

## **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/95239872725>

### **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: 952 3987 2725**

**ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING.  
THE CITY CLERK WILL UNMUTE THOSE WHO WISH TO SPEAK 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 17, 2020  
7:00 p.m.

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

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

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

- I. CALL TO ORDER** City Council [CC], Successor Agency Board [SA],  
Montclair Housing Corporation Board [MHC],  
Montclair Housing Authority Commission [MHA],  
Montclair Community Foundation Board [MCF]

**II. INVOCATION**

*In keeping with our long-standing tradition of opening our Council meetings with an invocation, this meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.*

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS — None**

**VI. PUBLIC COMMENT**

*This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded up to five minutes to address the City Council/Boards of Directors/Commissioners. (Government Code Section 54954.3).*

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

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

**VII. PUBLIC HEARINGS**

- A. Second Reading — Consider Adoption 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 (Subject to Final Approval by the Voters at the Tuesday, November 3, 2020 General Municipal Election) [CC]**

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**VIII. CONSENT CALENDAR**

A. Approval of Minutes

1. Regular Joint Meeting — August 3, 2020 [CC/SA/MHC/MHA/MCF]

B. Administrative Reports

1. Consider Receiving and Filing of Treasurer’s Report [CC] 16
2. Consider Approval of Warrant Register & Payroll Documentation [CC] 17
3. Consider Receiving and Filing of Treasurer’s Report [SA] 18
4. Consider Approval of Warrant Register [SA] 19
5. Consider Receiving and Filing of Treasurer’s Report [MHC] 20
6. Consider Approval of Warrant Register [MHC] 21
7. Consider Receiving and Filing of Treasurer’s Report [MHA] 22
8. Consider Approval of Warrant Register [MHA] 23
9. Consider Declaring a 1991 Chevrolet 3500 Rescue Squad Fire Vehicle as Surplus and Available for Parts or Sale at Auction [CC] 24

C. Agreements

1. Consider Award of Contract to Gentry Brothers, Inc., in the Amount of \$886,393.28 for Construction of the Holt Boulevard Pavement Rehabilitation Project [CC]  
  
Consider Approval of Agreement No. 20-70 with Gentry Brothers, Inc., for Construction of the Holt Boulevard Pavement Rehabilitation Project [CC]  
  
Consider Authorizing an Additional \$430,000 Appropriation from SB1 Proceeds Including a \$90,000 Construction Contingency for Costs Related to Construction of the Holt Boulevard Pavement Rehabilitation Project [CC] 25
2. Consider Approval of Agreement No. 20-71, a Memorandum of Understanding Between Municipal Agencies and Water Service Providers Within the Inland Empire Utility Agency Service Area to Pursue Joint Efforts of Mutual Interest and Benefit Related to Regional Water Policy Matters [CC] 32

D. Resolutions

1. Consider Acceptance of the Caltrans Sustainable Transportation Planning Grant in the Amount of \$177,945 for the San Antonio Creek Trail Multimodal Connectivity Plan [CC]  
  
Consider Adoption of Resolution No. 20-3284 Authorizing the City Manager to Execute Agreements with Caltrans for the San Antonio Creek Trail Multimodal Connectivity Plan [CC] 38

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. COUNCIL WORKSHOP**

- A. Discussion of Audit Responsibilities and Process with Governing Board of the City (Audit Committee) by Van Lant & Fankhanel, LLP, the City's Independent Auditing Firm

*(The City Council may consider continuing this item to an adjourned meeting on Tuesday, September 8, 2020, at 5:45 p.m.)*

**XI. 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)* — None

**XII. ADJOURNMENT**

*The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Tuesday, September 8, 2020, at 7:00 p.m.*

*Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Acting Bodies after publication of the Agenda packet are available for public inspection in the Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Pursuant to the Governor's Executive Orders in relation to the COVID-19 pandemic, please call the City Clerk's Office at (909) 625-9416 or send an e-mail to [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) to request such review of items via e-mail.*

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (909) 625-9416 or e-mail [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org). Notification prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (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, August 13, 2020.*



# CITY COUNCIL AGENDA REPORT

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**DATE:** AUGUST 17, 2020

**FILE I.D.:** TAX495

**SECTION:** PUBLIC HEARINGS

**DEPT.:** CITY MGR.

**ITEM NO.:** A

**PREPARER:** M. FUENTES

**SUBJECT:** SECOND READING — CONSIDER ADOPTION 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)

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**REASON FOR CONSIDERATION:** The City Council is requested to consider conducting the second 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.

At the August 3, 2020 City Council Meeting, the City Council approved 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.

A copy of proposed Ordinance No. 20-989 is attached for City Council's review and consideration. It should be noted that Ordinance No. 20-989 would only go into effect upon voter approval.

**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 public hearing and second reading of Ordinance No. 20-989; and
2. Adopt 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 November 3, 2020 General Municipal Election).

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 17, 2020	<b>FILE I.D.:</b>	FIN520
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	J. KULBECK
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending July 31, 2020, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2020.

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

**RECOMMENDATION:** Staff recommends the City Council receive and file the Treasurer's Report for the month ending July 31, 2020.





# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 17, 2020	<b>FILE I.D.:</b>	FIN540
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	L. LEW/V. FLORES
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION		

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

**BACKGROUND:** Mayor Pro Tem Raft has examined the Warrant Register dated August 17, 2020, and the Payroll Documentation dated July 19, 2020, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated August 17, 2020, totals \$871,183.73; and the Payroll Documentation dated July 19, 2020, totals \$589,492.41 gross, with \$403,541.08 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 17, 2020	<b>FILE I.D.:</b>	FIN510
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	SA
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending July 31, 2020, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending July 31, 2020.

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

**RECOMMENDATION:** Staff recommends the City Council acting as Successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending July 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 17, 2020	<b>FILE I.D.:</b>	FIN530
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	SA
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

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**REASON FOR CONSIDERATION:** The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending July 31, 2020, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 07.01.20-07.31.20 in the amounts of \$4,224.42 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending July 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 17, 2020	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	5	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending July 31, 2020, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2020.

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

**RECOMMENDATION:** Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending July 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 17, 2020	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	6	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

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**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending July 31, 2020, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 07.01.20-07.31.20 in the amount of \$28,864.13 for the Montclair Housing Corporation and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending July 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 17, 2020	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	7	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending July 31, 2020, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending July 31, 2020.

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

**RECOMMENDATION:** Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending July 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 17, 2020	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	8	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending July 31, 2020, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 07.01.20-07.31.20 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the Montclair Housing Authority Board of Directors approve the Warrant Register for the period ending July 31, 2020.



# CITY COUNCIL AGENDA REPORT

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**DATE:** AUGUST 17, 2020                      **FILE I.D.:** FRD250/VEH450  
**SECTION:** CONSENT - ADMIN. REPORTS                      **DEPT.:** FIRE  
**ITEM NO.:** 9                                              **PREPARER:** S. JACKSON  
**SUBJECT:** CONSIDER DECLARING A 1991 CHEVROLET 3500 RESCUE SQUAD FIRE VEHICLE AS SURPLUS AND AVAILABLE FOR PARTS OR SALE AT AUCTION

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**REASON FOR CONSIDERATION:** The City Council is requested to consider declaring a 1991 Chevrolet 3500 rescue squad fire vehicle that is no longer in service as surplus so it may be sold at auction or used for parts.

**BACKGROUND:** The rescue squad fire vehicle has reached the end of its service life and is no longer in use. It is proposed to be declared as surplus and made available for sale by auction or for parts to support vehicles currently in service in the Fire Department's fleet or other City departments. Identification information for the vehicle is as follows:

<u>Year and Model</u>	<u>Vehicle Information Number</u>	<u>Mileage</u>	<u>Est. Sales Price</u>
1991 Chevrolet 3500	1GBJC34N1ME146469	55,319	\$2,000

**FISCAL IMPACT:** Should the City Council approve this item, the City would receive up to \$1,500 from auction if sold. Proceeds from the sale would be returned to the Equipment Replacement Fund.

**RECOMMENDATION:** Staff recommends the City Council declare a 1991 Chevrolet 3500 rescue squad fire vehicle as surplus and available for parts or sale at auction.





# CITY COUNCIL AGENDA REPORT

**DATE:** AUGUST 17, 2020

**FILE I.D.:** STA815

**SECTION:** CONSENT - AGREEMENTS

**DEPT.:** PUBLIC WORKS

**ITEM NO.:** 1

**PREPARER:** S. STANTON

**SUBJECT:** CONSIDER AWARD OF CONTRACT TO GENTRY BROTHERS, INC., IN THE AMOUNT OF \$886,393.28 FOR CONSTRUCTION OF THE HOLT BOULEVARD PAVEMENT REHABILITATION PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 20-70 WITH GENTRY BROTHERS, INC., FOR CONSTRUCTION OF THE HOLT BOULEVARD PAVEMENT REHABILITATION PROJECT

CONSIDER AUTHORIZING AN ADDITIONAL \$430,000 APPROPRIATION FROM SB1 PROCEEDS INCLUDING A \$90,000 CONSTRUCTION CONTINGENCY FOR COSTS RELATED TO CONSTRUCTION OF THE HOLT BOULEVARD PAVEMENT REHABILITATION PROJECT

**REASON FOR CONSIDERATION:** The City Council is requested to consider the award of a contract to and approval of Agreement No. 20-70 with Gentry Brothers, Inc., in the amount of \$886,393.23 for construction of the Holt Boulevard Pavement Rehabilitation Project; and to consider authorizing an additional \$430,000 appropriation from SB1 proceeds including a \$90,000 construction contingency for costs related to construction of the Holt Boulevard Pavement Rehabilitation Project.

A copy of proposed Agreement No. 20-70 is attached for the City Council's review and consideration.

**BACKGROUND:** On December 2, 2019, City Council adopted the 2019-2024 Capital Improvement Program (CIP), including the Holt Boulevard Pavement Rehabilitation Project. The project was approved with an appropriation of \$550,000 of SB1 Proceeds. The project is intended to replace traffic signal equipment at the intersection of Amherst Avenue and Holt Boulevard; replace uplifted curb, gutter, and sidewalk; and resurface Holt Boulevard between Ramona Avenue and Mills Avenue.

On July 23, 2020, the City received and opened nine bid proposals for the Holt Boulevard Pavement Rehabilitation Project. The bid results are shown in the table below:

<i>Bidder</i>	<i>Bid Amount</i>
<i>Engineers Estimate</i>	\$ 800,000.00
<i>Gentry Brothers, Inc.</i>	886,393.28
<i>ONYX PAVING</i>	909,000.00
<i>All American Asphalt, Inc.</i>	936,764.00
<i>R.J. Noble Company</i>	946,007.75
<i>Hardy &amp; Harper, Inc.</i>	960,000.00
<i>Sequal Contractors, Inc.</i>	992,537.30
<i>MVC Enterprises, Inc.</i>	1,023,736.40
<i>PALP</i>	1,058,572.00
<i>Vance Corporation</i>	1,070,450.50

Following the bid opening, the nine bid proposals were reviewed for completeness and accuracy. The bid proposal from the apparent low bidder, Gentry Brothers, Inc., provided all required documents and was deemed the lowest responsible, responsive bidder for the project. Gentry Brothers, Inc. has performed several projects for the City. Based on prior experiences, Gentry Brothers, Inc. is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the project specifications.

The City Engineer has reviewed the plans and specifications for the project and has determined that they are in conformity with applicable statutes, codes, standards, and/or guidelines.

The anticipated duration of this project is 90 working days. The work is expected to begin in mid-October and be completed no later than January 30, 2021.

**FISCAL IMPACT:** Following the bid opening on July 23, 2020, the project was underfunded by roughly \$340,000 for construction expenses, plus an additional \$90,000 for a construction contingency. Staff is recommending an additional allocation of SB1 proceeds to cover the shortage of funds. In total, the project will have an original appropriation of \$550,000 of SB1 proceeds and an additional appropriation of \$430,000 from the same funding source, bringing the overall budget for the project to \$980,000.

**RECOMMENDATION:** Staff recommends that the City Council take the following actions in relation to the Holt Boulevard Pavement Rehabilitation Project:

1. Award a contract to Gentry Brothers, Inc., in the amount of \$886,393.28 for construction of the Project.
2. Approve Agreement No. 20-70 with Gentry Brothers, Inc., for construction of the Project.
3. Authorize an additional \$430,000 appropriation from SB1 proceeds including a \$90,000 construction contingency for costs related to construction of the Project.

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

**A. Recitals.**

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

**HOLT BOULEVARD PAVEMENT REHABILITATION PROJECT**

"PROJECT" hereinafter.

**B. Resolution.**

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

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

## AGREEMENT

specified in the Special Provisions or the Standard Specifications, whichever is higher, for each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

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

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

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

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

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

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

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

## AGREEMENT

- (4) Contractor's Protective - Property Damage \$500,000 each accident; \$1,000,000 aggregate.
  - (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
  - (6) Automobile - Property Damage \$500,000 each accident.
- c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
- (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
  - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
- d. Each such policy of insurance provided for in paragraph b. shall:
- (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
  - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
  - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
  - (4) Contain a clause substantially in the following words:  
  
"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
  - (5) Otherwise be in form satisfactory to CITY.
- e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.

## AGREEMENT

6. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

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

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

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

**AGREEMENT**

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

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

9. **CONTRACT PRICE AND PAYMENT**: CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **July 23, 2020**.

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

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

**CONTRACTOR**

**Gentry Brothers, Inc.**  
384 Live Oak Ave.  
Irwindale, CA. 91706

**CITY**

**City of Montclair, California**  
A Municipal Corporation

By: \_\_\_\_\_  
Wayne J. Gentry  
Secretary/Treasurer

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

**ATTEST:**

By: \_\_\_\_\_  
Steve Gentry  
President

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

**APPROVED AS TO FORM:**

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



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 17, 2020	<b>FILE I.D.:</b>	SEW500
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	N. CASTILLO

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 20-71, A MEMORANDUM OF UNDERSTANDING BETWEEN MUNICIPAL AGENCIES AND WATER SERVICE PROVIDERS WITHIN THE INLAND EMPIRE UTILITIES AGENCY SERVICE AREA TO PURSUE JOINT EFFORTS OF MUTUAL INTEREST AND BENEFIT RELATED TO REGIONAL WATER POLICY MATTERS

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-71, a Memorandum of Understanding (MOU) between municipal agencies and water service providers within the Inland Empire Utilities Agency (IEUA) service area to pursue joint efforts of mutual interest and benefit related to regional water policy matters.

A copy of proposed Agreement No. 20-71 is attached for City Council review and consideration.

**BACKGROUND:** The City of Montclair works in close partnership with other retail agencies and regional entities responsible for providing high-quality and low-cost water, wastewater, and recycled water services for residents and businesses to support public health, quality of life, and economic growth. Providing these services requires long-term capital project and financial planning, state and federal regulatory compliance, and partnerships with other local service providers and regional entities. The California Constitution requires that water and wastewater rates fund no more than the cost of providing service to our residential and business customers.

The City of Montclair works in close partnership with other retail agencies and regional entities to develop regional infrastructure, resource planning and management, and programs and services to meet each retail agency's policy goals and regulatory requirements cost-effectively and collaboratively.

Montclair is one of seven wastewater retail agencies that entered into a Regional Sewer Contract with Inland Empire Utilities Agency (IEUA) in 1973 to provide regional wastewater treatment and recycled water distribution. The contracting retail agencies retain rights to this drought-proof and locally controlled water resource, which is delivered directly to recycled water customers and recharged into the groundwater basin.

Regional partnerships offer water and wastewater retail agencies the opportunity to plan, develop, and manage water resources and services at least cost to local ratepayers. Montclair's management staff have worked with its fellow retail agencies to develop the proposed Regional Water Policy and Management MOU. The goal of the MOU is to improve mutually beneficial relationships between retail agencies and our regional partners that will ensure ratepayer funds are used effectively, efficiently, and with full accountability. The MOU commits its signatories to meet regularly, identify opportunities for improved regional water policy and management, and develop cost-sharing joint efforts for implementation by willing agencies. The MOU includes the following examples of potential joint efforts:



- Cost-sharing the development of each agency's 2020 Urban Water Management Plan, due for submittal to the state in June 2021. This cost-sharing arrangement could be expanded to other regional plans that either meet state requirements or support grant-funding opportunities.
- Independent evaluations of IEUA's Chino Basin Program and Watermaster's 2020 Optimum Basin Management Program Update.
- A review of IEUA rates and programs and services not directly related to imported water supply or wastewater treatment.
- Exploration of improved regional water management strategies and decision-making processes, including a Regional Water Contract similar to the existing Regional Sewer Contract.

The identified potential joint effort cost-sharing measures would be implemented by a separate letter of agreement. The MOU commits no funds from its signatories, and signatories may discontinue participation at any time upon written notice to other participants.

**FISCAL IMPACT:** There is no immediate fiscal impact to the City with the execution of the MOU. Some of the identified efforts are already budgeted and will have no impact on the City Budget. Any new agreements with fiscal impacts would be brought forth for Council consideration at a future date.

**RECOMMENDATION:** Staff recommends that the City Council approve Agreement No. 20-71, a MOU between municipal agencies and water service providers within the IEUA service area to pursue joint efforts of mutual interest and benefit related to regional water policy matters.

Regional Water Policy and Management  
 Memorandum of Understanding

This Memorandum of Understanding (“MOU”) is entered into effective September 1, 2020, between the undersigned retail drinking water, wastewater collection, and recycled water service (collectively, “water service”) providers within the Inland Empire Utilities Agency (“IEUA”) service area (collectively, “Retail Agencies”).

WHEREAS, Retail Agencies have provided safe, reliable, high-quality, and cost-effective water service to 850,000 residents and significant commercial and industrial sectors, facilitating economic growth and quality of life for our region’s residents and businesses; and

WHEREAS, Retail Agencies’ water service responsibilities include long-term water supply and financial planning including regional water resources policy, project implementation, and jointly operated regional infrastructure to meet the needs of current and future customers; and

WHEREAS, Retail Agencies have a fiduciary responsibility to their customers and are obligated under the California Constitution to set water and wastewater rates that fund no more than the cost of providing water service to our residential and business customers; and

WHEREAS, Retail Agencies have invested hundreds of millions of ratepayer dollars in significant local and regional water resources infrastructure, including domestic and recycled water distribution systems, wastewater collection and conveyance systems, groundwater production and treatment facilities, surface and imported water treatment facilities, groundwater recharge basins and injection wells, and interagency connections and transmission mains; and

WHEREAS, Retail Agencies fund the vast majority of the costs to administer the Chino Basin Judgment and implement the Optimum Basin Management Program to ensure access to sustainable, cost-effective, and locally controlled Chino Basin groundwater under the continuing jurisdiction of the San Bernardino Superior Court and the oversight of the Chino Basin Watermaster on behalf of the Court; and

WHEREAS, Retail Agencies have made significant collective investments in maintaining and enhancing the Safe Yield and the recharge and storage capacity of the Chino Basin, including development of facilities for the recharge of stormwater, imported water, and recycled water into the Basin, and retain the rights to these local water resources for the benefit of the public we serve; and

WHEREAS, Retail Agencies collectively have substantial ownership in common water resources and infrastructure, have numerous infrastructure interconnections, and have joined together under multiple joint powers authorities to work collaboratively, efficiently, and cost-effectively on local and regional water resource planning, development, and management projects; and

WHEREAS, Retail Agencies are required to comply with state water supply reliability and water use efficiency regulations, which may be done through regional collaboration subject to mutual agreement; and

WHEREAS, IEUA was originally formed as the Chino Basin Municipal Water District in 1950 in order to provide the region with access to imported water from Metropolitan Water District of Southern California to supplement and enhance local groundwater and surface water resources; and

WHEREAS, in 1973, IEUA’s role expanded under a Regional Sewer Contract with local wastewater agencies (“Contracting Agencies”) to provide regional wastewater treatment and recycled water distribution to its Contracting Agencies, who retain rights to this drought-proof and locally controlled water resource, through direct deliveries and groundwater recharge; and

WHEREAS, IEUA has more recently expanded its efforts into elective regional water management activities not directly related to imported water supply, including regional water supply and demand management planning, regional water use efficiency and education programs, and regional recharge basin management and coordination; and

WHEREAS, in 2016 the IEUA Board of Directors adopted Resolution 2016-6-7 establishing the Meter Equivalent Unit (MEU) Rate, charged monthly for each active retail water meter in the IEUA service area, to fund regional water management activities; and

WHEREAS, Retail Agencies desire an improved, mutually beneficial relationship between IEUA and Retail Agencies and among Retail Agencies that will ensure public ratepayer funds are used effectively, efficiently, and with full accountability to meet Retail Agencies’ water supply and demand management needs, policy priorities, and regulatory requirements while supporting regional solutions.

NOW, THEREFORE, the undersigned Retail Agencies do hereby commit to the following:

1. To meet on a reoccurring basis to discuss and collaborate on regional water policy matters and implementation efforts where the Retail Agencies have common interests and may seek similar objectives. As determined appropriate, these meetings may include elected policy-making representatives from the Retail Agencies’ respective City Councils and Boards of Directors. Representatives from other Chino Basin agencies, including IEUA, Chino Basin Watermaster, Chino Basin Water Conservation District, the City of Pomona, Jurupa Community Services District, and San Antonio Water Company may also be invited to attend.
2. To evaluate existing roles and responsibilities on regional water policy matters and implementation efforts with the goal of finding opportunities for improvement, including, but not limited to, stakeholder-driven planning processes, greater efficiencies, alignment of funding, common objectives and benefits, accountability to the public, local influence in regional efforts, and building mutual trust.

3. To identify and implement cost-sharing and cost-saving measures (“Joint Efforts”) of mutual interest and benefit to the Retail Agencies. Any such Joint Efforts shall be implemented by a separate letter of agreement that defines the effort, such as scope, cost, participating Retail Agencies, responsible administrating agency, and cost-sharing. While not a definitive list, examples of potential Joint Efforts include, but are not limited to, the following:
  - a. To share in the costs for the development of participating Retail Agencies’ respective 2020 Urban Water Management Plans.
  - b. To independently evaluate the water resources and economic business case for the proposed Chino Basin Program.
  - c. To independently evaluate projects and associated benefits proposed as part of the 2020 Optimum Basin Management Program Update.
  - d. To independently evaluate IEUA’s MEU Rate to ensure that the rate complies with state law and that funds are appropriately expended without duplication of efforts.
  - e. To explore improving regional water management strategies and decision-making processes.

This Memorandum of Understanding is a good faith commitment by the Retail Agencies to undertake items 1 through 3 above. Each individual Retail Agency may discontinue participation at any time upon written notification to the other Retail Agencies.

This MOU may be signed in identical counterparts, each of which shall be deemed to be an original and shall constitute one MOU.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 2020 by:

[signatures on next page]

City of Chino

---

Signature Date

Name:

Title:

City of Upland

---

Signature Date

Name:

Title:

City of Chino Hills

---

Signature Date

Name:

Title:

Cucamonga Valley Water District

---

Signature Date

Name:

Title:

City of Fontana

---

Signature Date

Name:

Title:

Fontana Water Company

---

Signature Date

Name:

Title:

City of Montclair

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Signature Date

Name:

Title:

Monte Vista Water District

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Signature Date

Name:

Title:

City of Ontario

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Signature Date

Name:

Title:



# CITY COUNCIL AGENDA REPORT

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**DATE:** AUGUST 17, 2020                      **FILE I.D.:** GRT500  
**SECTION:** CONSENT - RESOLUTIONS                      **DEPT.:** PUBLIC WORKS  
**ITEM NO.:** 1                                              **PREPARER:** N. CASTILLO  
**SUBJECT:** CONSIDER ACCEPTANCE OF THE CALTRANS SUSTAINABLE TRANSPORTATION  
PLANNING GRANT IN THE AMOUNT OF \$177,945 FOR THE SAN ANTONIO CREEK  
TRAIL MULTIMODAL CONNECTIVITY PLAN

CONSIDER ADOPTION OF RESOLUTION NO. 20-3284 AUTHORIZING THE CITY  
MANAGER TO EXECUTE AGREEMENTS WITH CALTRANS FOR THE SAN ANTONIO  
CREEK TRAIL MULTIMODAL CONNECTIVITY PLAN

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**REASON FOR CONSIDERATION:** The City Council is requested to consider accepting the award of the Caltrans Sustainable Transportation Planning Grant for the San Antonio Creek Trail Multimodal Connectivity Plan. City staff was successful in obtaining a grant for the connectivity plan. A local resolution is a requirement as a condition of the grant acceptance in order for the California Department of Transportation to award the grant.

**BACKGROUND:** The California Department of Transportation (Caltrans) released the request for applications for the Sustainable Transportation Planning Grant program grant funds in August 2019. The Sustainable Transportation Planning Grant Program was created to support the California Department of Transportation's (Caltrans) Mission: Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability.

The California Legislature passed, and Governor Edmund G. Brown Jr. signed into law, Senate Bill (SB) 1, the Road Repair and Accountability Act of 2017, a transportation funding bill that will provide a reliable source of funds to maintain and integrate the State's multi-modal transportation system. In addition to the \$9.5 million in traditional State and federal grants, approximately \$25 million in SB 1 funds for Sustainable Communities Grants is available for the Fiscal Year (FY) 2020-21 grant cycle. The SB 1 grant funding is intended to support and implement Regional Transportation Plan (RTP) Sustainable Communities Strategies (SCS) (where applicable) and to ultimately achieve the State's greenhouse gas (GHG) reduction target of 40 and 80 percent below 1990 levels by 2030 and 2050, respectively.

Increasing the City's park acreage will have multiple long-term benefits including encouraging physical activity, reducing chronic diseases, improving mental health, fostering community connections, and supporting community resilience to climate change and pollution, according to the California Healthy Places index.

City staff developed the grant application with the grant consultant Blais & Associates. The City will prepare the San Antonio Creek Trail Multimodal Connectivity Plan to determine the feasibility of a multimodal trail, designed for pedestrians and cyclists, along the San Antonio Creek Channel. The trail would extend approximately 3 miles in a north-south direction near the City's western boundary. Using compiled site data and stakeholder/community meeting input, an evaluation of major issues affecting the trail, such as commuting and recreational value, design standards, right-of way needs, safety, environmental issues, access points, maintenance, and funding will be conducted. The

planned trail location will provide a valuable alternative transportation connection to several nearby schools and colleges, parks, the Montclair Transcenter, the Montclair Place shopping center, and the regional Pacific Electric Trail, and is intended to encourage more residents to choose biking and walking as an alternative transportation option. This planning project aligns with local, state and regional efforts (Southern California Association of Governments) to contribute to healthier behaviors, and to reduce traffic trips and congestion, as well as reducing resultant greenhouse gases and other pollutants.

**FISCAL IMPACT:** Should the City Council accept the grant, the California Department of Transportation would grant the City \$177,945 for the development of San Antonio Creek Trail Multimodal Connectivity Plan. The grant conditional award is contingent on the City providing a Local Match of \$23,055. The city intends to use staff time to satisfy the Local Match requirement. The grant expiration is February 28, 2023.

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

1. Accept the Caltrans sustainable transportation planning grant in the amount of \$177,945 for the San Antonio Creek Trail Multimodal Connectivity Plan.
2. Adopt Resolution No. 20-3284 authorizing the City Manager to execute agreements with Caltrans for the San Antonio Creek Trail Multimodal Connectivity Plan.

RESOLUTION NO. 20-3284

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE CITY OF MONTCLAIR SAN ANTONIO CREEK TRAIL MULTIMODAL CONNECTIVITY PLAN

WHEREAS, the City of Montclair is eligible to receive Federal and/or State funding for certain transportation planning related plans through the California Department of Transportation; and

WHEREAS, a Restricted Grant Agreement is needed to be executed with the California Department of Transportation before such funds can be claimed through the Transportation Planning Grant Program; and

WHEREAS, the City of Montclair wishes to delegate authorization to execute these agreements and any amendments thereto to the City Manager or their designee.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby authorizes the City Manager, or their designee, to execute all Restricted Grant Agreements and any amendments thereto with the California Department of Transportation for the City of Montclair San Antonio Creek Trail Multimodal Connectivity Plan.

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. 20-3284 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