions, just give Administrative Aide Marci Butler, Montclair Police Department, a call at (909) 448-3609.

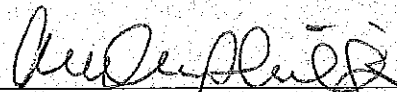
Very truly yours,



Claudia Ramirez  
Junior Accountant



I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY the attached correspondence dated June 10, 2020, and addressed to San Bernardino County Fire Protection District Grants Unit, Attn: Tina Sutera, 157 W. 5<sup>th</sup> Street, Floor 2, San Bernardino, CA 92415, is the true and correct original correspondence to the same, and that a copy of the correspondence is on file in the Finance Department of the City of Montclair.

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

Dated: June 10, 2020

**COUNTY OF SAN BERNARDINO  
SUBRECIPIENT GRANTS MANAGEMENT ASSESSMENT**


<b>Subrecipient:</b> Montclair Police Department	<b>DUNS #:</b> 084976919	<b>FIPS #:</b>
<b>Grant Disaster/Program Title:</b> Homeland Security Grant Program		
<b>Performance Period:</b> 9/1/19 to 3/31/2022	<b>Subaward Amount Requested:</b> \$ 16,668	
<b>Type of Non-Federal Entity (Check Box)</b>	<input type="checkbox"/> State Gov. <input checked="" type="checkbox"/> Local Gov. <input type="checkbox"/> JPA <input type="checkbox"/> Non-Profit <input type="checkbox"/> Tribe	

Per Title 2 CFR § 200.331, Cal OES is required to evaluate the risk of noncompliance with federal statutes, regulations and grant terms and conditions posed by each subrecipient of pass-through funding. This assessment is made in order to determine and provide an appropriate level of technical assistance, training, and grant oversight to subrecipients for the award referenced above.

The following are questions related to your organization's experience in the management of grant awards. This questionnaire must be completed and returned with your grant application materials.

For purposes of completing this questionnaire, *grant manager* is the individual who has primary responsibility for day-to-day administration of the grant, *bookkeeper/accounting staff* means the individual who has responsibility for reviewing and determining expenditures to be charged to the grant award, and *organization* refers to the subrecipient applying for the award, or the governmental implementing agency, as applicable.

Assessment Factors	Response
1. How many years of experience does your current grant manager have managing grants?	<3 years
2. How many years of experience does your current bookkeeper/accounting staff have managing grants?	<3 years
3. How many grants does your organization currently receive?	3-10 grants
4. What is the approximate total dollar amount of all grants your organization receive?	\$ 274,000
5. Are individual staff members assigned to work on multiple grants?	Yes
6. Do you use timesheets to track the time staff spend working on specific activities/projects?	No
7. How often does your organization have a financial audit?	Annually
8. Has your organization received any audit findings in the last three years?	No
9. Do you have a written plan on how you charge costs to grants?	No
10. Do you have written procurement policies?	Yes
11. Do you get multiple quotes or bids when buying items or services?	Sometimes
12. How many years do you maintain receipts, deposits, cancelled checks, invoices, etc.?	>5 years
13. Do you have procedures to monitor grant funds passed through to other entities?	N/A

<b>Certification:</b> <i>This is to certify that, to the best of our knowledge and belief, the data furnished above is accurate, complete and current.</i>	
<b>Signature: (Authorized Agent)</b> 	<b>Date:</b> 5-19-20
<b>Print Name:</b> Robert Avels	<b>Print Title:</b> Chief of Police

**SAM Search Results**  
**List of records matching your search for :**

**Search Term : city of montclair\***  
**Record Status: Active**

<b>ENTITY</b> Montclair, City Of	Status: Active
DUNS: 084976919    +4:	CAGE Code: 531U7    DoDAAC:
Expiration Date: 02/10/2021	Has Active Exclusion?: No    Debt Subject to Offset?: No
Address: 5111 Benito St City: Montclair ZIP Code: 91763-2808	State/Province: CALIFORNIA Country: UNITED STATES

# NCSR Questionnaire

Questionnaire ID	Year	Organization	Progress Status
530428	2019	California - City of Montclair Police Department	 100%



## **Certification Regarding Lobbying**

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### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, 'Disclosure of Lobbying Activities,' in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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



## Certification Regarding Lobbying

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The Subrecipient, as identified below, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Subrecipient: Montclair Police Department

Signature of Authorized Agent: \_\_\_\_\_

Printed Name of Authorized Agent: Robert Avels

Title: Chief of Police

Date: 5-19-20





December 16, 2019

California State Controller's Office  
P.O. Box 942580  
Sacramento, CA 94250-5874

Gentlemen:

Effective for fiscal years beginning after December 25, 2014, **2 CFR 200.501** requires non-Federal entities that expend \$750,000 or more in Federal awards in a fiscal year to have a single or program-specific audit conducted for that fiscal year. Since the fiscal year 2018-2019 City of Montclair's total expenditures applicable to federal programs is less than the \$750,000 threshold, a Federal Single Audit of its programs is not required and one will not be performed.

This acknowledgment that the City of Montclair is not required to have a Federal Single Audit of its programs performed for fiscal year 2018-2019 is being transmitted to the State Controller's via email at [singleaudits@sco.ca.gov](mailto:singleaudits@sco.ca.gov) and to other entities that have previously received these audit reports.

If you should have any questions concerning the above please do not hesitate to contact Ms. Janet Kulbeck (909) 625-9411 or by email at [jkulbeck@cityofmontclair.org](mailto:jkulbeck@cityofmontclair.org).

Very truly yours,

DONALD L. PARKER, CPA  
FINANCE DIRECTOR



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 3, 2020	<b>FILE I.D.:</b>	HSV043
<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. 20-68 WITH SUZANNE YOAKUM TO PROVIDE CASE MANAGEMENT SERVICES FOR THE HUMAN SERVICES DEPARTMENT		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-68 with Suzanne Yoakum to provide case management services for the Human Services Department.

A copy of proposed Agreement No. 20-68 is attached for City Council review and consideration.

**BACKGROUND:** Case Management is a component of the Healthy Montclair initiative; the purpose of the Healthy Montclair Initiative is to achieve an excellence in quality of life for those who live, work, play, eat and shop in Montclair. The City of Montclair was one of the first cities in California to be a designated Healthy City from California Healthy Cities and Communities, an initiative of Center for Civic partnerships in 1998. In addition, in 2006 the City of Montclair was a founding member of the San Bernardino County Department of Public Health's countywide Healthy Communities initiative. Since then, the Healthy Montclair Initiative has flourished. Healthy Montclair defines health as a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity.

The Human Services Department provides case management services under the Senior programs offered at the Montclair Senior Center. Ms. Yoakum has performed these case management services at the Senior Center for many years. In addition. Ms. Yoakum has extensive experience working in the social services field as well as being an educator in gerontology and a board member of local senior-serving non-profits. Under this proposed contract services agreement, in her role as case manager stationed in the Senior Center, she will assist in guiding individuals and families to attain financial stability, including basic needs, sustaining safe housing, and moving toward more self-sufficient circumstances.

**FISCAL IMPACT:** Should the City Council approve Agreement No. 20-68, the City's contractual obligation for senior case management will be \$2,000. The funding for proposed Agreement No. 20-68 was allocated and approved within the fiscal year 2020-2021 Human Services Department budget. The term of proposed Agreement No. 20-68 is July 1, 2020, through June 30, 2021.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-68 with Suzanne Yoakum to provide case management services for the Human Services Department.

**CITY OF MONTCLAIR**

**AGREEMENT FOR CONSULTANT SERVICES**

**HUMAN SERVICES - PROGRAM FISCAL AND CONTRACT COMPLIANCE**

THIS AGREEMENT is made and effective as of July 1, 2020 between the City of Montclair, a municipal corporation (“City”) and Suzanne Yoakum, a California sole proprietor (“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 of 12 months until tasks described herein are completed, but in no event later than June 30, 2021 unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full. This amount is subject to receipt of grant funding and shall not exceed \$2,000 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

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

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

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

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

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

#### 7. DEFAULT OF CONSULTANT

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

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

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

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

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

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

the premises of City. Consultant further agrees to waive all rights of subrogation against the Indemnified Parties.

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

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

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

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

10. INSURANCE

**(a) Types of Required Coverages**

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

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

be kept in force at all times during the performance of this Agreement.

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

**(b) Endorsements**

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

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

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

Additional Insured Endorsements shall not:

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

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

**(c) Notice of Cancellation**

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



11. INDEPENDENT CONTRACTOR

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

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

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

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

16. NOTICES

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

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

To Consultant: Sue Yoakum  
1400 W. Francis Avenue  
Ontario, CA 91762

17. ASSIGNMENT

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

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

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONFIDENTIALITY

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

22. DISCRIMINATION

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

23. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

**CITY OF MONTCLAIR**

**CONSULTANT**

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

By: \_\_\_\_\_  
Suzanne Yoakum, Consultant

Attest:

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

Approved as to Form:

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

**EXHIBIT A**

During the term of this Agreement and in accordance with Section 2, **CONSULTANT** shall provide the services described below:

- a) Share technical expertise and provide guidance to the Human Services staff on senior needs.
- b) Provide case management to assist seniors and individuals and families in attaining financial stability including basic needs, sustaining safe housing, and moving toward more self-sufficient circumstances. In addition, provide case management to those with more complex needs referred by Human Services Department Staff.
- c) Service at least 50 case management clients
- d) Collect and maintain required paperwork, as determined by Human Services Department Staff.
- e) Assist with compiling information and reporting case management information as required.
- f) Provide monthly invoices by the 5<sup>th</sup> of the following month to Alyssa Colunga, Administrative Analyst [acolunga@cityofmontclair.org](mailto:acolunga@cityofmontclair.org) along with a written accounting and confirmation of tasks performed each month.

**EXHIBIT B**

**Payment Schedule – Fiscal Year 2020/2021**

<b><u>Month</u></b>	<b><u>Amount</u></b>
July	\$170.00
August	\$170.00
September	\$170.00
October	\$170.00
November	\$170.00
December	\$170.00
January	\$170.00
February	\$170.00
March	\$170.00
April	\$170.00
May	\$170.00
June	<u>\$130.00</u>
<b>Total</b>	<b>\$2,000.00</b>



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 3, 2020	<b>FILE I.D.:</b>	HSV044
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	HUMAN SVCS.
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-69 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT TO PROVIDE A LICENSED CLINICAL SOCIAL WORKER FOR THE MONTCLAIR COMMUNITY COLLABORATIVE CASE MANAGEMENT PROGRAM		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-69 with the Ontario-Montclair School District (OMSD) to continue the services of a Licensed Clinical Social Worker (LCSW) for the Montclair Community Collaborative case management program.

**BACKGROUND:** In December 1999, the City Council approved Agreement No. 99-108 with OMSD to provide LCSW services for the Montclair Community Collaborative's case management program. This original contract was designed as a partnership between the City of Montclair and OMSD whereby each agency contributes 50 percent of the salary and benefits for the LCSW position.

The LCSW position works with other service delivery providers to intervene and assist at-risk children and adults in the Montclair community. Through the case management system and coordination of services with other professionals including Police and Code Enforcement Officers, Child or Adult Protective Services, community-based organizations, and mental health professionals, there is a higher level of effectiveness and less duplication of services.

**FISCAL IMPACT:** Should the City Council approve Agreement No. 20-69, the City's contractual obligation for the LCSW position will be \$4,178 per month. The funding for proposed Agreement No. 20-69 was allocated and approved within the Fiscal Year 2020-21 Human Services Department budget. The term of proposed Agreement No. 20-69 is July 1, 2020, through June 30, 2021.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 20-69 with OMSD to provide a Licensed Clinical Social Worker for the Montclair Community Collaborative case management program.



**CITY OF MONTCLAIR  
5111 BENITO STREET  
MONTCLAIR, CALIFORNIA 91763  
(909) 626-8571**

**AGREEMENT FOR CONSULTANT SERVICES**

**THIS AGREEMENT** is made and entered into this 3<sup>rd</sup> day of August 2020 by and between the City of Montclair, hereinafter referred to as the “**CITY**,” and the Ontario-Montclair School District, 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 by the **CITY**.

(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.

(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 **CITY** and **CONSULTANT's** agent or employees. **CONSULTANT** assumes exclusively the 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 **CITY's** employees and shall not be considered in any manner to be **CITY'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.

**2. Compensation.**

(a) Except as otherwise provided in the Agreement, **CITY** agrees to compensate **CONSULTANT** for services rendered under the Agreement in the total amount of \$4,178 per month.

(b) **CITY** will pay no additional amount for travel or other expenses of **CONSULTANT** under this Agreement.

(c) **CONSULTANT** will invoice **CITY** for each month of service through the contract term.

(d) **CITY** will not withhold any federal or state income tax for payment made pursuant to this Agreement, but 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.

### **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. **CITY** and **CONSULTANT** may mutually agree in writing to extend the term of this Agreement provided, however, **CITY** shall not be obligated to pay **CONSULTANT** any additional consideration unless **CONSULTANT** undertakes additional services, in which instance the consideration shall be increased as **CITY** 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 attached "Description of Services" 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) 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. **CONSULTANT** shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.

(c) **CONSULTANT** shall defend, indemnify and hold **CITY** 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 **CONSULTANT**, its officers, employees, agents or staff.

(d) Neither this Agreement nor any duties or obligations under this Agreement may be assigned by **CONSULTANT** without the prior written consent of **CITY**.

### **5. Obligations of City.**

(a) **CITY** 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) **CITY** shall defend, indemnify and hold **CONSULTANT** and its Board 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 **CITY**, its officers, employees, agents 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, **CITY** may terminate this Agreement by giving written 30-day notification to **CONSULTANT**.

(c) If at any time during the performance of this Agreement **CITY** determines, at its sole discretion, to suspend indefinitely or abandon the work under this Agreement, **CITY** 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 **CITY** 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 **CITY** to **CONSULTANT**, if any, shall be refundable to **CITY** in full termination of this Agreement unless specified to the contrary below.

## **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 **CITY** and **CONSULTANT**. The foregoing addresses may be changed by written notice to the other party as provided herein.

(b) **CITY** and **CONSULTANT** mutually agree that for copyright purposes, any written material or any copyrightable work of any nature created by **CONSULTANT** pursuant to this Agreement shall be owned by **CONSULTANT** and shall not be considered a "work made for hire" as such term is defined in Title 17 of the United States Code, Section 101, and that **CITY** shall own all of the rights comprised in the copyright of said written material or copyrightable work.

(c) 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 matter 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 promises 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 **CITY** may unilaterally amend the Agreement to accomplish the changes listed below:

1. Increase dollar amount;
2. Administrative changes; and
3. Changes as required by law.

(d) 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.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(f) Pursuant to and in accordance with the provisions of Government Code Section 8546.7, or any amendment thereto, all books, records and files of **CITY**, **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 or the State of California, at the request of **CITY** or as part of any audit of **CITY**, 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.

(g) Each person executing this Agreement 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 the parties hereto.

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

**“CITY”**  
**CITY OF MONTCLAIR**  
By:

**“CONSULTANT”**  
**ONTARIO-MONTCLAIR SCHOOL DISTRICT**  
By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Javier John Dutrey  
Printed Name

Phil Hillman  
Printed Name

Mayor  
Title

Chief Business Officer  
Title

**ATTEST:**

950 West “D” Street  
Address

\_\_\_\_\_  
Andrea Phillips  
City Clerk

Ontario CA 91762  
City State Zip

(909) 445-2500  
Telephone Number

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

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

Date of City Council’s Approval:

END OF AGREEMENT FOR CONSULTANT SERVICES

## Description of Services

Services to be initiated through the attached agreement will be performed through the case management portion of the Montclair Community Collaborative, a partnership between the City of Montclair, Ontario-Montclair School District, and other community partners. The following description of services specify the scope of work for a contracted "Case Manager" which include:

- 1) Serve as coordinator of the case management system by working with City staff from all departments. Primary City interactions will occur through the Human Services Department.
- 2) Follow all protocol, mandates, and confidentiality laws while providing case management services and receiving referrals through designated City of Montclair staff.
- 3) Work with school district, County, and other service providers to implement case management services.
- 4) Process assessment and intakes for referred individuals and gather necessary information from referring City staff, school, family members, and other service providers as needed. Maintain appropriate records.
- 5) Provide triage for counseling services as needed.
- 6) Oversee the extension of services through the supervision of LCSW, MFCC, and/or MSW interns. Interns will provide allied case management services.
- 7) Provision of services will occur through the City of Montclair Human Services Department as needed.
- 8) Monthly service delivery meetings will occur between the Case Manager and the City's Human Services Director.



# CITY COUNCIL AGENDA REPORT

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**DATE:** AUGUST 3, 2020                      **FILE I.D.:** STB300-17  
**SECTION:** CONSENT - RESOLUTIONS                      **DEPT.:** FINANCE  
**ITEM NO.:** 1    **PREPARER:** C. GRAVES  
**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 20-3279 AUTHORIZING PLACEMENT OF ASSESSMENTS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH ACCOUNTS

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 20-3279 authorizing placement of assessments on certain properties for delinquent sewer and trash accounts. There are 390 outstanding liens on properties for collection of delinquent civil debts owed to the City for sewer and trash service. Placement of assessments on these properties would assist in more timely collection of these delinquent accounts.

A copy of proposed Resolution No. 20-3279 is attached for City Council review and consideration.

**BACKGROUND:** The City Council authorized the placement of 509 liens on properties for delinquent sewer and trash charges on the following dates:

<u>Date</u>	<u>No. of Liens</u>
October 7, 2019	109
November 4, 2019	147
February 3, 2020	121
March 2, 2020	132
<hr/>	
Total	509

Of these 509 liens, 119 have been cleared.

It is recommended that assessments, which are collected with the property tax, be placed on the properties where the 390 unpaid liens remain. This would result in more timely collection of the delinquencies than the lien process, which generates payment only upon sale or refinancing of the property.

In addition to the regular bimonthly billings, the City has sent bimonthly letters to these property owners advising them of their delinquencies. They received notification when the liens were placed and were again notified on July 7, 2020, that the action proposed this evening would be considered by the City Council.

**FISCAL IMPACT:** The recoverable amount is \$149,927.19.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 20-3279 authorizing placement of assessments on certain properties for delinquent sewer and trash charges.

RESOLUTION NO. 20-3279

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING PLACEMENT OF ASSESSMENTS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH ACCOUNTS**

**WHEREAS**, Chapter 1.12 of the Montclair Municipal Code authorizes various methods by which delinquent civil debts may be collected including, but not limited to, the placement of assessments on the properties on which the debts were generated; and

**WHEREAS**, City Council has recently placed 509 property liens on properties on which there are delinquent civil debts for unpaid sewer and trash charges; and

**WHEREAS**, the lien amount was paid on 119 of these liens; and

**WHEREAS**, it is appropriate to also place assessments on these properties where the 390 liens remain outstanding as identified on Exhibit A of this Resolution to further encourage the payment of these charges owed to the City; and

**WHEREAS**, the owners of these properties have received notification of proposed actions against their properties including the date and time when such action would be considered by the City Council.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does hereby approve the placement of assessments on the properties and in the amounts specified in Exhibit A, entitled "August 2020 - Property Assessments."

**BE IT FURTHER RESOLVED** that the City Clerk is authorized to provide the San Bernardino County Assessor's Office with the documents required to cause such assessments to be placed.

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

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 20-3279 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 20XX, and that it was adopted by the following vote, to-wit:

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

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

Exhibit A to Resolution No. 20-3279  
August 2020 - Property Assessments

Street No.	Street	Type	Lien 1	Lien 2	Total Assessment
11222	Ada Avenue	Residential	318.58		318.58
11225	Ada Avenue	Residential	335.35	348.36	683.71
4334	Alamitos Street	Residential	335.35	352.87	688.22
5356	Alamitos Street	Residential	335.36	352.87	688.23
5634	Alamitos Street	Residential	334.11	352.62	686.73
4587	Allesandro Street	Residential	275.86		275.86
4667	Allesandro Street	Residential	335.35	352.87	688.22
9910	Amherst Avenue	Residential	335.35	352.87	688.22
10360	Amherst Avenue	Multifamily	947.60	1,258.93	2,206.53
11141	Amherst Avenue	Residential	335.35	348.36	683.71
5363	Arrow Hwy	Commercial	304.74		304.74
5103	Aspen Drive	Residential	389.26		389.26
4624	Bandera Street	Multifamily	1,240.13	1,302.62	2,542.75
5065	Bandera Street	Residential	466.45	341.17	807.62
5578	Bandera Street	Residential	442.25		442.25
5598	Bandera Street	Residential	337.03	348.54	685.57
4432-34	Bandera Street	Multifamily	600.70	626.72	1,227.42
9982	Bel Air Avenue	Residential	335.81	352.92	688.73
10145	Bel Air Avenue	Residential	335.35	348.36	683.71
10148	Bel Air Avenue	Residential	306.17		306.17
5214	Belvedere Way	Residential	306.17		306.17
4460	Benito Street	Residential	335.35	352.87	688.22
5196	Benito Street	Commercial	365.84		365.84
5233	Benito Street	Senior	308.01	323.11	631.12
5429	Benito Street	Residential	335.35	352.87	688.22
9656	Benson Avenue	Residential	574.46	379.18	953.64
10278	Benson Avenue	Residential	442.25	360.12	802.37
4266	Berkeley Street	Residential	335.51	352.89	688.40
4843	Berkeley Street	Residential	335.38	352.87	688.25
5382	Berkeley Street	Residential	335.35	352.87	688.22
5402	Berkeley Street	Residential	335.35	352.87	688.22
9576	Bolton Avenue	Senior	318.43		318.43
9598	Bolton Avenue	Residential	335.35	352.87	688.22
4541	Bonnie Brae Street	Residential	335.35	352.87	688.22
5450	Bonnie Brae Street	Residential	335.35	352.87	688.22
5095	Brooks Street	Commercial	377.12		377.12
11339	Brunswick Ln	Residential	364.76		364.76
9851	Camarena Avenue	Residential	335.37	352.87	688.24
10407	Camarena Avenue	Residential	335.35		335.35
4853	Cambridge Street	Residential	335.35	352.87	688.22
5470	Cambridge Street	Residential	335.35	352.87	688.22
5471	Cambridge Street	Residential	570.03	381.98	952.01
8944	Camulos Avenue	Residential	332.15	348.01	680.16
9151	Camulos Avenue	Residential	335.35	352.87	688.22
9243	Camulos Avenue	Residential	335.35	352.87	688.22
9426	Camulos Avenue	Residential	335.35	352.87	688.22
9511	Camulos Avenue	Residential	346.91	380.26	727.17
9540	Camulos Avenue	Residential	362.63	381.99	744.62
9737	Camulos Avenue	Residential	335.35	352.87	688.22
9877	Camulos Avenue	Residential	362.63	381.99	744.62
10234	Camulos Avenue	Residential	335.57	348.39	683.96
10259	Camulos Avenue	Residential	335.35	348.36	683.71
11409	Cannery Row	Residential	364.76		364.76
4924	Canoga Street	Residential	335.35	348.36	683.71



Exhibit A to Resolution No. 20-3279  
August 2020 - Property Assessments

Street No.	Street	Type	Lien 1	Lien 2	Total Assessment
4912	Carlton Street	Residential	406.15		406.15
5666	Caroline Street	Residential	335.35	352.87	688.22
11178	Carrillo Avenue	Residential	335.35	348.36	683.71
9855	Central Avenue	Residential	335.01		335.01
4337	Clair Street	Residential	361.54	525.89	887.43
5230	Clair Street	Residential	335.35	348.36	683.71
4287	Clydesdale Way	Residential	542.04	371.09	913.13
9775	Coalinga Avenue	Residential	349.77	354.84	704.61
9795	Coalinga Avenue	Residential	335.35	352.87	688.22
9872	Coalinga Avenue	Residential	355.50		355.50
10164	Coalinga Avenue	Residential	335.31		335.31
11148	Coalinga Avenue	Residential	335.82	348.08	683.90
10039	Columbine Avenue	Residential	335.49		335.49
11362	Cumberland Lane	Residential	360.18		360.18
11370	Cumberland Lane	Residential	360.18		360.18
11444	Cumberland Lane	Residential	394.46		394.46
11469	Cumberland Lane	Residential	364.76		364.76
11476	Cumberland Lane	Residential	352.92		352.92
11333	Dartmouth Ln	Residential	355.23		355.23
10190	Del Mar Avenue	Residential	335.35	348.36	683.71
10236	Del Mar Avenue	Residential	335.35	348.36	683.71
4401	Denver Street	Senior	418.92		418.92
4456	Denver Street	Residential	468.36	283.55	751.91
5616	Denver Street	Residential	335.35	352.87	688.22
5626	Denver Street	Residential	348.61	380.45	729.06
4506	Donner Court	Residential	352.71	350.27	702.98
5168	El Morado Street	Residential	349.55	386.48	736.03
5429	El Morado Street	Residential	367.15	356.37	723.52
11159	Essex Avenue	Residential	336.65	348.51	685.16
4664	Evert Street	Residential	335.35	587.24	922.59
4705	Evert Street	Residential	335.35	348.36	683.71
4790	Evert Street	Residential	624.28		624.28
9463	Exeter Avenue	Residential	335.28	352.86	688.14
4114	Faircove Court	Residential	359.51		359.51
11366	Fairfax Lane	Residential	405.55		405.55
4219	Fauna Street	Residential	335.43	348.36	683.79
4256	Fauna Street	Residential	439.60		439.60
4267	Fauna Street	Residential	402.34		402.34
4291	Fauna Street	Residential	335.35	348.36	683.71
4456	Fauna Street	Senior	294.01		294.01
4703	Fauna Street	Residential	335.35	348.36	683.71
4738	Fauna Street	Residential	335.53	348.29	683.82
4852	Fauna Street	Residential	506.20	367.15	873.35
4909	Fauna Street	Senior	404.95	332.79	737.74
10242	Felipe Avenue	Residential	335.35	348.36	683.71
8919-21	Felipe Avenue	Multifamily	600.70	626.72	1,227.42
5051	Flora Street	Residential	533.61		533.61
9020	Fremont Avenue	Senior	335.17	352.22	687.39
9070	Fremont Avenue	Residential	459.76		459.76
9567	Fremont Avenue	Residential	362.63	381.99	744.62
9823	Fremont Avenue	Residential	335.35	352.87	688.22
9847	Fremont Avenue	Residential	356.74		356.74
10166	Fremont Avenue	Residential	364.42	377.21	741.63
10287	Fremont Avenue	Residential	411.99		411.99

Exhibit A to Resolution No. 20-3279  
August 2020 - Property Assessments

Street No.	Street	Type	Lien 1	Lien 2	Total Assessment
9844	Galena Avenue	Residential	335.35		335.35
10161	Geneva Avenue	Residential	319.17		319.17
4307	Granada Street	Residential	494.29		494.29
4328	Granada Street	Residential	335.35	352.87	688.22
4947	Granada Street	Residential	339.52		339.52
11335	Halifax Lane	Residential	364.76		364.76
3792	Hampton Drive	Residential	328.48		328.48
4386	Harvard Street	Residential	495.95		495.95
4418	Harvard Street	Residential	306.17	349.66	655.83
4430	Harvard Street	Residential	335.35	352.87	688.22
5462	Harvard Street	Residential	506.66	371.72	878.38
4531	Hawthorne Street	Residential	323.68		323.68
4568	Hawthorne Street	Residential	442.25	364.63	806.88
5553	Hawthorne Street	Residential	406.35		406.35
9075	Helena Avenue	Residential	367.34		367.34
4864	Highland Street	Residential	362.63	381.99	744.62
5044	Highland Street	Residential	335.36	352.87	688.23
5007	Holt Blvd	Residential	384.74		384.74
4103	Howard Street	Residential	335.35	348.36	683.71
4780	Howard Street	Residential	335.35		335.35
4910	Howard Street	Residential	362.63	377.01	739.64
5190	Howard Street A & B	Multifamily	661.44	700.58	1,362.02
4585	James Street	Residential	517.45		517.45
9725	Kimberly Avenue	Residential	335.35	352.87	688.22
9765	Kimberly Avenue	Residential	561.91		561.91
10236	Kimberly Avenue	Residential	306.17		306.17
10244	Kimberly Avenue	Residential	415.48		415.48
11000	Kimberly Avenue	Residential	525.10		525.10
11065	Kimberly Avenue	Residential	348.92	349.85	698.77
4490	Kingsley Street	Senior	374.71		374.71
4671	Kingsley Street	Multifamily	600.01	626.64	1,226.65
4724	Kingsley Street	Residential	335.35	348.36	683.71
5019	Kingsley Street	Residential	335.35	348.36	683.71
5198	Kingsley Street	Multifamily	542.33		542.33
5476	Kingsley Street	Residential	331.60	347.95	679.55
11362	Kingston Lane	Residential	360.28		360.28
9744	Lehigh Avenue	Residential	470.63	367.75	838.38
10187	Lehigh Avenue	Residential	455.25		455.25
10360-62	Lehigh Avenue	Residential	570.70	786.00	1,356.70
10390-92	Lehigh Avenue	Multifamily	600.70	626.72	1,227.42
9884	Lindero Avenue	Residential	459.76		459.76
9958	Lindero Avenue	Residential	335.35	352.87	688.22
4846	Mane Street	Residential	337.40		337.40
4855	Mane Street	Residential	335.35	348.36	683.71
8875	Maple Avenue	Residential	376.78		376.78
9527	Marion Avenue	Residential	335.35	352.87	688.22
9547	Marion Avenue	Residential	335.35	352.87	688.22
11442	Marquette Ln	Residential	360.89		360.89
9473	Mills Avenue	Residential	306.00		306.00
9985	Mills Avenue	Residential	328.97	352.17	681.14
10231	Mills Avenue	Residential	335.35	348.36	683.71
11365	Millstone Lane	Residential	362.85		362.85
11458	Millstone Lane	Residential	339.87		339.87
5239	Monte Verde Street	Residential	335.35	348.36	683.71

Exhibit A to Resolution No. 20-3279  
August 2020 - Property Assessments

Street No.	Street	Type	Lien 1	Lien 2	Total Assessment
9056	Monte Vista Avenue	Residential	336.32	352.97	689.29
10238	Monte Vista Avenue	Senior	340.56		340.56
10290	Monte Vista Avenue	Senior	373.13	387.69	760.82
11007	Monte Vista Avenue	Residential	335.43		335.43
5616	Moreno Street	Residential	335.32		335.32
10163	Oak Glen Avenue	Residential	307.89	319.19	627.08
4595	Oakdale Street	Residential	335.35	348.36	683.71
4644	Olive Street	Residential	363.89	383.29	747.18
4684	Olive Street	Residential	335.35	352.87	688.22
4322	Orchard Street	Residential	362.63	381.99	744.62
5171	Orchard Street	Senior	307.90	405.72	713.62
5422	Orchard Street	Residential	335.35	348.36	683.71
5640	Orchard Street	Residential	366.69		366.69
5690	Orchard Street	Residential	335.35	352.87	688.22
5655	Palo Verde Street	Commercial	541.96		541.96
3765	Peachwood Drive	Residential	364.69		364.69
9633	Poulsen Avenue	Residential	337.51	353.11	690.62
9925	Poulsen Avenue	Residential	393.07		393.07
9935	Poulsen Avenue	Residential	362.65	382.00	744.65
10154	Poulsen Avenue	Residential	335.35	348.36	683.71
11210	Poulsen Avenue	Residential	335.01		335.01
9375	Pradera Avenue	Senior	1,240.14	1,324.31	2,564.45
10206	Pradera Avenue	Residential	335.31		335.31
4426	Princeton Street	Residential	335.32	352.86	688.18
4467	Princeton Street	Residential	335.35	352.87	688.22
9060	Ramona Avenue	Residential	459.76		459.76
9090	Ramona Avenue	Residential	279.39		279.39
9109	Ramona Avenue	Residential	490.63		490.63
9551	Ramona Avenue	Residential	309.97		309.97
9587	Ramona Avenue	Residential	335.36	352.87	688.23
4668	Rawhide Street	Residential	335.35	348.36	683.71
9380	Rose Avenue	Senior	342.63	326.91	669.54
9434	Rose Avenue	Residential	323.35	352.87	676.22
9441	Rose Avenue	Residential	323.68		323.68
9720	Rose Avenue	Residential	435.47	390.01	825.48
9866	Rose Avenue	Senior	307.89	323.10	630.99
9966	Rose Avenue	Residential	352.43		352.43
4683	Rosewood Street	Residential	335.36	352.87	688.23
5361	Rosewood Street	Residential	335.35	639.33	974.68
11076	Roswell Avenue	Residential	360.23		360.23
4164	Rudisill Street	Residential	335.35	352.87	688.22
5360	Rudisill Street	Residential	499.87		499.87
4711	San Bernardino Street	Residential	335.35	352.87	688.22
4749	San Bernardino Street	Residential	335.33		335.33
4843	San Bernardino Street	Residential	323.68		323.68
4844	San Bernardino Street	Residential	460.26		460.26
5418	San Bernardino Street	Residential	335.48	352.89	688.37
5489	San Bernardino Street	Residential	376.43		376.43
5494	San Bernardino Street	Residential	306.17	349.66	655.83
5422	San Jose Street	Residential	363.60	382.10	745.70
4424	San Jose Street #05	Residential	337.59	353.12	690.71

Exhibit A to Resolution No. 20-3279  
August 2020 - Property Assessments

Street No.	Street	Type	Lien 1	Lien 2	Total Assessment
4424	San Jose Street #10	Residential	336.65	353.02	689.67
4424	San Jose Street #12	Residential	335.35	352.87	688.22
4424	San Jose Street #18	Residential	335.35	352.87	688.22
4424	San Jose Street #27	Residential	335.35	352.87	688.22
11052	San Juan Way	Residential	335.35	348.36	683.71
11014	San Miguel Way	Residential	335.35	348.36	683.71
11020	San Pasqual Avenue	Residential	336.65	348.51	685.16
10016	Santa Anita Avenue	Residential	370.49	389.90	760.39
10163	Santa Anita Avenue	Residential	336.65	354.17	690.82
10221	Santa Anita Avenue	Residential	335.35	348.36	683.71
10298	Santa Anita Avenue	Residential	336.66		336.66
11054	Stagecoach Avenue	Residential	335.43	348.36	683.79
11011	Stallion Avenue	Residential	335.35	348.36	683.71
9866	Steamboat Drive	Residential	418.92		418.92
9617	Surrey Avenue	Residential	335.35	352.87	688.22
9793	Surrey Avenue	Residential	538.08	375.17	913.25
9824	Surrey Avenue	Senior	329.89		329.89
9554	Tudor Avenue	Residential	370.00		370.00
10289	Tudor Avenue	Residential	335.35	348.36	683.71
9222	Vernon Avenue	Residential	306.17	368.70	674.87
9350	Vernon Avenue	Residential	321.37		321.37
9784	Vernon Avenue	Residential	335.35	352.87	688.22
9912	Vernon Avenue	Residential	322.33		322.33
10431	Vernon Avenue	Residential	347.58		347.58
4230	Via Amore	Residential	344.62		344.62
4184	Via Napoli	Residential	333.04		333.04
4237	Via Riviera	Residential	335.44		335.44
11178	Whitewater Avenue	Residential	335.35	348.36	683.71
5405	Yale Street	Residential	419.41		419.41
4515	Yosemite Drive	Residential	335.35	348.36	683.71
<b>TOTALS:</b>			<b>92,000.43</b>	<b>57,926.76</b>	<b>149,927.19</b>



# CITY COUNCIL AGENDA REPORT

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**DATE:** AUGUST 3, 2020

**FILE I.D.:** TAX495

**SECTION:** CONSENT - RESOLUTIONS

**DEPT.:** CITY MGR.

**ITEM NO.:** 2

**PREPARER:** M. FUENTES

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 20-3283 ORDERING THE SUBMISSION TO THE VOTERS OF THE CITY OF MONTCLAIR A MEASURE TO CONSIDER A GENERAL TRANSACTIONS AND USE TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AND PROVIDING FOR THE FILING OF ARGUMENTS AND REBUTTAL ARGUMENTS IN FAVOR OF AND AGAINST THE MEASURE

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**REASON FOR CONSIDERATION:** After over a year of contemplation and deliberation, the City Council has directed staff to move forward with preparing a one-percent local sales tax measure for submission to the voters to maintain and improve vital City services and to enhance the quality of life for residents of the City.

The City Council is requested to consider adoption of Resolution No. 20-3283 ordering the submission to the voters of the City of Montclair a measure to consider a General Transactions and Use Tax at the General Municipal Election to be held on Tuesday, November 3, 2020; directing the City Attorney to prepare an impartial analysis of the measure, and providing for the filing of arguments and rebuttal arguments in favor and against the measure.

A copy of proposed Resolution No. 20-3283 is attached for City Council review and consideration.

**BACKGROUND:** At its June 17, 2019 meeting to consider adoption of the Fiscal Year 2019-20 Annual Budget, the City Council directed the City Manager to explore several options to address projected budget deficits, including a potential Transactions and Use Tax (TUT) measure for consideration by Montclair voters for the purpose of improving the City's fiscal profile, maintaining essential public services, improving public safety services, continue developing the City's infrastructure, maintaining a program of paving roadways, improving traffic control and pedestrian safety, maintaining direct services to community residents, expanding and improving parkland, promoting community safety and appearance, and providing for the public health, safety and welfare.

At its October 7, 2019 meeting, the City Council approved Agreement No. 19-92 with Fairbank, Maslin, Maullin, Metz & Associates (FM3) for polling, educational, and outreach services to conduct a community issues survey. The survey was conducted the week of January 7 to 16, 2020, and the results were presented at a Council workshop held on February 18, 2020. At the end of their presentation, FM3 recommended that an additional "tracking survey" be conducted in order to provide an additional "snap shot" in time as to the view of the voters closer to the election, and the City Council directed staff to prepare a report related to presenting Montclair voters with a November 3, 2020, ballot measure regarding a local TUT.

On June 1, 2020, the City Council received and filed the City Manager's report for a proposed November 3, 2020 ballot measure on a TUT for the City of Montclair, approved Agreement No. 20-50 with Cerrell for community education and outreach services related to the ballot measure, and provided the City Manager with the direction to set the proposed tax rate at one percent.

At its following meeting on June 15, 2020, the City Council approved Agreement No. 20-57 with FM3 to conduct a tracking survey to allow the City to better understand how recent nationwide events including the ongoing COVID-19 pandemic and civil unrest have impacted voters' opinions and attitudes since the baseline survey was conducted at the beginning of the year.

At the Monday, July 20, 2020 workshop of the City Council, a presentation was made by FM3 regarding the results of the tracking survey and the potential for placing on the November 3, 2020 ballot a TUT measure.

### ***FM3 Tracking Survey Results***

The survey was conducted from June 30 to July 12, 2020, among a random sample of 439 registered Montclair voters likely to vote in the election. The overall margin of error for the survey is  $\pm 4.9$  percent for the full sample survey, and  $\pm 6.9$  percent for the half sample survey. The results of the survey, conducted in both English and Spanish, were generally highly favorable, with a high level of satisfaction for the Montclair City government overall.

Respondents continue to believe that the City of Montclair is generally headed in the right direction with 61 percent of those agreeing, 17 percent disagreeing, and 22 percent unsure. When respondents were asked the same question in January of 2020, 68 percent believed the City of Montclair was generally headed in the right direction, with 12 percent disagreeing, and 19 percent unsure. As such, over six-in ten respondents continue to believe things are headed in the right direction in the City of Montclair.

Over half the respondents believe that the current COVID-19 pandemic will not be under control in the next six months, with 56 percent believing it will not be under control, 31 percent believing it will, and 13 percent unsure.

Over half the respondents believe that the local economy will not have fully recovered in the next six months with 52 percent believing the economy will not recover, 27 percent believing it will, and 21 percent unsure.

Slightly more than half of the respondents said that they are extremely or very concerned about the impact of the COVID-19 pandemic on their personal financial situation with 54 percent extremely/very concerned, 25 percent somewhat concerned, and 19 percent not too concerned.

Since January, the percentage of those respondents who believe the City of Montclair has a great need for funding has increased by four percentage points from 70 percent in January to 74 percent in June/July.

When asked the following sample ballot question, 75 percent indicated some level of affirmative support of the measure, with more than 43 percent indicating they would definitely vote "yes" on the measure, giving the measure the threshold needed to pass (50 percent plus 1) across all household income groupings:

*To protect Montclair’s long-term financial stability and fund general needs of the community including preparing for and recovering from public health emergencies; protecting local drinking water sources; maintaining 911 emergency and public safety response, afterschool and senior programs; repairing streets; addressing homelessness; shall the measure be adopted approving an ordinance increasing the sales tax by 1 ¢, providing approximately \$7,000,000 annually until ended by voters; requiring independent audits, all funds used locally?*

Three-quarters, or 75 percent, of the voters are or lean in favor of the measure, with over four-in-ten indicating they would definitely vote yes.

Interestingly, when respondents were asked the same ballot question back in January, only 65 percent indicated some level of support of the measure, with more than 37 percent indicating they would definitely vote “yes” on the measure.

Likely voters were also asked to rank, by importance, forty different categories of City-provided services. Services of priority interest to likely voters include the following:

1. Keeping communities safe – 88 percent support
2. Preparing for and recovering from public health emergencies – 86 percent support
3. Maintaining 911 emergency and public safety response – 86 percent support
4. Protecting local drinking water sources – 85 percent support
5. Supporting medical services to community members – 83 percent
6. Maintaining transit service for seniors and disabled residents – 83 percent
7. Helping retain local businesses – 83 percent
8. Helping retaining local businesses and jobs – 81 percent
9. Protecting long term financial stability – 81 percent
10. Maintaining gang prevention programs for at-risk youth – 78 percent

Based on the above, it appears that quality of life issues (well-maintained streets, the quality of local parks, safe and clean public areas and neighborhoods, and investments that strengthen and improve the community, improve property values, and make the City a desirable place to live, work and play), access to health care services, maintaining and improving public safety, keeping crime down, investing in the local economy, protecting long term financial stability, and maintaining afterschool and youth programs are reasons voters likely cited in support of a November 2020 tax measure.

Furthermore, support remains higher in the tracking survey conducted June/July even after critical messaging than the original survey conducted in January of 2020. A potential tax measure consistently garnered support of 80 percent of voters, with 75 percent initially supporting a tax measure, rising to 80 percent support after voters were educated on the need for a tax measure, and 70 percent support of voters after critical statements.

The percentage increase of those in favor of the potential tax measure can be partially explained by the view of many in the community of the need to rebuild the City’s economy and maintain and restore services to the community following the COVID-19 pandemic.

FM3 concluded the following:

1. Voters largely continue to believe things are headed on the right track, although most do not believe the COVID-19 pandemic will be under control nor the economy recovered in the next six months.
2. Over seven-in-ten continue to see there is a need for additional funding, with a third believing that need is great.
3. Initial support for the measure is higher than in January, with three-quarters indicating they would or may vote yes in support of the measure.
4. Voters prioritize spending to keep communities safe and preparing for and recovering from public health emergencies. Some previous top-priorities remain important to voters, despite their lower ranking.
5. Messages discussing improving medical response times, maintaining funding for youth programs, and the quality of life continue to resonate with voters, and are among the top reasons to support the measure.
6. After education, support for the measure increases to 80 percent with over half indicating they would definitely vote yes.
7. After critical statements, support declines by ten percentage points overall. However, seven-in-ten remain in support – ten percentage points above final level of support in January.

Given the results of the baseline survey conducted in January and the tracking survey conducted in June/July, staff believes that with continued community engagement and education, a tax measure appears to be viable for the November 3, 2020 election.

At its regular meeting following the conclusion of the FM3 presentation, the City Council directed the City Manager to present at the next regularly scheduled City Council meeting a resolution ordering the submission to the voters of the City of Montclair a measure to consider a Transactions and Use Tax at the General Municipal Election to be held on November 3, 2020.

Should the City Council decide to place a tax measure on the November 3, 2020 ballot, the City Council must approve a resolution and the City Clerk must provide to the San Bernardino County Register of Voters a certified copy of the approved resolution no later than August 7, 2020.

***Resolution No. 20-3283***

Despite cost saving measures, the City of Montclair has employed in recent years to address the ongoing budget deficits, including the consolidation of job duties, significant reductions in staffing levels, and deferment of equipment purchases, the City of Montclair still faces structural budget deficits in the oncoming fiscal years.

Pursuant to California Revenue and Taxation Code §7285.9, the City of Montclair is authorized to levy a Transactions and Use Tax for general purposes subject to approval by a majority vote of the electorate pursuant to Article XIII C, §2 of the California Constitution.



Pursuant to California Elections Code §9222, the Montclair City Council has authority to place local measures on the ballot to be considered at a Municipal Election.

On November 6, 1996, the voters of the State of California approved Proposition 218, an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election. Pursuant to Proposition 218 (California Constitution, Article XIII C, section 2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government.

Pursuant to Government Code section 53724 (Proposition 62 and Revenue and Taxation Code §7285.9), a two-thirds ( $\frac{2}{3}$ ) vote of all members of the City Council is required to place the Measure on the November 3, 2020 ballot.

As such, staff has prepared Resolution No. 20-3283, which would submit to the voters at the General Municipal Election to be held on November 3, 2020, the following measure:

<p><b>Montclair Essential Services Protection Measure.</b>            Shall the measure to protect Montclair’s long-term financial ability to fund general community needs, including keeping Montclair safe; preparing for / recovering from public health emergencies; helping prevent contamination of local water sources; maintaining 911 emergency response; continuing afterschool and senior programs; repairing streets; addressing homelessness; increasing the sales tax by 1¢, providing approximately \$7,000,000 annually until ended by voters; requiring independent financial audits, all funds used locally, be adopted?</p>	YES
	NO

Resolution No. 20-3283 also includes language that would allow staff to complete other legal requirements to facilitate the submission of the measure to the voters of Montclair. Resolution No. 20-3283 includes the following:

1. **Impartial Analysis.** The City Clerk is directed to transmit copies of the measure to the City Attorney, who shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by 12:00 p.m. on August 17, 2020.
2. **Arguments and Rebuttals.** Any and all members of the City Council, an individual voter who is eligible to vote on the measure, a bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against the measure not exceeding 300, which shall be submitted to the City Clerk no later than 12:00 p.m. on August 17, 2020.

Rebuttal arguments not exceeding 250 words concerning this measure shall be submitted to the City Clerk no later than 6:00 p.m. on August 20, 2020.

3. **Public Examination.** The impartial analysis of, and the arguments and rebuttals for and against the measure will be available for public examination for ten (10) calendar days following their respective filing deadlines prior to being submitted for printing in the voter information guide.

**November 3, 2020, Municipal Election Ballot Timeline.**

Table 1, below, identifies the San Bernardino County Election deadlines related to submission of a ballot measure appearing on the November 3, 2020, Municipal Election:

**Table 1  
November 3, 2020  
Municipal Election Ballot Measure Timelines**

EVENT	DATE
Impartial Analysis submission deadline	Monday, August 17, 2020 5:00 p.m.
Argument submission deadline	Monday, August 17, 2020 12:00 p.m.
Rebuttal submission deadline	Friday, August 21, 2020 5:00 p.m.
End of 10-day public examination period for Arguments	Thursday, August 27, 2020 12:00 p.m.
End of 10-day public examination period for Rebuttals	Monday, August 31, 2020 5:00 p.m.
Assignment of Measure Letters By San Bernardino County Registrar of Voters	Monday, August 10, 2020 11:00 a.m.
Deadline to withdraw Measure	Wednesday, August 12, 2020 5:00 p.m.

*\*City Hall is closed on Fridays; therefore, Friday deadlines are 6:00 p.m. on the prior Thursday*

**FISCAL IMPACT:**

1. Receiving and filing the agenda report produces no fiscal impact on the City's General Fund.
2. Preparing a ballot measure will entail publication and ballot consolidation costs through the San Bernardino County Registrar of Voters. General Fund costs assessed by the San Bernardino County Registrar of Voters are not expected to exceed \$25,000.
3. Voter approval of proposed Montclair Essential Services Protection Measure would produce an estimated annual revenue stream of \$7 million at the proposed one-percent tax rate.

Funds generated by the Montclair Essential Services Protection Measure would be deposited in the City's General Fund and used to support, maintain and improve general government services including, but not limited to the following:

- Keeping the community safe
- Preparing for and recovering from public health emergencies
- Maintaining 911 emergency and public safety response
- Helping to protect local drinking water sources
- Supporting medical services to community members
- Maintaining transit service for seniors and disabled residents
- Helping retaining local businesses and jobs
- Protecting long-term financial stability
- Maintaining gang prevention programs for at-risk youth
- Maintaining senior discount programs for municipal services
- Providing for emergency funds to assist with public health, safety and welfare
- Maintaining and improving the City's infrastructure
- Other General Fund program expenditures as determined by the City Council

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 20-3083 ordering the submission to the voters of the City of Montclair a measure to consider a General Transactions and Use Tax at the General Municipal Election to be held on Tuesday, November 3, 2020, and directing the City Attorney to prepare an impartial analysis of the measure, and other related matters.

RESOLUTION NO. 20-3283

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ORDERING THE SUBMISSION TO THE VOTERS OF THE CITY OF MONTCLAIR A MEASURE TO CONSIDER A GENERAL TRANSACTIONS AND USE TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AND PROVIDING FOR THE FILING OF ARGUMENTS AND REBUTTAL ARGUMENTS IN FAVOR OF AND AGAINST THE MEASURE

**WHEREAS**, the City of Montclair is authorized to levy a Transactions and Use Tax ("TUT") for general purposes pursuant to California Revenue and Taxation Code §7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIII(C), §2 of the California Constitution ("Proposition 218"); and

**WHEREAS**, on November 2, 2004, City voters approved Measure "F," a one-quarter of one percent (¼ %) TUT on the sale and/or use of all tangible personal property sold at retail in the City, and

**WHEREAS**, the City has made efforts to maintain a transparent and open government while controlling costs to make services to the community more efficient; and

**WHEREAS**, despite cost saving measures the City has employed in recent years to address the ongoing budget deficits, including the consolidation of job duties, significant reductions in staffing levels, and deferment of equipment purchases, the City still projects structural budget deficits in the oncoming fiscal years; and

**WHEREAS**, pursuant to California Elections Code §9222, the City Council has the authority to place local measures on the ballot to be considered at a Municipal Election; and

**WHEREAS**, the City Council desires to submit to the voters at the November 3, 2020 General Municipal Election a measure placing a TUT of one percent (1 %) on the sale and/or use of all tangible property sold at retail in the City (the "Ordinance"); and

**WHEREAS**, the one-percent TUT is a general tax, the revenue from which will be placed in the City's general fund and will be used to pay for general City services; and

**WHEREAS**, a General Municipal Election to be held on Tuesday, November 3, 2020, at which City Council members will be elected, has been called as set forth in Resolution No. 20-3268, adopted by the City Council on June 15, 2020; and

**WHEREAS**, the City Council has requested the Board of Supervisors of the County of San Bernardino to consolidate the General Municipal Election with the Presidential General Election to be held on Tuesday, November 3, 2020, as set forth in Resolution No. 20-3270, adopted on June 15, 2020 and

**WHEREAS**, the Ordinance adds a TUT, the revenues from which can fund general needs of the community including keeping the community safe, addressing public health emergencies and homelessness, helping to prevent contamination of local water sources, 9-1-1 emergency response, afterschool and senior programs, street repairs, or any other lawful purpose of the City; and

**WHEREAS**, pursuant to Government Code § 53724 ("Proposition 62") and Revenue and Taxation Code §7285.9, a two-thirds (⅔) vote of all members of the City Council is required to place the Measure on the November 3, 2020 ballot; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Montclair as follows:

**Section 1. Ballot Measure.** Pursuant to the laws of the State of California applicable to general law cities, the City Council of the City of Montclair does hereby order submitted to the voters at the General Municipal Election to be held on November 3, 2020, the following question:

<b>Montclair Essential Services Protection Measure.</b> Shall the measure to protect Montclair’s long-term financial ability to fund general community needs, including keeping Montclair safe; preparing for / recovering from public health emergencies; helping prevent contamination of local water sources; maintaining 911 emergency response; continuing afterschool and senior programs; repairing streets; addressing homelessness; increasing the sales tax by 1 ¢, providing approximately \$7,000,000 annually until ended by voters; requiring independent financial audits, all funds used locally, be adopted?	YES
	NO

This measure requires the approval of a simple majority (50% plus 1) of those voting and the full text of the referenced measure (Ordinance No. 20-989) is attached hereto as Exhibit A and incorporated into this Resolution by this reference.

**Section 2. Impartial Analysis.** The City Clerk is directed to transmit copies of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall include a statement indicating the Measure was placed on the ballot by the City Council. There shall be printed immediately below the impartial analysis, in not less than 10-point font bold type, the following: “The above statement is an impartial analysis of Ordinance No. 20-989. If you desire a copy of the ordinance, please call the elections official’s office at (909) 625-9416 and a copy will be mailed at no cost to you.” The impartial analysis shall be filed by 12:00 p.m. on August 17, 2020.

**Section 3. Arguments and Rebuttals.** Pursuant to Elections Code §9282(b), the City Council authorizes any and all members of its body, an individual voter who is eligible to vote on the measure, a bona fide association of citizens, or a combination of voters and associations, to file a written argument for or against the measure not exceeding 300 words regarding the City measure as specified above, which shall be submitted to the City Clerk no later than 12:00 p.m. on August 17, 2020.

Pursuant to Elections Code §9285, the City Council authorizes the filing of rebuttal arguments for and against measures in the Election. Rebuttal arguments not exceeding 250 words concerning this measure shall be submitted to the City Clerk no later than 6:00 p.m. on August 20, 2020. This Section 3 shall expire with the Election, and shall not authorize rebuttal arguments as to measures presented at any future election.

**Section 4. Public Examination.** Pursuant to Elections Code §9295, this Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The City Clerk shall post notice in the Clerk’s office and City website ([www.cityofmontclair.org](http://www.cityofmontclair.org)) of the specific dates that the examination period will run.

**Section 5. CEQA.** The adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §21000 et. seq. (“CEQA”) and 14 Cal. Code Reg. §15000 et. seq. (“CEQA Guidelines”). The noticing of a Municipal Election is not a project within the meaning of CEQA Guidelines §15378, subsection (b)(3).

**Section 6. Certification.** The City Clerk shall certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City and entered into the book of original Resolutions; and shall file with the Board of Supervisors and the Registrar of Voters of the County of San Bernardino, California, a certified copy of this Resolution.

**Section 7. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the City of Montclair hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

**Section 8. Effective Date.** This Resolution shall take effect immediately upon its adoption as a measure affecting an election.

**APPROVED AND ADOPTED** this XX day of XX, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 20-3283 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2020, and that it was adopted by the following vote, to-wit:

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

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

ORDINANCE NO. 20-989

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADDING CHAPTER 3.31 TO TITLE 3 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO IMPOSING A GENERAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (SUBJECT TO FINAL APPROVAL BY THE VOTERS AT THE TUESDAY, NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION)

WHEREAS, the City of Montclair is authorized to levy a Transactions and Use Tax for general purposes pursuant to California Revenue and Taxation Code §7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIII(C), §2 of the California Constitution (Proposition 218); and

WHEREAS, pursuant to California Elections Code §9222, the City Council has the authority to place local measures on the ballot to be considered at a Municipal Election; and

WHEREAS, on August 3, 2020, the City Council adopted Resolution No. 20-3283 ordering the submission to the voters of Montclair a measure to consider a one percent Transactions and Use Tax at the General Municipal Election of November 3, 2020 (the "Measure"); and

WHEREAS, the City Council has reviewed the form and content of this Ordinance and by its adoption approves this Ordinance as the complete text of the Measure subject to approval by the voters of the City of Montclair.

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

**SECTION I. Amendment to Code.** Chapter 3.31 is hereby added to Title 3 the Montclair Municipal Code with the following provisions:

**3.31.010. Title.**

- A. This chapter shall be known as the "2020 General Transactions and Use Tax Ordinance of the City of Montclair."
- B. The City of Montclair hereinafter shall be called "City."
- C. This ordinance shall be applicable in the incorporated territory of the City.

**3.31.020. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**3.31.030. Purpose.**

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax increase in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the

California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

- D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

**3.31.040. Contract with State.**

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

**3.31.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

**3.31.060. Place of Sale.**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

**3.31.070. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**3.31.080. Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

**3.31.090. Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:



1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

C. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

#### **3.31.100. Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

#### **3.31.110. Exemptions and Exclusions.**

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of

Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

**SECTION II. Amendments.** All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

**SECTION III. Enjoining Collection Forbidden.** No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

**SECTION IV. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION V. Effective Date.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

**SECTION VI. Independent Audits.** The City shall at least annually retain an auditor independent of the City to audit the accounting of the receipt and expenditures of the proceeds of the tax imposed by this ordinance to ensure compliance with its requirements. The City Council shall discuss the auditor's report at a regular Council meeting and the report shall be posted to the City's website.

**SECTION VII. Execution.** The Mayor shall sign and the City Clerk shall attest to the adoption of this ordinance upon certification by the City Council of the results of the election approving this ordinance.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

ATTEST:

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 20-989 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2020, and finally passed not less than five (5) days thereafter at a regular meeting on the XX day of XX, 2020, by the following vote, to-wit:

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

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

**MINUTES OF THE REGULAR MEETING OF THE PUBLIC WORKS  
COMMITTEE HELD ON THURSDAY, MAY 21, 2020, AT 4:00 P.M. HELD  
VIA ZOOM TELECONFERENCE**

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**I. CALL TO ORDER**

Chair Raft called the meeting to order at 4:03 p.m.

**II. ROLL CALL**

Present: Mayor Pro Tem Raft (Chair); Council Member Johnson (Committee Member); City Manager Starr; Senior Management Analyst Fuentes; Executive Director of Public Safety/Police Chief Avels; Public Works Director/City Engineer Castillo; Public Works Superintendent Mendez; Director of Community Development Diaz; Deputy Director of Economic and Community Development Manager Caldwell

Absent: None

**III. APPROVAL OF MINUTES**

The Committee approved the minutes of the February 20, 2020 meeting.

**IV. PUBLIC COMMENT**

**Mr. Bruce Culp**, resident, asked for an update on parking restrictions for street sweeping.

City Manager Starr advised the City would reevaluate street sweeping day parking restrictions in mid-June. The City would likely not begin to issue citations again until late June or early July.

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

**A. OPERATIONS**

**1. MAINTENANCE ACTIVITIES**

An Operations Activities Report for the past month was included with the agenda.

Council Member Johnson had a concern with the maintenance activities related to rats and roaches.

Public Works Superintendent Mendez stated that throughout the City, roaches have always been an issue, but not in one specific area. He noted roaches tend to thrive in sewers because of the moisture and food availability. Staff has seen a lot more rats in the sewer system and within the last year and a half have been able to trap between 15-20 rats, which is a low number compared to the amount of rats that are actually seen in the sewers. He advised that he can talk to other groups through the

California Water Environmental Association and see if there is anything more they can do or if any fumigating can be done, but the risk faced is having restricted materials run through the system, which can cause issues to the **Inland Empire Utilities Agency's (IEUA)** sewer treatment plan. He noted there are many things to consider before taking another approach to catching/killing roaches and rats, so currently trapping and continuing to flush the sewer lines as often as possible is the best solution.

**2. REQUEST TO REMOVE TREES DUE TO ASTHMA — 5093 SADDLEBACK STREET MONTCLAIR, CA 91763**

A resident at 5093 Saddleback Street asked the City to remove three Jacaranda trees because his children have a difficulty breathing due to the tiny leaves. The resident provided a slip from the school district stating that his children have asthma, but it did not specify that it was due to the Jacaranda trees. Therefore, Public Works Director/City Engineer Castillo and Public Works Superintendent Mendez decided to not remove the trees because they could not justify that it was those three trees that were causing the children's asthma. Public Works Superintendent Mendez stated that he had staff trim the trees in hopes that the resident would be satisfied. The Public Works Committee agreed with the decision to not remove the trees.

**3. ADDITIONAL ITEMS — None**

**B. FACILITIES**

**1. MAINTENANCE ACTIVITIES**

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

**2. ADDITIONAL ITEMS — None**

**C. ENGINEERING DIVISION ITEMS**

**1. 9015 HELENA AVENUE — DEED OVER PARKWAY AREA**

The City wishes to deed over the parkway area to the resident of 9015 Helena Avenue. Staff requested a title report because there is an easement and a storm drain that needs to be retained.

**2. 9614 BENSON AVENUE — DEED OVER ACCESS TO SUNRISE PARK**

Public Works Director/City Engineer Castillo stated that the City will need to complete the in-progress General Plan parks accessibility process to see if any recommendations come forth concerning this issue.

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

### **A. PARKING AND PERMIT ISSUES — ALEXAN KENDRY PROPERTY**

Public Works Director/City Engineer Castillo stated that he has been speaking with the project manager of the Alexan project regarding a kiosk that would manage about 54 parking stalls that would be located on the new public street built within the Alexan project. Staff will discuss the logistics of the kiosk and what would work best. Public Works Director/City Engineer Castillo has been in contact with the City of Rancho Cucamonga and the City of Riverside about their kiosk program. There is also discussion with the Alexan project about putting together an agreement about the funds generated from the kiosk to pay back the purchase since they will be the ones to purchase the kiosk.

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

### **A. STATE STREET AND GREENWOOD AVENUE — POTENTIAL SALE OF REMNANT PROPERTY**

Director of Community Development Diaz introduced a proposal for selling a City-owned remnant property near the Monte Vista Bridge left over from the construction of the bridge. After the bridge was completed, there was a piece of land, which is less than half an acre, that is not usable or developable for anything other than attaching it to the east property, which is currently Revelation Raceway. Revelation Raceway will be sold to a developer which has expressed interest in buying the remnant piece. In a subsequent meeting, possibly at the June Public Works Committee meeting, Director of Community Development Diaz will provide more detailed information about the remnant property for further discussion.

## **VIII. CAPITAL PROJECT UPDATES**

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

### **A. LOCAL PROJECTS**

#### **1. CENTRAL AVENUE UTILITY UNDERGROUND PROJECT**

The undergrounding of utilities for this project is still not completed. Public Works Director/City Engineer Castillo will be working towards getting this project completed soon.

#### **2. CENTRAL AVENUE STREET REHABILITATION PROJECT PHASE 1**

Public Works Director/City Engineer Castillo stated that the work is continuing and Central Avenue has been paved and striped from the southerly city limits up to the Central Bridge. All of the recycled water line installations have been completed. Traffic signal modifications should be completed within the next month. Staff is hoping that this project will be completed by the end of July 2020.

**3. REEDER RANCH ROOF REPLACEMENT AND ELECTRICAL PROJECT**

The project is complete and has been accepted by the City Council.

**4. CITY HALL REMODEL PHASE 2 PROJECT (FINANCE OFFICES)**

This project is continuing to make progress and is expected to be completed at the end of June 2020.

**5. HOLT BOULEVARD REHABILITATION PROJECT**

Staff will start advertising this project and move forward with construction.

**6. STREET IMPROVEMENTS ON ARROW HIGHWAY AND FREMONT AVENUE**

There are “complete street” improvements on Arrow Highway from Monte Vista Avenue to Central Avenue and on Fremont Avenue from Arrow Highway to Moreno Street. Plans will be finalized in a couple of weeks, after which staff will advertise for construction. At the Council meeting in May, staff took an agreement with SBCTA to Council that coincides with the project limits. The agreement allows the City to work cooperatively with SBCTA to place active transportation improvements. The City will leverage the grant funds SBCTA was awarded to install the final improvements that are designed. The Bravo development (located at the corner of Olive Street and Fremont Avenue) requires some of the street improvements to be constructed.

**B. REGIONAL PROJECTS**

**1. I-10 CORRIDOR PROJECT**

Public Works Director/City Engineer Castillo stated that the project is moving forward and the High Occupancy Vehicle (HOV) lanes on the freeway have been removed and re-striped to be all-purpose lanes, to keep the required five lanes of traffic open. The weekend of May 30, 2020, there will be a full freeway closure for the removal of the Sultana Bridge. There will continue to be utility relocation work on Monte Vista Avenue. In July/August, work will begin on Benson Avenue and the I-10 Freeway. In order to widen the bridge, rigging will have to take place, therefore Benson Avenue will go down to one lane in each direction. The sound wall at MacArthur Park will be removed in July. The project will be sending out mailers to all the residents in that neighborhood to notify them of the work going on. A banner will also be placed at MacArthur Park to notify residents and those that want additional information on the project. Construction alerts are also sent out via email, which anyone can subscribe to receive.

**2. CHINO BASIN PROGRAM (IEUA)**

Due to COVID-19, meetings to discuss this project have been put on hold, but hopefully will reconvene soon.

### 3. CENTRAL AVENUE BRIDGE

Staff awarded the project to the design firm, Biggs Cardosa. The design kick-off meeting was held and the design process has started. The design development should be a two-year process and the construction process should be able to begin once the design is complete.

### 4. FOOTHILL GOLD LINE EXTENSION

City Manager Starr was disappointed to report that negotiations on a Memorandum of Understanding (MOU) to bring rail connectivity to the Montclair Transcenter and Ontario International Airport (ONT) has been suspended by the San Bernardino County Transportation Authority (SBCTA). SBCTA agreed to negotiate the terms of an MOU if Assembly Member Chris Holden and Senator Anthony Portantino agreed to withdraw their bills (AB 2011 and SB 1390, respectively) introduced to create a new construction authority to build the Gold Line light rail system to the Montclair Transcenter and to ONT. The MOU was to be entered between SBCTA and regional cities that are part of the effort to get Gold Line into San Bernardino County. The objective of the MOU was in part to make certain that SBCTA stay committed to building the Gold Line to the Transcenter and continue working on plans to provide access to ONT. Two bills were introduced in relations to achieving that objective; however, there was objection to the bills due to the bill taking control of Measure I dollars to achieve the objective. Additionally, the bill required SBCTA to provide the \$80 million for construction of the Gold Line to the new Gold Line Extension Construction Authority. The bill took away local control and SBCTA resisted the two bills. SBCTA's agreement to enter into the MOU related to making certain the goals of the two bills were still achieved. The bills were withdrawn based on the understanding the MOU would be developed. Once the bills were withdrawn, SBCTA decided to withdraw from their promise to develop the MOU. Senator Holden will move forward on forcing legislation that will require SBCTA commitment to extend the Gold Line into San Bernardino County. The legislators are frustrated that no city in San Bernardino County besides Montclair supported the bills to build Gold Line to San Bernardino County. City Manager Starr recommended that the City author a letter in support of any effort to develop legislation to get the Gold Line to Montclair Transcenter.

### IX. COMMITTEE AND CITY MANAGER ITEMS — None

### X. ADJOURNMENT

At 4:35 p.m., Chair Raft adjourned the meeting of the Public Works Committee. The next meeting of the Public Works Committee is scheduled to be held at 4:00 p.m. on June 18, 2020, via ZOOM teleconference.

Submitted for Public Works Committee approval,

  
Samantha Contreras  
Transcribing Secretary



**MINUTES OF THE REGULAR MEETING OF THE PUBLIC WORKS  
COMMITTEE HELD ON THURSDAY, JUNE 18, 2020, AT 4:00 P.M. HELD  
VIA ZOOM TELECONFERENCE**

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**I. CALL TO ORDER**

Committee Member Johnson called the Committee of the Whole to order at 4:05 p.m. There being a lack of a quorum, no actions were taken on agenda items.

**II. ROLL CALL**

Present: Council Member Johnson (Committee Member); City Manager Starr; Public Works Director/City Engineer Castillo; Senior Management Analyst Fuentes; Executive Director of Public Safety/Police Chief Avels; Public Works Superintendent Mendez; Director of Community Development Diaz; Assistant Director of Housing/Planning Manager Caldwell

Absent: Mayor Pro Tem Raft (Chair)

**III. APPROVAL OF MINUTES**

Approval of the minutes of the May 21, 2020 meeting will be deferred to the following meeting.

**IV. PUBLIC COMMENT**

Mr. Bruce Culp, resident, read excerpts from the minutes of a prior Committee meeting regarding the street next to his neighborhood at Paseos, Lindero Avenue. Mr. Culp stated he has been making almost daily walks to verify if indeed neighbors are doing nefarious deeds, and did not see a lack of parking or signs of trash being left in the area, as was claimed by residents of the street. Additionally, Mr. Culp is interested in hearing about the Alexan parking kiosk. Finally, Mr. Culp mentioned that he believes the San Bernardino County Transportation Authority (SBCTA) is not being cooperative, and he will be writing emails to let them know that he does not appreciate their lack of support for the Gold Line, and that he supports efforts by the City on the Gold Line Extension Project.

Committee Member Johnson asked Public Works Director/City Engineer Castillo if there are any further concerns from the residents on Lindero, and Mr. Castillo stated no additional concerns or complaints have been received.

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

**A. OPERATIONS**

**1. MAINTENANCE ACTIVITIES**

An Operations Activities Report for the past month was included with the agenda. Public Works Superintendent Mendez reported recent activities and recurring activities to the maintenance activities. There were no questions or issues with the report.

## **B. FACILITIES**

### **1. MAINTENANCE ACTIVITIES**

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

### **2. ADDITIONAL ITEMS — None**

## **C. ENGINEERING DIVISION ITEMS**

### **1. 9015 HELENA AVENUE — DEED OVER PARKWAY AREA.**

No update was provided at the meeting.

### **2. 9614 BENSON AVENUE — DEED OVER ACCESS TO SUNRISE PARK.**

No update was provided at the meeting.

### **3. PARKING PERMIT PROGRAM ON PALO VERDE STREET**

The item was brought forth for the committee's consideration since it has been recently noticed that there is abuse of the current program. Not only are tractors being parked but also trailers. It is the goal to have the committee review the initial intent of the program. Public Works Director/City Engineer Castillo mentioned that at the time this item was brought forth to create the program, only one resident had made the request to park on Palo Verde. The only existing street that allowed parking on the street at the time was Brooks street. Several permits have been issued, and many trucks do park there. The parking area is becoming a parking safety concern and is unsightly. This item will be brought back at a future meeting to have the committee review and reconsider the program, and possibly terminate the parking program for Palo Verde.

Executive Director of Public Safety/Police Chief Avels added that when the program was put in place, one of the biggest concerns was the fact that allowing to have commercial vehicles park there would attract more vehicles to park there and spread beyond the permitted area to Monte Vista and south of the condominium area.

The Brooks Street parking program should also be considered for elimination. The street is not wide enough to allow commercial truck parking, and there have been problems with general parking as well as an increased level of traffic of large delivery and transport vehicles due to the addition of the new Cardenas Market. Trucks have been performing U-turns at the end of Brooks Street when they realize the street does not have access to the market.

#### **4. ALEXAN PARKING KIOSK**

The Alexan Kendry project is now open. The property manager has submitted parking management plan (PMP). The Alexan Kendry management team is requesting the use of a parking kiosk. Parking kiosks are new to the City and staff will continue to look at allowing a parking kiosk as a possible future option, but will not be moving forward with allowing a parking kiosk at this time. When the City looks at a comprehensive PMP for the transit-oriented development in the north area, a parking kiosk can be considered.

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

#### **A. ANNUAL POLICE OFFICER MEMORIAL EVENT**

Executive Director of Public Safety/Police Chief Avels advised the event was cancelled and an online tribute was created in lieu of the event.

He advised Comcast is installing fiber optic lines related to a 911 upgrade for the Police Department.

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

#### **A. STATE STREET AND GREENWOOD AVENUE**

Community Development Director Diaz stated this item is on hold until something happens with the sale of the property to the east of the City-owned remnant property at State Street and Greenwood Avenue. He reported that the individual who was interested in purchasing the remnant property from the City is only interested if he also purchases the property to the east, and that interested party has just withdrawn his offer to purchase that property.

Director of Community Development Diaz also reported that on Arrow Highway east of Central Avenue there is a building being constructed that is of aesthetic interest. Construction should be finished late summer or early fall.

### **VIII. CAPITAL PROJECT UPDATES**

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

#### **A. LOCAL PROJECTS**

##### **1. CENTRAL AVENUE UTILITY UNDERGROUND PROJECT**

The undergrounding of utilities for this project is still not completed. Public Works Director/City Engineer Castillo will be working towards getting this project completed soon.

##### **2. CENTRAL AVENUE STREET REHABILITATION PROJECT PHASE 1**

Public Works Director/City Engineer Castillo advised that the project is coming to completion. Paving will begin the week of July 13 and will be

completed by the end of the month. All lanes will be open in August. The landscaping is currently being installed, including the monument signs.

**3. CITY HALL PHASE 2**

Public Works Director/City Engineer Castillo stated this project is coming to completion. Front counter staff is anticipated to move back in the area by the first week of July, and completion is scheduled by the end of July.

**4. HOLT BOULEVARD REHABILITATION PROJECT**

The project specifications are being finalized and will be advertised soon. A 3-inch asphalt section will be constructed—it is not a full section, but it is expected to last 10 to 15 years. Additionally, traffic signal modifications will be performed at Holt Boulevard and Amherst Avenue.

**5. ARROW HIGHWAY AND FREMONT AVENUE PROJECT**

The project plans are being finalized. Staff will look at what sections can be strategically moved forward. There is a development on Fremont that is scheduled to move forward after the City installs improvements adjacent to the development. An SBCTA grant will provide the funding to install the improvements on both Arrow Highway and Fremont Avenue.

**B. REGIONAL PROJECTS**

**1. I-10 CORRIDOR PROJECT**

Public Works Director/City Engineer Castillo stated that there substantial demolition taking place in relation to this project including the removal of Sultana Bridge and some sound walls. Within the City, the sound wall and cell tower at MacArthur Park are slated to be removed soon. Work on Monte Vista Avenue will continue as there is still utility work to be done. Day work will reconvene on Monte Vista Avenue once the Central Avenue paving project is complete. The goal was to not have both major streets under construction at the same time, and Monte Vista Avenue will have ongoing construction work over the next three years.

**2. CHINO BASIN PROGRAM (IEUA)**

Shivaji Deshmukh from IEUA recently made us aware that we will reconvene meetings on the project in a week or two. The goal will be to figure out where we are at and how we will move the project forward.

**3. CENTRAL AVENUE BRIDGE**

This project is in the design phase. The design kickoff meeting was recently held with the design firm for the project, Biggs Cardosa Associates. The design effort is expected to take a year. The design process is complicated by the fact that the design required approval from Caltrans and the railroad company.

#### 4. FOOTHILL GOLD LINE EXTENSION

City Manager Starr stated that last week, Senior Management Analyst Fuentes met with representatives from Congresswoman Norma Torres' office to discuss an earmark for the Gold Line. Initially, the effort was to get an earmark on the \$500 billion transportation bill, but our efforts were too late. Staff will now work with Torres' office staff to try to take a \$570 million dollar earmark to congress sometime down the road, probably after the transportation bill works its way through the process. Earmarks will be attached to the bill as separate amendments once the initial markup process is completed. The \$570 million will be for construction from Pomona to Montclair. If construction does not occur before October of next year, then it will need to be a separate project and will need to go through the federal environmental review process, NEPA. Congresswoman Torres's office was asked to consider introducing a bill that would exclude mass transit projects from NEPA if they already went through an environmental review process that is equal or superior to the NEPA process. Highway Transportation projects are already excluded from NEPA if they have gone through a similar review in the state where the project is occurring. The California Environmental Quality Act (CEQA) environmental review process is more strict compared to NEPA. If such a bill is passed for mass transit projects, the project for the separate Gold Line segment from Pomona to Montclair would not have to go through NEPA, and would rely on the CEQA document that has already been approved. If the funding were to be approved before such a bill is passed, it is unlikely that the Construction Authority for the Gold Line extension would accept the money because it would federalize the entire length of the project while the NEPA review is completed. Staff is waiting to hear back from Congress Woman's Norma Torres' office whether such a bill would be considered.

#### IX. CITY MANAGER ITEMS

Governor Newsom issued a mandatory face covering guidance statewide. Anyone inside a building has to wear a face covering indoor while waiting in in line with other people. The only time one is not required is outdoors when by themselves. The order went into effect today and there is no expiration at this point. Since the order has been issued, the City Manager will not need to provide a response to the Council inquiry on the subject of suspending the City's face covering order at the next Council meeting.

#### X. ADJOURNMENT

At 4:31 p.m., Committee Member Johnson adjourned the meeting of the Public Works Committee. The next meeting of the Public Works Committee is scheduled to be held at 4:00 p.m. on July 16, 2020.

Submitted for Public Works Committee approval,



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Noel Castillo  
Transcribing Secretary