

## **NOTICE**

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

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

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

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

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

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

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

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

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

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

### **VERBAL PARTICIPATION USING ZOOM**

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

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

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

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

### **ADA COMPLIANCE INFORMATION**

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

## **PUBLIC COMMENT PROCEDURES**

### **MAKING VERBAL COMMENTS**

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

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

### **SUBMITTING WRITTEN COMMENTS**

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

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



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

**AGENDA**

Tuesday, September 8, 2020  
7:00 p.m.

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

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

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

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

**II. INVOCATION**

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

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS**

**VI. PUBLIC COMMENT**

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

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

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

**VII. PUBLIC HEARINGS — None**

**VIII. CONSENT CALENDAR**

**A. Approval of Minutes**

1. Regular Joint Meeting — August 17, 2020 [CC/SA/MHC/MHA/MCF]

B. Administrative Reports

1. Consider Setting a Public Hearing for Monday, September 21, 2020, at 7:00 p.m. to Consider Adoption of Resolution No. 20-3285 Approving Tentative Tract Map No. 20273 to Subdivide a 6.68-Acre Site into Six Numbered Parcels and One Lettered Lot for a Public Park; and Precise Plan of Design No. 2017-20 for a Mixed-Use Project Within the Station District of the North Montclair Downtown Specific Plan [CC] 6
  
2. Consider Setting a Public Hearing for Monday, September 21, 2020, at 7:00 p.m. to Consider the Following:
  - Adoption of Resolution No. 20-3288 Approving and Certifying the Final Environmental Impact Report for the Montclair Place District Specific Plan and Adopting a Statement of Overriding Considerations and a Mitigation Monitoring Program (Case No. 2018-13) [CC]
  - Adoption of Resolution No. 20-3289, a General Plan Amendment Changing the Land Use Designation for 104.35 Acres Bounded by and Including the Right-of-Way of Monte Vista Avenue on the West, the I-10 Freeway on the South, the Right-of-Way of Central Avenue on the East, and the Existing Centerline of Moreno Street on the North (31 Parcels) from "Regional Commercial" to "Planned Development" [CC]
  - Adoption of Resolution No. 20-3290, an Amendment to Remove 104.35 Acres from Within the Boundaries of the North Montclair Specific Plan [CC]
  - First Reading of Ordinance No. 20-991, an Amendment to the Official Zoning Map Changing the Land Use Designation of 104.35 Acres of the North Montclair Specific Plan Bounded by and Including the Right-of-Way of Monte Vista Avenue on the West, the I-10 Freeway on the South, the Right-of-Way of Central Avenue on the East, and the Existing Centerline of Moreno Street on the North (31 Parcels) from "C-3" (General Commercial) to "Specific Plan" [CC]
  - First Reading of Ordinance No. 20-992 Adopting the Montclair Place District Specific Plan for a 104.35-Acre Site Bounded by and Including the Right-Of-Way of Monte Vista Avenue on the West, the I-10 Freeway on the South, the Right-of-Way of Central Avenue on the East, and the Existing Centerline of Moreno Street on the North (31 Parcels) Under Case No. 2018-13 [CC] 17
  
3. Consider Setting a Public Hearing for Monday, September 21, 2020, at 7:00 p.m. to Consider First Reading of Ordinance No. 20-993 Amending the Qualifications to Serve on the Montclair Planning Commission [CC] 28
  
4. Consider Acceptance of Grant Deed No. 1680, an Easement for Construction, Maintenance, and Use of Sidewalk Located on Brooks Street East of Ramona Avenue (Assessor's Parcel Nos. 1012-082-07 and 1012-082-08) [CC]
  - Consider Authorizing Staff to Record Grant Deed No. 1680 with the Office of the San Bernardino County Recorder [CC] 31
  
5. Consider Approval of Parcel Merger No. 2020-2 for Two Parcels Generally Located on the South Side of Brooks Street East of Ramona Avenue [CC] 35

- 6. Consider Authorizing an Additional Appropriation of \$19,150 from Bond Proceeds for Costs Related to Construction of the City of Montclair City Hall Remodel Phase 2 Project [CC]  
Consider Approving the Filing of a Notice of Completion of Contract with Rasmussen Brothers, Inc., for Construction of the City of Montclair City Hall Remodel Phase 2 Project [CC]  
Consider Authorizing Release of Retention 30 Days After Recordation of Notice of Completion [CC] 42
- 7. Consider Approval of Warrant Register & Payroll Documentation [CC] 44

C. Agreements

- 1. Consider Approval of Agreement Nos. 20-72, 20-73, and 20-74 with the County of San Bernardino to Provide for the Receipt of Grant Funds from the 2017, 2018, and 2019 Justice Assistance Grant Awards [CC]  
Consider Authorizing City Manager Edward C. Starr to Sign Said Agreement [CC] 45
- 2. Consider Approval of Agreement No. 20-75 with the County of San Bernardino Related to Distribution of 2020 Justice Assistance Grant Program Award Funds [CC]  
Consider Authorizing City Manager Edward C. Starr to Sign Said Agreement [CC] 135
- 3. Consider Approval of Agreement No. 20-78 with the San Bernardino County Registrar of Voters Related to the Installation of Secure Mail Ballot Drop Boxes on City Property [CC] 156
- 4. Consider Amending the 2019-2024 Capital Improvement Program to Include the Reeder Ranch Park Project [CC]  
Consider Authorizing a \$371,965 Appropriation from the Statewide Park Development and Community Revitalization Program Grant Fund for Construction of the Reeder Ranch Park Project [CC]  
Consider Approval of Agreement No. 20-79 with EPT Design for Design Services for the Reeder Ranch Park Project [CC] 179

D. Resolutions

- 1. Consider Adoption of Resolution No. 20-3286 Adopting a Five-Year Capital Project Needs Analysis [CC]  
Consider Adoption of Resolution No. and 20-3287 Adopting a Five-Year Local Street Capital Improvement Program [CC] 240

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. COMMUNICATIONS**

A. Department Reports

B. City Attorney

- 1. Request for City Council to Meet in Closed Session Pursuant to Government Code §54956.9(d)(1) Regarding Pending Litigation [CC]

*Cook v. City of Montclair*

*Molitor v. City of Montclair*

- C. City Manager/Executive Director
  - 1. COVID-19 Update
  - 2. Re-Opening of City Facilities
- D. Mayor/Chairperson
- E. Council Members/Directors
- F. Committee Meeting Minutes *(for informational purposes only)*
  - 1. Public Works Committee Meeting — July 16, 2020 [CC]

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## **XI. ADJOURNMENT**

*The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, September 21, 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, September 3, 2020.*



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	SEPTEMBER 8, 2020	<b>FILE I.D.:</b>	ENV075
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	COMMUNITY DEV.
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	M. DIAZ
<b>SUBJECT:</b>	CONSIDER SETTING A PUBLIC HEARING FOR MONDAY, SEPTEMBER 21, 2020, AT 7:00 P.M. TO CONSIDER ADOPTION OF RESOLUTION NO. 20-3285 APPROVING TENTATIVE TRACT MAP NO. 20273 TO SUBDIVIDE A 6.68-ACRE SITE INTO SIX NUMBERED PARCELS AND ONE LETTERED LOT FOR A PUBLIC PARK; AND PRECISE PLAN OF DESIGN NO. 2017-20 FOR A MIXED-USE PROJECT WITHIN THE STATION DISTRICT OF THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN		

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**REASON FOR CONSIDERATION:** Staff is requesting the City Council set a public hearing for Monday, September 21, 2020, at 7:00 p.m. to consider adoption of Resolution No. 20-3285 for the above-referenced tract map and Precise Plan of Design proposed for *The Village at Montclair* mixed-use development project. Final review authority for all entitlements associated with development projects within the boundaries of the *North Montclair Downtown Specific Plan* (NMDSP) lies with the City Council. A copy of proposed Resolution No. 20-3285 will be available to review prior to the public hearing date.

**BACKGROUND:** *The Village at Montclair* project, initiated by Village Partners Ventures LLC, is a proposed mixed-use development project on 6.68 acres of land within the NMDSP. Overall, the project entails the development of approximately 373,660 square feet of new residential and commercial space (not including the parking garage). The commercial ground floor lease space is approximately 25,143 square feet in area. The residential component of the project includes a maximum of 360 dwelling units, including 330 permanent apartment units, and 30 additional Flex Units used as interim residences within the ground floor commercial lease space of each building. The project also features a multi-level parking structure, the dedication of a 0.22-acre site for a public park, and public pedestrian easements to link the project to the Arrow Station project to the west and the Montclair Transcenter to the north side of the site. Copies of the plans for the project have been distributed to the City Council and are also available to view on the City's website at:

<https://www.cityofmontclair.org/comfit/cd/2020-08-24-VAM-VP.pdf>

On August 24, 2020, the Planning Commission conducted a public hearing on the proposed project and, by a vote of 5-0, recommended City Council approval of the project (Case No. 2017-20) pursuant to Planning Commission Resolution No. 20-1942.

**FISCAL IMPACT:** Other than the costs to advertise the hearing date in the *Inland Valley Daily Bulletin* at a cost not expected to exceed \$500, setting a public hearing in relation to Resolution No. 20-3285 would have no fiscal impact to the City's General Fund.

**RECOMMENDATION:** Staff recommends the City Council set a public hearing for Monday, September 21, 2020, at 7:00 p.m. to consider adoption of Resolution No. 20-3285 approving Tentative Tract Map No. 20273 to subdivide a 6.68-acre site into six numbered lots and one lettered lot for a public park; and Precise Plan of Design No. 2017-20 to develop a mixed-use project within the Station District of the *North Montclair Downtown Specific Plan*.

**RESOLUTION NO. 20-1942**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL APPROVAL OF TENTATIVE TRACT MAP NO. 20273, A SIX-LOT SUBDIVISION OF 6.68 ACRES OF LAND, AND THE PRECISE PLAN OF DESIGN RELATED TO THE VILLAGE AT MONTCLAIR MIXED-USE DEVELOPMENT PROJECT LOCATED AT 5050 ARROW HIGHWAY, APN 1007-701-01 (CASE NO. 2017-20)**

**WHEREAS**, Village Partners Ventures, LLC on behalf of the Miriam A. Kendal Trust (current Property Owner), filed an application on January 23, 2017, for a Tentative Tract Map, and Precise Plan of Design under Case No. 2017-20 (Application) in conjunction with a proposal to construct a mixed-use development on 6.68 acres (gross), currently addressed as 5050 Arrow Highway; and

**WHEREAS**, the proposed mixed-use project is named *The Village at Montclair*; and

**WHEREAS**, the subject site is located within the "Station District" land use district of the North Montclair Downtown Specific Plan (NMDSP); and

**WHEREAS**, the subject site is currently vacant with an existing metal warehouse building, a paved parking area, and vacant land; and

**WHEREAS**, the objective of the NMDSP is to introduce urban style residential and mixed-use projects to the area and begin the process of creating a "downtown" environment with walkable neighborhoods, local retail and service businesses, and convenient access to rail transit, and

**WHEREAS**, Tentative Tract Map No. 20273 would subdivide the 6.68-acre project site into six (6) lots and one (1) lettered lot (public park) for the project, as depicted on the attached Exhibit "A," a map incorporated herein by reference; and

**WHEREAS**, the proposed subdivision provides public easements to facilitate pedestrian access between project and existing development to the west and the Montclair Transcenter to the north of the site; and

**WHEREAS**, the Precise Plan of Design is for the overall site plan, floor plans, elevations, colors, materials, conceptual landscape plan, and associated site plan improvements for the proposed mixed-use project; and

**WHEREAS**, the mixed-use project designed to provide approximately 25,143 square feet of ground level commercial lease space and a maximum of 360 apartment units consisting of 330 permanent apartments and 30 Flex Units for use as interim residential units within the ground level commercial lease space, as generally depicted in Exhibit B; and

**WHEREAS**, the proposed mixed-use development consists of four multi-story buildings ranging from three to five stories in height, one of which includes a five-level parking structure, and

**WHEREAS**, the proposed development plan also includes a dedicated 0.22-acre site for development of a public park; and

**WHEREAS**, the tract map and subsequent development of the site with a mixed-use project, complies with the guidelines and development standards outlined in the NMDSP; and

**WHEREAS**, the NMDSP requires final City Council review and approval of all entitlements for projects within the boundary of the NMDSP; and

**WHEREAS**, the Planning Commission finds the requested entitlements to be consistent with the adopted General Plan, the NMDSP, and good planning principles; and

**WHEREAS**, on March 20, 2017, the City Council certified Supplemental Environmental Impact Report (SCH# 2016101001) ("SEIR") for the updated and amended North Montclair Downtown Specific Plan (hereafter Specific Plan); and

**WHEREAS**, in connection with its consideration of the SEIR, the City Council adopted a Mitigation Monitoring and Reporting Program, and adoption of a Statement of Overriding Considerations for the updated and amended Specific Plan; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) Guidelines, the City certified a Supplemental Environmental Impact Report (SEIR) on March 20, 2017, in connection with the City's approval of an amended and updated North Montclair Downtown Specific Plan which included the subject site and anticipated improvements. According to Government Code Section 65457 and State CEQA Guidelines Section 15182, where a public agency has prepared an EIR on a Specific Plan after January 1, 1980, no EIR or negative declaration need be prepared for a project undertaken pursuant to and in conformity to that specific plan. The proposed mixed-use project is in conformity to the Amended North Montclair Downtown Specific Plan, for which an EIR was certified in 2017; and

**WHEREAS**, all potentially significant environmental impacts of the proposed project that could be mitigated to less than significant levels would be mitigated to less than significant levels with mitigation measures contained in the Mitigation Monitoring and Reporting Program for the North Montclair Downtown Specific Plan EIR. There are no



changes to the significant and unavoidable impacts disclosed in the EIR. In sum, the project would not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant. As such, none of the conditions listed in Section 15162 of the CEQA Guidelines requiring the preparation of a subsequent or supplemental EIR are present and the second criterion of State CEQA Guidelines, Section 15182 can be satisfied. Therefore, the proposed project qualifies for the exemption for mixed-use residential projects described in Section 15182 of the state CEQA; and

**WHEREAS**, on August 1, 2020, public notice of Planning Commission of the City of Montclair (“Planning Commission”) review of the project was published in the Inland Valley Daily Bulletin, and notices were mailed to property owners within a 300-foot radius from the boundaries of the subject site; and

**WHEREAS**, on August 10, 2020, the Planning Commission opened the project for public comment and then at City staff request continued its review of the proposed Application to its next regularly scheduled meeting date on August 24, 2020; and

**WHEREAS**, on August 24, 2020, the Planning Commission of the City of Montclair conducted a duly noticed public hearing on the Application at which time all persons wishing to testify in connection with the Application were heard and the Application was comprehensively reviewed; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RESOLVES AS FOLLOWS:**

SECTION 1. Based upon the facts and information contained in the Application, together with all written and oral reports included for the environmental assessment for the Application, the Planning Commission recommends that the City Council find that the proposed project is exempt from further environmental review pursuant to State CEQA Guidelines, section 15182 based on the following findings of fact:

- A. On March 20, 2017, the City Council certified a Supplemental Environmental Impact Report (SEIR) for the amended and updated North Montclair Downtown Specific Plan project.
- B. The proposed mixed-use project consists of 25,143 square feet of ground level commercial lease space with a maximum of 360 apartment units and is undertaken pursuant to and in conformity with the NMDSP. The particular Application subject to this resolution is a land subdivision to support the residential project.

- C. None of the conditions requiring subsequent environmental review called out in State CEQA Guidelines, section 15162 are present. Specifically,
1. Substantial changes are not proposed in the project that would require major revisions of the SEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
  2. Substantial changes with respect to the circumstances under which the project is undertaken that would require major revisions to the SEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects have not occurred; and
  3. New information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the SEIR was certified or adopted, as applicable, showing any of the following, has not come to light: (i) that the project would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the applicant declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those previously analyzed would substantially reduce one or more significant effects on the environment, but which the applicant declined to adopt.
- D. Based on these findings and all evidence in the record, the Planning Commission recommends the City Council find that the project is exempt from CEQA pursuant to State CEQA Guidelines, section 15182 and no additional environmental review is required in connection with the City's consideration of Case No. 2017-20 for *The Village at Montclair* mixed-use development.

SECTION 2. Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings set forth in this Resolution, the Planning Commission recommends the City Council approve Tentative Parcel Map No. 20273 as depicted in Exhibit "A", subject to the conditions of approval contained in Exhibit "C", the Draft City Council Resolution No. 20-3285 prepared for the project under Case No. 2017-20.

SECTION 3. Pursuant to California Government Code Section 66410 et seq., based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission finds as follows:

- A. The proposed subdivision is designed, to the extent feasible, to provide for passive or natural heating or cooling opportunities. Proposed buildings on the site are generally oriented, spaced, and designed to allow for access to adequate light and air. Each unit will have operable windows to allow for passive cooling provided by seasonal winds. Moreover, the project includes a public open space area at the center of the project site, and several private open space areas dispersed throughout the development in the form of courtyards at each building, and community access to a pool. Moreover, the project will provide tree-lined streets and a public park for shade, air filtering, and other environmental benefits.
- B. The proposed subdivision and the provisions for its design and improvement are consistent with the General Plan for the City of Montclair ("General Plan") and the applicable NMDSP:
  - 1. The Tentative Tract Map would provide for land uses compatible with the land use classification for the subject site by the General Plan and NMDSP. The overall goal of the General Plan is to promote good planning practices and orderly development within the City and to recognize the potential of specific areas for special treatment. The proposed development of the 6.68-acre site and project design and improvements would be consistent with the General Plan land use designation for the site.
  - 2. The Tentative Tract Map provides for land uses compatible with the "Station District" land use classification for the subject site in the NMDSP. Moreover, the design for the project includes high-quality public improvements consistent with the high expectations of improvements for projects within the NMDSP.
- C. The subject site is physically suitable for the type and density of development proposed in the Tentative Tract Map given the overall size of the property. The site is 6.68 acres in overall area and is of a configuration that has sufficient width and depth to allow for orderly site development, the provision of open space areas between the proposed structures in the project, and sufficient setbacks from the adjacent single-family residential properties located to the west at the Arrow Station residential community. The project site is also located adjacent to fully improved streets that will provide good access and allow for appropriate internal pedestrian and vehicular circulation. The proposed public streets within the project boundaries will be fully improved and serve to implement the eventual goal of a linked-street system that promotes walkability and connectivity to

adjacent properties and uses, including a direct link to the Montclair Transcenter.

- D. The subdivision design and improvements proposed in the Tentative Tract Map is not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat. As explained in the North Montclair Downtown Specific Plan Supplemental Environmental Impact Report (SCH#2016101001) ("SEIR"), the site is surrounded by urban development and streets, does not contain any bodies of water, and is not linked to any wildlife corridors. Further the SEIR explains the site does not contain any known habitats of significance including rare or endangered species of plant, animal, or insect life.
- E. The subdivision design and type of improvements proposed in the Tentative Tract Map are not likely to cause serious public health problems because all development and public improvements will be subject to the requirements of all applicable standards and codes including the zoning and building codes. As a condition of approval, the developer is also required to submit an acoustical analysis demonstrating that interior noise standards of each unit will comply with Municipal Code requirements and applicable Mitigation Measures identified in the SEIR.
- F. The subdivision design and type of improvements proposed in the Tentative Tract Map will not conflict with any easements acquired by the public at large for access through or use of the subject site because no such easements exist on the subject site. However, the map provides for new public easements specifically intended to allow for public access at key points in the new plan, and in particular to facilitate pedestrian public access from the site to the Montclair Transcenter.
- G. The discharge of waste into the existing sanitary sewer system from the development proposed in the Tentative Tract Map will not cause a violation of existing requirements prescribed by the Regional Water Quality Control Board. The entire project will be required to connect to a sanitary sewage system pursuant to California Plumbing Code and Municipal Code requirements. Sewer mains exist in the Arrow Highway right-of-way and are in close proximity to the site to facilitate ease of connection.

SECTION 4. Based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning Commission makes the following findings regarding the Precise Plan of Design for *The Village at Montclair* mixed-use development:

- A. The proposed mixed-use project is consistent with the "Planned Development" land use designation of the City's General Plan Land Use Map, and the Station District (SD) land use designation of the NMDSP.

The intent of SD land use district is to establish a denser, urban-oriented, fabric of buildings appropriate for locations in close proximity to new and existing roadways. Moreover, the NMDSP depicts the site as the focal point of the plan given its central location and planned connection point to the Montclair Transcenter. When the aforementioned connection point is complete, the properties on south side of the existing railway will have a physical pedestrian linked with the properties to the north. Lastly, the mixed-use development on subject site will serve as a catalyst to further attractive urban development on Arrow Highway.

- B. The proposed project would result in a significant improvement to the appearance of the area by redeveloping an underutilized area within the NMDSP into a well-designed mixed-use development, which makes efficient use of the site and complies with the intent and applicable development standards of the NMDSP. The 360 dwelling units proposed with this project amounts to 61 units per acre, which meets the low end of the density range for the SD district and highest density level achieved to date within the NMDSP planning area.
- C. The site plan, building form, massing, and height will contribute to the ongoing formation of the streetscape and development pattern envisioned by the NMDSP. The proposed mix and design of the three, four, and five-story buildings and their arrangement on the site will contribute to the ongoing transformation and improvement of the Arrow Highway streetscape.
- D. The proposed architectural design of the project as indicated on the submitted plans is well done, attractive, and complementary to recent development in the area. The design is consistent with the architectural style guidelines encouraged by the NMDSP, and features high-quality exterior materials and finishes and incorporates appropriate lighting and landscape materials to give the project a distinctive and attractive appearance.

SECTION 5. Pursuant to section 66412.3 of the Government Code, based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission finds the subdivision and improvements proposed in the Tentative Tract Map will assist the City of Montclair meet its regional housing needs because the proposed map and subsequent development of housing units pursuant to the goals of NMDSP involves the redevelopment of a large underutilized parcel for mixed-use development and advances the goal creating a walkable area of high-density residential uses in direct proximity to transit and shopping opportunities for future residents.

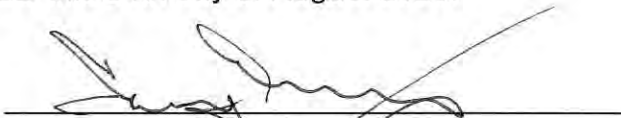
SECTION 6. Based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning

Commission finds the nature and extent of the dedications, reservations, impact fees, and other exactions are reasonably related to public needs and roughly proportional to the impacts created by the subdivision and improvements proposed in the Tentative Tract Map. The proposed conditions are typical of any subdivision of land and necessary to support the subsequent mixed-use development of the site (local serving commercial retail and residential units) as intended by the NMDSP. Street improvements, sanitary sewer connections, and associated impact fees are commensurate with the needs and impacts associated with the development of underutilized property for new uses.

SECTION 7. The location and custodian of the documents and any other material, which constitute the record of proceedings upon which the City Council based its decision, is as follows: Director of Community Development, Community Development Department, City of Montclair, 5111 Benito Street, Montclair, California 91763, or by telephone at (909) 625-9477.

SECTION 8. Effective Date. This Resolution shall become effective upon its adoption.

APPROVED AND ADOPTED this 24th day of August 2020.

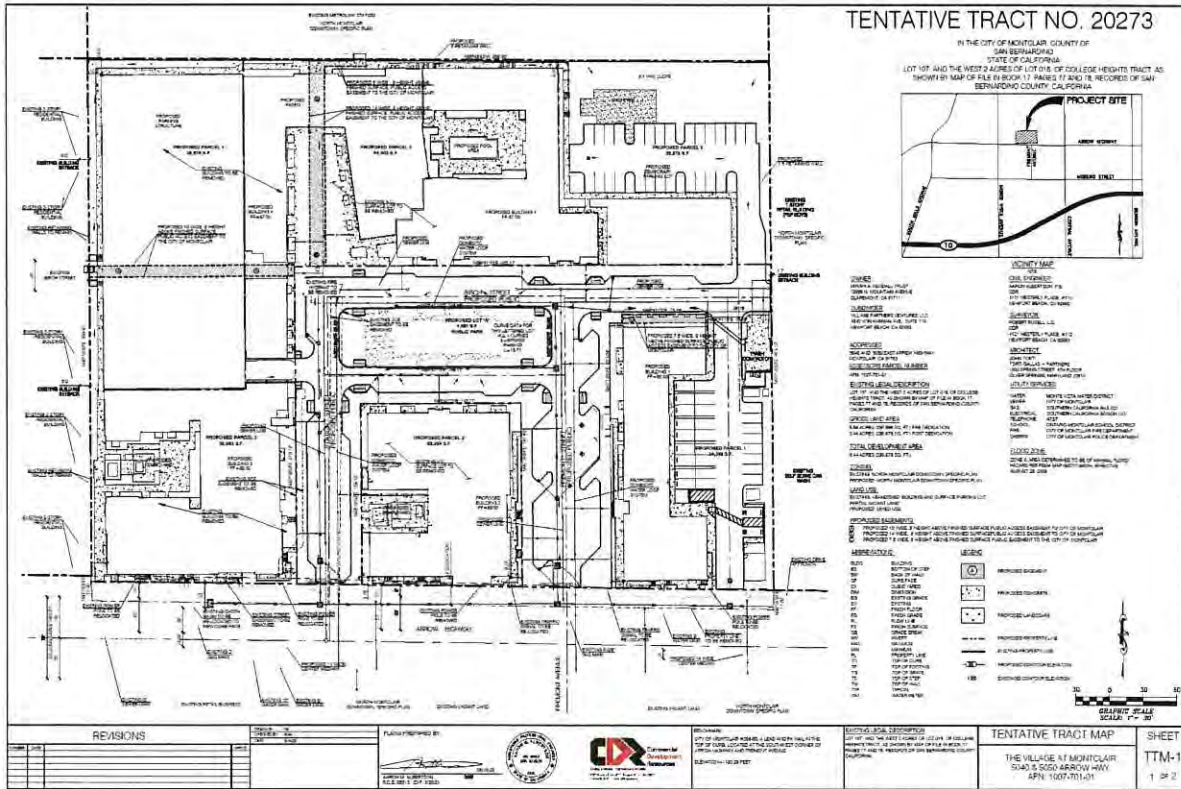
  
Barry Rowley, Chair

ATTEST:

  
Michael Diaz, Secretary

Exhibit A

Case No. 2017-20



# Exhibit B

Case No. 2017-20



- General Treatment
- Unimproved Parking
- Area of Work
- Site Name
- Revised Plan
- Unit (Circle & Corridor Block)
- Terrace Access Walk
- Decking/Gravel Surface
- Deck or Plaza (Colored)
- Parking Area
- Car Wash
- Pool
- Spa
- Gym
- Theater
- Screening Hall
- Recreation Park
- Pet Park
- Children's Play Area
- Office
- Restaurant
- Grocery Store
- Management Office
- Courtyard/Plaza Area
- Mail Room
- Bank
- Retail
- Dining Room
- Bar
- Storage
- Utility

Tortl Gallas + Partners  
Town Planners and Architects

AHBE  
Landscape Architects

THE VILLAGE AT MONTCLAIR  
MONTCLAIR, CA  
AUGUST 19, 2020

VILLAGE PARTNERS, INC.  
Developer

## First Floor Plan



- ★ FLEX UNIT LIVESTOCK, RETAIL OR OFFICE (LEASING RESTRICTION PER COA) (TOTAL SF 2,212 SF)
- ★ FLEX UNIT APARTMENT, LIVESTOCK, RETAIL OR OFFICE (LEASING RESTRICTION PER COA) (TOTAL SF 2,917 SF)
- APARTMENTS
- PRIME POTENTIAL COMMERCIAL RESTAURANT LOCATIONS
- FLEX UNIT APT, RETAIL OR OFFICE

Tortl Gallas + Partners  
Town Planners and Architects

THE VILLAGE AT MONTCLAIR  
MONTCLAIR, CA  
AUGUST 19, 2020

VILLAGE PARTNERS, INC.  
Developer





# CITY COUNCIL AGENDA REPORT

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**DATE:** SEPTEMBER 8, 2020                      **FILE I.D.:** ENV075/LDU457/LDU462  
**SECTION:** CONSENT - ADMIN. REPORTS                      **DEPT.:** COMMUNITY DEV.  
**ITEM NO.:** 2    **PREPARER:** M. DIAZ  
**SUBJECT:** CONSIDER SETTING A PUBLIC HEARING FOR MONDAY, SEPTEMBER 21, 2020, AT 7:00 P.M. TO CONSIDER THE FOLLOWING:

ADOPTION OF RESOLUTION NO. 20-3288 APPROVING AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MONTCLAIR PLACE DISTRICT SPECIFIC PLAN AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING PROGRAM (CASE NO. 2018-13)

ADOPTION OF RESOLUTION NO. 20-3289, A GENERAL PLAN AMENDMENT CHANGING THE LAND USE DESIGNATION FOR 104.35 ACRES BOUNDED BY AND INCLUDING THE RIGHT-OF-WAY OF MONTE VISTA AVENUE ON THE WEST, THE I-10 FREEWAY ON THE SOUTH, THE RIGHT-OF-WAY OF CENTRAL AVENUE ON THE EAST, AND THE EXISTING CENTERLINE OF MORENO STREET ON THE NORTH (31 PARCELS) FROM "REGIONAL COMMERCIAL" TO "PLANNED DEVELOPMENT"

ADOPTION OF RESOLUTION NO. 20-3290, AN AMENDMENT TO REMOVE 104.35 ACRES FROM WITHIN THE BOUNDARIES OF THE NORTH MONTCLAIR SPECIFIC PLAN

FIRST READING OF ORDINANCE NO. 20-991, AN AMENDMENT TO THE OFFICIAL ZONING MAP CHANGING THE LAND USE DESIGNATION OF 104.35 ACRES OF THE NORTH MONTCLAIR SPECIFIC PLAN BOUNDED BY AND INCLUDING THE RIGHT-OF-WAY OF MONTE VISTA AVENUE ON THE WEST, THE I-10 FREEWAY ON THE SOUTH, THE RIGHT-OF-WAY OF CENTRAL AVENUE ON THE EAST, AND THE EXISTING CENTERLINE OF MORENO STREET ON THE NORTH (31 PARCELS) FROM "C-3" (GENERAL COMMERCIAL) TO "SPECIFIC PLAN"

FIRST READING OF ORDINANCE NO. 20-992 ADOPTING THE MONTCLAIR PLACE DISTRICT SPECIFIC PLAN FOR A 104.35-ACRE SITE BOUNDED BY AND INCLUDING THE RIGHT-OF-WAY OF MONTE VISTA AVENUE ON THE WEST, THE I-10 FREEWAY ON THE SOUTH, THE RIGHT-OF-WAY OF CENTRAL AVENUE ON THE EAST, AND THE EXISTING CENTERLINE OF MORENO STREET ON THE NORTH (31 PARCELS) UNDER CASE NO. 2018-13

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**REASON FOR CONSIDERATION:** The adoption of a Specific Plan and approval of related environmental impact reports require a public hearing review and consideration by the City Council. Staff is requesting the City Council set a public hearing for Monday, September 21, 2020, at 7:00 p.m. to consider items associated with the adoption of the proposed *Montclair Place District Specific Plan*.

**BACKGROUND:** In 1998, the City adopted the *North Montclair Specific Plan* (NMSP) that established the framework for development in the area of the City laying largely north of the I-10 Freeway, including the Plan Area anchored by the Montclair Place mall (formerly Montclair Plaza). The proposed *Montclair Place District Specific Plan* (MPDSP) presents the new vision for a Plan Area that is approximately 104.35 acres in size and includes the existing mall and the immediate area that surrounds it (Exhibit A). The primary goal of the MPDSP is to create a pedestrian-oriented, multi-modal, mixed-use

downtown district within walking and biking distance of the Montclair Transcenter. The MPDSP includes new land use designations, regulations, development standards and design guidelines for future development. As such, the MPDSP will enable the future development of commercial, multifamily residential, hotel, and mixed-use projects by creating new land use zones for parcels within the Plan Area and provide form-based code development standards and architectural guidelines to guide development within the MPDSP area through 2040.

The proposed project would require the following discretionary approvals:

1. Certification and Adoption of the Final EIR (Resolution No. 20-3288)
2. General Plan Amendment (GPA) (Resolution No. 20-3289)
3. Specific Plan Amendment (Resolution No. 20-3290)
4. Zone Change (Ordinance No. 20-991)
5. Approval of the MPDSP (Ordinance No. 20-992)

In accordance with state law, the City of Montclair released for public review and comment a Draft Environmental Impact Report (DEIR) on July 10, 2020. The 45-day public comment period ran from July 10, 2020, to August 24, 2020. The DEIR and the proposed MPDSP documents are currently available for review on the City's website at

<https://www.cityofmontclair.org/city-government/community-development/planning-division/current-projects-in-montclair>

On August 10, 2020, the Planning Commission reviewed the proposed Montclair Place District Specific Plan, and DEIR prepared for the project. The Planning Commission received public comments and, by a unanimous 5-0 vote, recommended that the City Council certify the proposed FEIR and approve the proposed MPDSP pursuant to Planning Commission Resolution No. 20-1943.

The proposed Resolutions and Ordinances will be made available for City Council review and consideration prior to the hearing date.

**FISCAL IMPACT:** Other than the costs to advertise the hearing date in the *Inland Valley Daily Bulletin* at a cost not expected to exceed \$500, setting a public hearing in relation to the above-referenced items would have no fiscal impact to the City's General Fund.

**RECOMMENDATION:** Staff recommends the City Council set a public hearing for Monday, September 21, 2020, at 7:00 p.m. to consider the following:

1. Adoption of Resolution No. 20-3288 approving and certifying the Final Environmental Impact Report for the Montclair Place District Specific Plan and adopting a statement of overriding considerations and a mitigation monitoring program (Case No. 2018-13).
2. Adoption of Resolution No. 20-3289, a General Plan Amendment changing the Land Use Designation for 104.35 acres bounded by and including the right-of-way of Monte Vista Avenue on the west, the I-10 Freeway on the south, the right-of-way of Central Avenue on the east, and the existing centerline of Moreno Street on the north (31 parcels) from "Regional Commercial" to "Planned Development."
3. Adoption of Resolution No. 20-3290, an amendment to remove 104.35 acres from within the boundaries of the North Montclair Specific Plan.

4. First Reading of Ordinance No. 20-991, an amendment to the official Zoning Map changing the Land Use Designation of 104.35 acres of the North Montclair Specific Plan bounded by and including the right-of-way of Monte Vista Avenue on the west, the I-10 Freeway on the south, the right-of-way of Central Avenue on the east, and the existing centerline of Moreno Street on the north (31 parcels) from "C-3" (General Commercial) to "Specific Plan."
5. First Reading of Ordinance No. 20-992 adopting the Montclair Place District Specific Plan for a 104.35-acre site bounded by and including the right-of-way of Monte Vista Avenue on the west, the I-10 Freeway on the south, the right-of-way of Central Avenue on the east, and the existing centerline of Moreno Street on the north (31 parcels) under Case No. 2018-13.

**RESOLUTION NO. 20-1943**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING THAT THE CITY COUNCIL MAKE FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2019050011) FOR THE PROJECT, AND ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, A MITIGATION MONITORING PROGRAM, A GENERAL PLAN AMENDMENT, A ZONE CHANGE, A SPECIFIC PLAN AMENDMENT, AND A NEW SPECIFIC PLAN CALLED THE MONTCLAIR PLACE DISTRICT SPECIFIC PLAN FOR THE PROPERTY (CASE NO. 2018-13)**

**WHEREAS**, on November 2, 2017, the City initiated the process to develop a new Specific Plan for the Montclair Place mall and surrounding properties in order to lay the framework for the creation of a new pedestrian-oriented, multi-modal, mixed-use downtown district to be known as the *Montclair Place District Specific Plan* (MPDSP); and

**WHEREAS**, MPDSP encompasses 31 parcels totaling approximately 104.35 acres (Plan Area) bounded by and includes the right-of-way of Monte Vista Avenue on the west, the I-10 Freeway on the south, Central Avenue on the east, and the existing center line of Moreno Street on the north; as depicted in Exhibit "A"; and

**WHEREAS**, the MPDSP would replace the existing C-3 zoning of the North Montclair Specific Plan (NMSP) for project site and introduce new mixed-use zones, to enable the future development of commercial, office, multi-family residential, hotel, and mixed-use projects within walking and biking distance of the nearby Montclair Transcenter; and

**WHEREAS**, a key feature of the MPDSP would provide for the demolition of all or a portion, of the existing mall, some, or all, appurtenant free-standing outbuildings, and portions of the existing surface parking lots, to construct a pedestrian-oriented, mixed-use downtown district, with structured parking facilities through a series of planned phases; and

**WHEREAS**, the proposed maximum number of dwelling units for the Plan Area envisioned under the MPDSP is approximately 5 million square feet of residential uses (or 6,321 dwelling units); and

**WHEREAS**, the total additional commercial square footage envisioned under the MPDSP is approximately 512,000 square feet. Additionally, the MPDSP includes provisions for the construction of a hotel with approximately 100 to 200 rooms; and

**WHEREAS**, the subject parcels within the 104.35-acre Plan Area are currently designated by the General Plan Land Use Map as "Regional Commercial" and has a corresponding consistent zoning designation of "C3 General Commercial" per the NMSF; and

**WHEREAS**, the proposed Project requires a general plan amendment, zone change, and specific plan amendment to facilitate the adoption and implementation of the MPDSP; and

**WHEREAS**, the subject site is largely developed with existing commercial retail and restaurant uses in large and small structures, and associated parking fields; and

**WHEREAS**, the Project is a "project" under the California Environmental Quality Act (Pub. Resources Code §§ 21000 et seq.: "CEQA"); and

**WHEREAS**, pursuant to Section 21067 of the Public Resources Code, and Section 15367 of the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City is the lead agency for the proposed MPDSP Project which includes the above described action; and

**WHEREAS**, in accordance with State CEQA Guidelines section 15063, the City prepared an Initial Study to determine if the Project could have a significant effect on the environment; and

**WHEREAS**, the IS/NOP was issued for a 30-day review period between May 20, 2019 and June 18, 2019, in accordance with State CEQA Guidelines section 15082(a) and eight (8) comment letters/emails were received during the IS/NOP review period; and

**WHEREAS**, pursuant to Public Resources Code section 21083.9 and State CEQA Guidelines sections 15082(c) and 15083, the City held a duly noticed Scoping Meeting on May 28, 2019, at City Hall to solicit comments on the IS/NOP; and

**WHEREAS**, based on the information contained in the Initial Study, which concluded that the Project could have a significant impact on the environment, the City determined that an Environmental Impact Report ("EIR") should be prepared for the Project, and an EIR was prepared in accordance with CEQA and the State CEQA Guidelines;

**WHEREAS**, a Draft EIR (DEIR) was prepared, incorporating comments received during the NOP review period, and the DEIR evaluating the Project's environmental effects and alternatives was circulated for public review and comment between July 10, 2020 and August 24, 2020; and

**WHEREAS**, as required by State CEQA Guidelines section 15087(a), the City provided Notice of Availability of the DEIR to the public at the same time that the City sent the Notice of Completion to the Office of Planning and Research, by mailing to

neighboring property owners within a 300-foot radius of the MPDSP boundaries and posting a copy of the NOA with the County Clerk; and

**WHEREAS**, during the public comment period, copies of the DEIR and technical appendices were available for review and inspection at City Hall and on the City's website; and

**WHEREAS**, the NOA mailed to property owners on July 10, 2020, the City gave public notice that the Planning Commission's public hearing on the item would be held on August 10, 2020; and

**WHEREAS**, once the public comment period closes on August 24, 2020, the City will prepare a Final EIR, which will include the DEIR, comments on the DEIR, responses to comments on the DEIR, and all appropriate revisions to the DEIR and technical appendices; and

**WHEREAS**, the Planning Commission conducted a duly-noticed public hearing on August 10, 2020, to consider the Proposed MPDSP and the DEIR, pursuant to State CEQA Guidelines section 15025(c), at which hearing, members of the public were afforded an opportunity to comment upon the Proposed MPDSP and the DEIR to consider and make a recommendation to the City Council regarding the MPDSP and the DEIR pursuant to State CEQA Guidelines section 15025(c).

**NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR DOES RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:**

**SECTION 1. RECITALS.** The Planning Commission hereby adopts the recitals in this resolution as if fully set forth herein.

**SECTION 2. ENVIRONMENTAL REVIEW.** The Planning Commission hereby finds, based on consideration of the whole record before it, including testimony heard at the public hearing, as follows:

A. Review Period: The City is providing a 45-day public review period for the Draft Environmental Impact Report (DEIR) as required under State CEQA Guidelines Sections 15087(e) and 15105 from July 10, 2020 to August 24, 2020; and

B. Compliance with Law: The DEIR was prepared, processed, and noticed in accordance with CEQA and the State CEQA Guidelines ; and

C. Independent Judgment: The DEIR reflects the independent judgment and analysis of the City; and

D. Mitigation Monitoring and Reporting Program: The DEIR recommends adoption of mitigation measures to reduce significant impacts of the proposed Montclair Place District Specific Plan project. Therefore, if the Final EIR also recommends adoption

of mitigation measures, the Planning Commission recommends that the City Council adopt a Mitigation Monitoring and Reporting Program pursuant to State CEQA Guidelines Section 15097. The Mitigation Monitoring and Reporting Program shall be designed to ensure compliance during project implementation in that changes to the project and/or mitigation measures have been incorporated into the project and are fully enforceable through permit conditions, agreements, or other measures; and

E. Statement of Overriding Considerations: The DEIR identifies that the MPDSP Project has potentially significant effects with regard to air quality, cultural resources, greenhouse gas emissions, population and housing, public services, recreation, and transportation/traffic that will remain significant despite the implementation of all feasible mitigation measures and alternatives. Therefore, if the Final EIR identifies significant and unavoidable impacts, in order to adopt the proposed Project, the City Council must first adopt a Statement of Overriding Considerations that indicates the benefits of the Project outweigh the significant and unavoidable environmental effects as required by State CEQA Guidelines section 15093. Those benefits are described in the DEIR and elsewhere in the administrative record, and will be described in the Final EIR and the Statement of Overriding Considerations as well.

F. Based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission recommends that the City Council make the necessary findings under CEQA, certify the Final EIR (SCH# 2019050011), adopt a Statement of Overriding Considerations (if (i) the Final EIR identifies potentially significant effects on the environment that will remain potentially significant despite the implementation of all feasible mitigation measures and alternatives and (ii) the City Council finds that the benefits of the Project outweigh the unavoidable significant environmental effects) and a Mitigation Monitoring Program (if recommended by the Final EIR) for the Project.

**SECTION 3. GENERAL PLAN AMENDMENT RECOMMENDATION.** Based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission hereby recommends City Council approval of the General Plan Amendment Resolution based on the following findings:

A. The proposed General Plan Amendment (GPA) of the Plan Area to "Planned Development" would be integrated and compatible with the Land Use and Community Design Elements of the General Plan in that it provides for the adoption and implementation of Specific Plans for large and unique areas of the community to promote the efficient utilization and consolidation of land (LU-1.1.2.). The MPDSP proposal encompasses a large land area with defined boundaries and adequate shape uniquely situated to facilitate the goals of developing a plan consistent with the General Plan's policy to establish an effective balance of land use, circulation, transportation, community design, commercial, and housing all of which are objectives contained in the MPDSP. The proposed GPA does not result in the removal or division of any existing residential neighborhoods adjacent to the site, but would allow for the site to transition from dated commercial land uses and structures, and vacant parcels to new mixed-use development

consistent with new land use designations and high-quality design guidelines for new development. As such, the GPA would provide the base for establishing the framework necessary to allow for the transformation of the Plan Area into a new downtown area for the City.

B. The GPA is integrated and compatible with the Circulation Element in that the density and distribution of uses within the Plan Area of MPDSP will generate traffic which is anticipated and provided for in the Circulation Element. The GPA would be consistent with the General Plan's overall goal of providing residents and visitors of the City a circulation network which provides safe and efficient travel within and through the community. The proposed street layout for the Plan Area, as shown in the MPDSP, anticipates the construction of a new public street network that would support efficient internal circulation and connectivity to existing streets (Monte Vista and Central Avenues, and Moreno Street) and transit alternatives in close proximity to the Plan Area. Moreover, the GPA would allow the site to be directly connected to efforts being made to develop and expand the creation of a walkable community.

C. The GPA is integrated and compatible with the Housing Element in that it provides for development of the site with housing not currently allowed under the current General Plan and/or zoning land use designations. The GPA would allow for the appropriate zoning designation that opens the way to develop housing on the site within immediate proximity to a mix of goods and services allowed by the MPDSP. In addition, the GPA would enable the City to meet projected housing needs of the community and region. The GPA and related zone change to the Specific Plan does not displace existing housing but would facilitate the development of additional housing units and commercial uses in the MPDSP. The potential for adding new housing units allowed by the GPA would contribute to the availability of housing units within the City and toward implementing the goals of the City's adopted Housing Element (2104) and upcoming update in 2021.

D. The GPA is integrated and compatible with the Conservation Element in that it provides uses which promote the orderly conservation, development, and utilization of natural resources. The City's General Plan does not designate any areas of the City as being within a habitat conservation plan (*City of Montclair General Plan 1999*). Furthermore, the City is not within any of the regional conservation plans designated by the state (CDFW 2014). As such, implementation of the Proposed GPA would not conflict with any applicable habitat conservation plan or natural community conservation plan. More specifically, the subject site is characterized as a mix of commercial retail and food uses, structures, parking fields, and a few small vacant parcels with no significant vegetation. The vacant areas at the subject location are highly disturbed, graded to varying degrees, and support only minimal amounts of low growing vegetation (mostly annual weeds).

E. The GPA is integrated and compatible with the Open Space Element in that it provides for uses that are consistent with and promote the adopted goals and policies for preserving and managing open space within the City. No open space resources exist within the Plan Area. However, with the GPA and related zone change, new development



on the site will be subject to the provisions of the MPDSP which includes requirements for landscaping (trees and vegetation) and the integration of a number of new open space/recreational spaces as part of the design of future projects which are not currently present on the site.

F. The GPA is integrated and compatible with the Noise Element in that it provides a pattern of land uses that minimizes the exposure of community residents to excessive noise. The Montclair General Plan requires future development to comply with the standards of the Noise Element. The proposed GPA would allow the subject site to transition from one of buildings large and small separated by large parking fields into new walkable, tree-lined streets, and well-designed and situated buildings that incorporate up-to-date sound attenuation methods to minimize noise impacts. The development of new residential in the Plan Area would be required to comply with the Noise Element standards, but also utilize site plan and building design strategies to reduce noise impacts to adjacent properties and future residents. Moreover, mitigation measures identified in the DEIR are designed to address future short-term and long-term noise impacts associated with new development.

G. The GPA is integrated and compatible with the Safety Element in that it provides an appropriate land use distribution and orientation which protects the community from unreasonable risks associated with seismic, geologic, flood, and wildfire hazards. Given the urbanized nature of the site and relatively gentle slope, there is no serious threat from wildland fires or geological instability. However, the General Plan recognizes the City's location within Seismic Zone 4, which is considered the most active seismic zone in the state. Further, there are no designated "Earthquake Fault Zones" in the City or the subject site as confirmed by the Alquist-Priolo Earthquake Fault Zoning Maps, geologic hazard overlays in the City of Montclair's General Plan Safety Element, and the County of San Bernardino's Land Use Plan General Plan (City of Montclair 1999 and County of San Bernardino 2010). Finally, as standard practice for all development in the City, and as specifically required by proposed Mitigation Measures contained in the DEIR prepared for the MPDSP, all future development projects on the subject site will be required to comply with the Unified Building Code standards and regulations which include proper soil preparation and compaction requirements for construction.

**SECTION 4. SPECIFIC PLAN AMENDMENT RECOMMENDATION.** Based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission hereby recommends City Council approval of the Specific Plan Amendment to remove the Plan Area from the North Montclair Specific Plan based on the following findings:

A. The Specific Plan Amendment to remove the Plan Area from the current boundaries of the NMSP is appropriate to allow the establishment of the MPDSP in its place and thereby authorize land uses that are compatible with the Planned Development land use classification and land uses specified in the MPDSP, and as reflected in the DEIR prepared for the project.

B. Uses of the Plan Area authorized by an approved MPDSP will promote and achieve the development of residential and mixed-use projects pursuant to the proposed policies and design guidelines of the MPDSP.

C. The proposed Specific Plan Amendment to remove the Plan Area from the planning area of the NMSP will not adversely impact or prevent the application of current regulations and standards pertaining to the area remaining under the jurisdiction of the NMSP.

D. The adoption of the new MPDSP represents a comprehensive and bold vision of the future for the Plan Area. The MPDSP envisions the possible demolition of all, or a portion of, the existing mall, some, or all, appurtenant freestanding outbuildings, and portions of the existing surface parking lots and parking structure, to construct a new pedestrian-oriented, mixed-use downtown district.

**SECTION 5. ZONE CHANGE RECOMMENDATION.** Based on the entire record before the Planning Commission, including all written and oral evidence presented, the Planning Commission hereby recommends City Council approval of the Zone Change Ordinance based on the following findings:

A. The Zone Change of the Plan Area to “Planned Development” would official change the current Montclair Zoning Map from the current C3 General Commercial zoning designation assigned to the site by the underlying North Montclair Specific Plan. The new designation of “Specific Plan” would be consistent with the manner in which other Specific Plans in the City are officially designated on the Zoning Map. The Specific Plan land use designation would then accommodate the proposed MPDSP and the creation of the new sub-zoning districts – District Corridor (COR), District Place (PLA), District Commons (COM), and District Center (CEN), proposed for the Plan Area. Further, the zone change to “Specific Plan” would be consistent with the proposed General Plan Amendment to re-designate the Plan Area from “Regional Commercial” to “Planned Development.”

B. Uses of the Plan Area authorized by the Zone Change promote and achieve the intended goals of the MPDSP mixed-use project. Further new residential and mixed-use development pursuant to the new land use zones of the MPDSP would also be consistent with the General Plan’s Land Use and Community Design Elements policies that encourage projects that effectively balance land use, circulation, transportation, community design, and housing objectives.

C. The Zone Change is reasonably related to the public welfare of the citizens of the City of Montclair and the surrounding region because the change would enable the City to employ good zoning practices that seek to integrate the uses on this very prominent piece of property with surrounding uses and the City’s overall goals for a more walkable community. Without the proposed zone change the above goals could not be achieved. Moreover, the changes promote additional housing opportunities in the City of Montclair using designs that are compatible with the high-quality design guidelines contained in the proposed MPDSP.

**SECTION 6. MONTCLAIR PLACE DISTRICT SPECIFIC PLAN RECOMMENDATION**

Based on the entire record before the Planning Commission, including all written and oral evidence presented, the Planning Commission hereby recommends City Council approval of the Precise Plan of Design for the MPDSP based on the following findings:

A. The MPDSP document represents a bold and transformative vision of the future for the Plan Area. In particular, the MPDSP envisions the possible demolition of all, or a portion of, the existing mall, some, or all, appurtenant freestanding outbuildings, and portions of the existing surface parking lots and parking structure, to construct a new pedestrian-oriented, mixed-use downtown district.

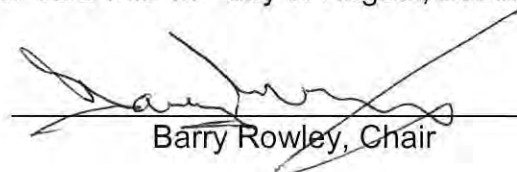
B. The MPDSP will complement the goals and design strategies of the existing North Montclair Downtown Specific Plan that abuts the north boundary of the MPDSP. Both documents share common form-based code design standards and emphasis on high-quality design and materials. New standards for the Plan Area regarding existing and new land uses, setbacks and building heights, parking, landscape, and signage to guide the formation of a distinctive and attractive "downtown" streetscape and development pattern.

C. The MPDSP provides the framework to implement a mix of uses including housing at various densities and integrated ground floor retail and office uses. All new projects within the MPDSP boundaries will be subject to outside architectural review prior to consideration by the Planning Commission. Subsequent to Commission approval, all major projects in the Plan Area would be forwarded to City Council for final consideration and determination.

**SECTION 7. CUSTODIAN OF RECORDS.** The location and custodian of the documents and any other material, which constitute the record of proceedings upon which the Planning Commission based its decision, is as follows: Director of Community Development, Community Development Department, City of Montclair, 5111 Benito Street, Montclair, California 91763, or by telephone at (909) 625-9477.

**SECTION 8. EFFECTIVE DATE.** This Resolution shall become effective upon its adoption.

PASSED, APPROVED AND ADOPTED this 10<sup>th</sup> day of August, 2020.

  
Barry Rowley, Chair

ATTEST:

  
Michael Diaz, Secretary



# CITY COUNCIL AGENDA REPORT

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**DATE:** SEPTEMBER 8, 2020                      **FILE I.D.:** PLC150/CYC265  
**SECTION:** CONSENT - ADMIN. REPORTS                      **DEPT.:** ADMIN. SVCS.  
**ITEM NO.:** 3    **PREPARER:** A. PHILLIPS  
**SUBJECT:** CONSIDER SETTING A PUBLIC HEARING FOR MONDAY, SEPTEMBER 21, 2020, AT 7:00 P.M. TO CONSIDER FIRST READING OF ORDINANCE NO. 20-993 AMENDING THE QUALIFICATIONS TO SERVE ON THE MONTCLAIR PLANNING COMMISSION

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**REASON FOR CONSIDERATION:** Recent changes to state law dictate that appointments to civil offices cannot have a U.S. citizenship requirement. Because U.S. Citizenship is a prerequisite to voter registration, and voter registration is listed as a requirement in the Montclair Municipal Code (MMC) to be eligible for appointment as a member of the Planning Commission, the MMC must be amended to remove this requirement.

The City Council is requested to set a public hearing for Monday, September 21, 2020, at 7:00 p.m. to consider first reading of Ordinance No. 20-993 amending qualifications for the Montclair Planning Commission.

**BACKGROUND:** On October 12, 2019, the Governor of California signed Senate Bill 225 (SB 225), which amended §1020 of the California Government Code (GC). As amended by SB 225, GC §1020 reads as follows:

- (a) *A person is eligible to hold an elective civil office if, at the time of election, the person is 18 years of age and a citizen of the state.*
- (b) *Notwithstanding any other law, a person, regardless of citizenship or immigration status, is eligible to hold an appointed civil office if the person is 18 years of age and a resident of the state.*
- (c) *Notwithstanding any other law, a person appointed to civil office, regardless of citizenship or immigration status, may receive any form of compensation that the person is not otherwise prohibited from receiving pursuant to federal law, including, but not limited to, any stipend, grant, or reimbursement of personal expenses that is associated with carrying out the duties of that office.*

MMC § 2.16.040 currently reads as follows:

**2.16.040 - Qualification for office.**

*In order to qualify as a member of the Planning Commission, a person shall be a legally registered voter in the City of Montclair.*

Staff and the City Attorney are in agreement that MMC §2.16.040 no longer complies with GC §1020, and should be amended to read as follows:

*In order to qualify as a member of the Planning Commission, a person shall be at least 18 years of age and a resident of the City.*

**FISCAL IMPACT:** There would be no significant fiscal impact related to this action.

**RECOMMENDATION:** Staff recommends the City Council set a public hearing for Monday, September 21, 2020, at 7:00 p.m. to consider first reading of Ordinance No. 20-993 amending the qualifications to serve on the Montclair Planning Commission.

ORDINANCE NO. 20-993

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING THE QUALIFICATIONS TO SERVE ON THE MONTCLAIR PLANNING COMMISSION

WHEREAS, Article XI, Section 7 of the California Constitution provides that the City of Montclair may make and enforce within its limits all local ordinances and regulations not in conflict with general laws; and

WHEREAS, on October 12, 2019, the Governor of California approved Senate Bill No. 225 (SB 225), which amends Section 1020 of the California Government Code (GC §1020); and

WHEREAS, GC §1020, as amended by SB 225, reads as follows:

(a) A person is eligible to hold an elective civil office if, at the time of election, the person is 18 years of age and a citizen of the state.

(b) Notwithstanding any other law, a person, regardless of citizenship or immigration status, is eligible to hold an appointed civil office if the person is 18 years of age and a resident of the state.

(c) Notwithstanding any other law, a person appointed to civil office, regardless of citizenship or immigration status, may receive any form of compensation that the person is not otherwise prohibited from receiving pursuant to federal law, including, but not limited to, any stipend, grant, or reimbursement of personal expenses that is associated with carrying out the duties of that office; and

WHEREAS, the City of Montclair finds that Section 2.16.040 no longer complies with GC §1020 in light of the amendments established under SB 225.

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

SECTION I. Section 2.16.040 of the Montclair Municipal Code is hereby amended to read as follows:

2.16.040 - Qualification for office.

In order to qualify as a member of the Planning Commission, a person shall be at least 18 years of age and a resident of the City.

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

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

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

APPROVED AND ADOPTED this XX day of XX, 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. 20-993 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 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

SET FOR  
HEARING



# CITY COUNCIL AGENDA REPORT

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**DATE:** SEPTEMBER 8, 2020                      **FILE I.D.:** LDA235  
**SECTION:** CONSENT - ADMIN. REPORTS                      **DEPT.:** PUBLIC WORKS  
**ITEM NO.:** 4    **PREPARER:** N. CASTILLO

**SUBJECT:** CONSIDER ACCEPTANCE OF GRANT DEED NO. 1680, AN EASEMENT FOR CONSTRUCTION, MAINTENANCE, AND USE OF SIDEWALK LOCATED ON BROOKS STREET EAST OF RAMONA AVENUE (ASSESSOR'S PARCEL NOS. 1012-082-07 AND 1012-082-08)

CONSIDER AUTHORIZING STAFF TO RECORD GRANT DEED NO. 1680 WITH THE OFFICE OF THE SAN BERNARDINO COUNTY RECORDER

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**REASON FOR CONSIDERATION:** The City Council is requested to consider acceptance of Grant Deed No. 1680, an easement for construction, maintenance, and use of sidewalk located on Brooks Street east of Ramona Avenue at Assessor's Parcel Nos. 1012-082-07 & 1012-082-08. Grant deeds for properties and easements are subject to City Council approval.

**BACKGROUND:** A proposed project is currently in development to construct a new 56,000 square-foot industrial/warehouse building and surface parking development on Brooks Street. The existing sidewalk in front of the property does not meet current Americans with Disabilities Act (ADA) requirements. The dedication of an extended portion of the driveway along the sidewalk would allow for the sidewalk to be accessible by wheelchair-bound individuals. Additionally, a well-designed sidewalk that meets ADA requirements would welcome the rest of the community to utilize the sidewalk and promote healthy habits that are part of the City of Montclair's Active Transportation Plan.

**FISCAL IMPACT:** The acceptance of Grant Deed No. 1680 for a sidewalk easement would have no fiscal impact to the City.

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

1. Accept Grant Deed No. 1680, an easement for construction, maintenance, and use of sidewalk located on Brooks Street east of Ramona Avenue (Assessor's Parcel Nos. 1012-082-07 and 1012-082-08); and
2. Authorize staff to record Grant Deed No. 1680 with the Office of the San Bernardino County Recorder.

<b>Recording Requested By and Mail to:</b>  <b>CITY OF MONTCLAIR P.O. BOX 2308 5111 BENITO STREET MONTCLAIR, CALIFORNIA 91763</b>	
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SPACE ABOVE THIS LINE FOR RECORDERS USE

APN: 1012-082-07 and 1012-082-08

## GRANT DEED

Affix I.R.S. \$ \_\_\_\_\_

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged,  
**Chase Highbrook, LP, a California Limited Partnership**

Hereby GRANTS to the **CITY OF MONTCLAIR** an easement for the purpose of constructing, maintaining, and use of sidewalks and appurtenances over the following described real property in the City of Montclair, County of San Bernardino, State of California:

See attached Exhibit A & Exhibit B

**Grant Deed No.** \_\_\_\_\_

*David A. Parker*  
\_\_\_\_\_

By: David A. Parker, Authorized Signatory  
 Chase Highbrook, LP, a California Limited Partnership

A notary public or other officer completing this certificate verifies only the identity of the individual, who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

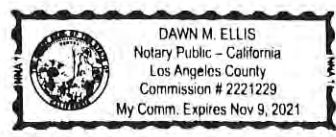
State of California

County of Los Angeles

On 8/10/20 before me, Dawn M. Ellis, personally appeared David A. Parker who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.  
*[Signature]*  
 \_\_\_\_\_



Signature of Notary

(Seal)

### ACCEPTANCE

This is to certify that the interest in real property conveyed by the within instrument to the **CITY OF MONTCLAIR**, State of California, a body corporate and politic, is hereby accepted by order of the **MONTCLAIR CITY COUNCIL** made on \_\_\_\_\_, and the grantee consents to the recordation thereof by its duly authorized officer.

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

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

City Clerk

(Seal)



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**SIDEWALK EASEMENT**

BEING THAT PORTION OF PARCEL 3 OF PARCEL MAP 3623, IN THE CITY OF MONTCLAIR, AS PER MAP RECORDED IN BOOK 33, PAGE 28 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF SAID PARCEL 3, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BROOKS STREET DISTANT 30.00 FROM THE CENTERLINE THEREOF,

THENCE SOUTH 89°44'37" EAST ALONG SAID RIGHT-OF-WAY LINE, 16.50 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING SOUTH 89°44'37" EAST, 59.00 FEET;

THENCE SOUTH 54°13'48" WEST, 6.80 FEET TO A POINT ON A LINE PARALLEL AND DISTANT 4.00 FEET SOUTHERLY OF SAID RIGHT-OF-WAY LINE;

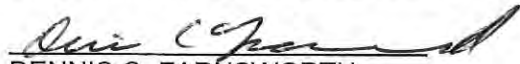
THENCE NORTH 89°44'37" WEST, ALONG SAID PARALLEL LINE, 48.00 FEET;

THENCE NORTH 53°42'58" WEST, 6.80 FEET TO THE **TRUE POINT OF BEGINNING**.

THE AREA OF THIS EASEMENT CONTAINS 214 SQUARE FEET MORE OR LESS.

SEE ATTACHED EXHIBIT "B" HERewith AND BY THIS REFERENCE MADE A PART HEREOF.

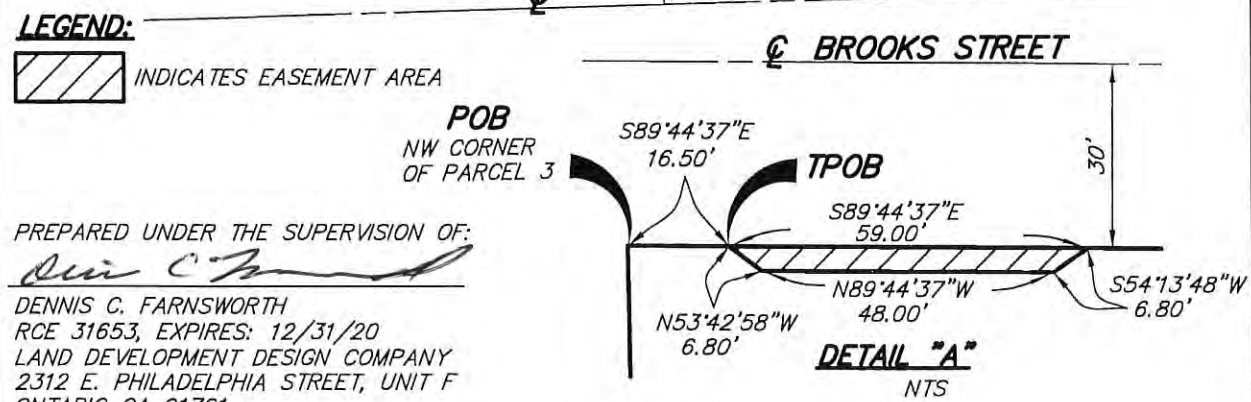
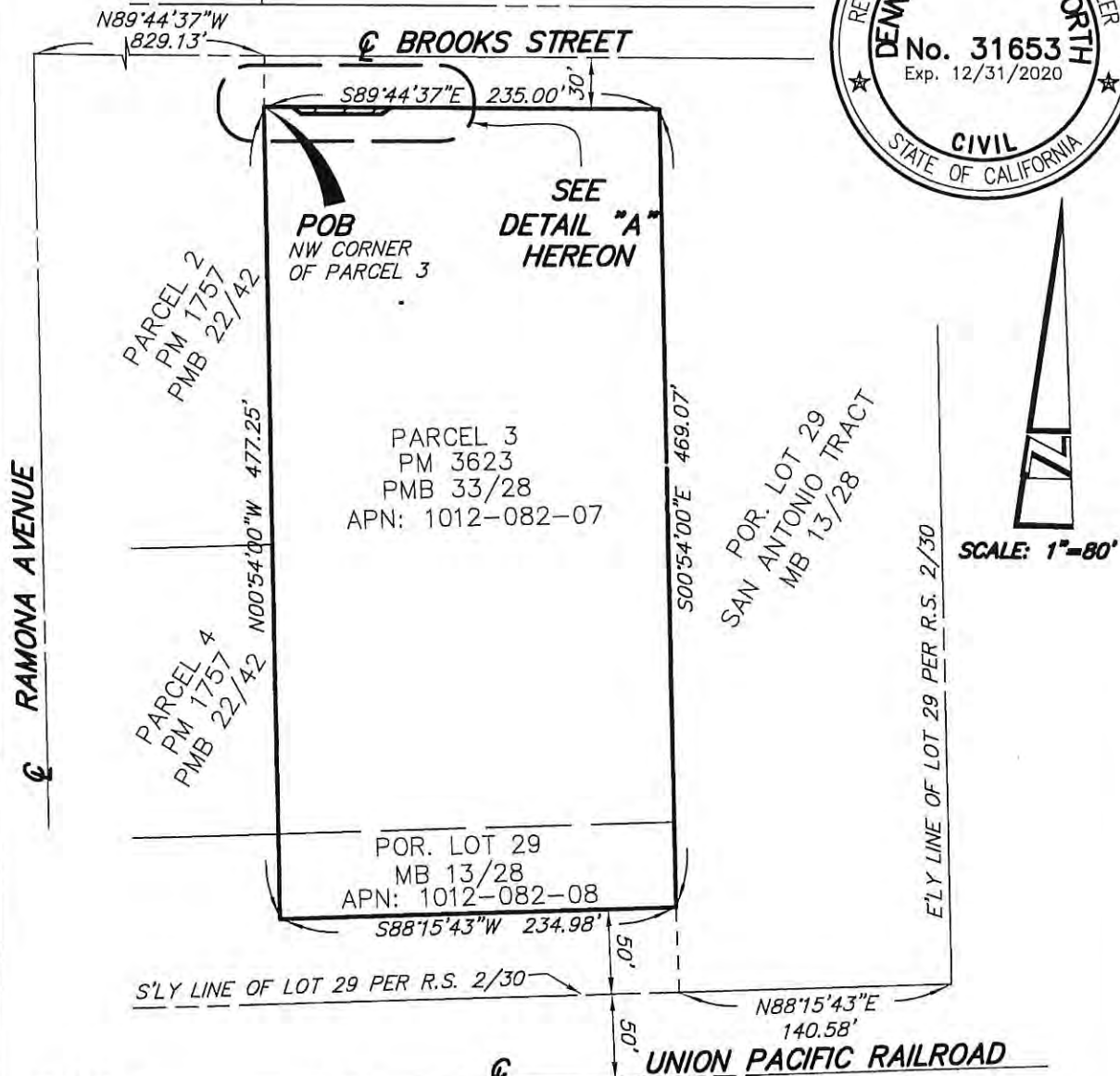
THIS DOCUMENT WAS PREPARED UNDER SUPERVISION OF:

  
DENNIS C. FARNSWORTH  
RCE: 31653 EXP. 12/31/20

8/14/2020  
DATE



**EXHIBIT "B"**  
**SIDEWALK EASEMENT**



PREPARED UNDER THE SUPERVISION OF:  
  
**DENNIS C. FARNSWORTH**  
 RCE 31653, EXPIRES: 12/31/20  
 LAND DEVELOPMENT DESIGN COMPANY  
 2312 E. PHILADELPHIA STREET, UNIT F  
 ONTARIO CA 91761  
 TEL: 909 930 1466



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	SEPTEMBER 8, 2020	<b>FILE I.D.:</b>	LDU225-202
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	5	<b>PREPARER:</b>	N. CASTILLO
<b>SUBJECT:</b>	CONSIDER APPROVAL OF PARCEL MERGER NO. 2020-2 FOR TWO PARCELS GENERALLY LOCATED ON THE SOUTH SIDE OF BROOKS STREET EAST OF RAMONA AVENUE		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Parcel Merger No. 2020-2 for two parcels generally located on the south side of Brooks Street east of Ramona Avenue. Parcel mergers are permitted under the Subdivision Map Act and the Montclair Municipal Code, subject to approval by the City Council.

**BACKGROUND:** A parcel merger is necessary as part of the 56,000 square-foot industrial/warehouse building and surface parking development on Brooks Street. An existing vacant building located on the property will be demolished to make way for the new project. The subject site is currently comprised of two lots, bisected by an east/west property line. The proposed merger will consolidate the two lots into a single 2.55-acre lot on which the proposed development would occur. The new industrial/warehouse building would be generally situated at the center of the site. A new legal and plat has been prepared accordingly and this action is proposed for approval by the City Council. . A parcel merger application has been submitted and approved by staff.

**FISCAL IMPACT:** The merger of these parcels would have an unknown but positive fiscal impact to the City, potentially through increased property values and sales taxes.

**RECOMMENDATION:** Staff recommends that the City Council approve Parcel Merger No. 2020-2 for two parcels generally located on the south side of Brooks Street east of Ramona Avenue.

<b>RECORDING REQUESTED BY AND MAIL TO:</b>  <b>CITY OF MONTCLAIR CITY ENGINEER P. O. BOX 2308 MONTCLAIR, CA 91763</b>	
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

## CERTIFICATE OF PARCEL MERGER NO. 2020-2

RECORD OWNERS	EXISTING PARCELS ASSESSOR PARCEL NUMBERS
Chase Highbrook, LP, a California Limited Partnership	1012-082-07 and 1012-082-08

### LEGAL DESCRIPTION OF MERGED PARCEL

SEE EXHIBITS A & B

<p>A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.</p>	<p>DATED <u>8-10-2020</u></p>
<p>State of <u>California</u></p>	<p>SIGNATURE(S) OF RECORD OWNDER(S) <u>David A. Parker</u></p>
<p>County of <u>Los Angeles</u></p>	<p>By: <u>David A. Parker,</u> Authorized Signatory</p>
<p>On <u>8/10/20</u> before me, <u>Dawn M. Ellis</u></p>	<p><u>Chase Highbrook, LP,</u> <u>a California Limited</u> <u>Partnership</u></p>
<p>personally appeared <u>David A. Parker</u> who proved to me on the basis of satisfactory evidence to be the person(☉) whose name(☉) is/<del>are</del> subscribed to the within instrument and acknowledged to me that he/<del>she/they</del> executed the same in his/<del>her/their</del> authorized capacity(ies), and that by his/<del>her/their</del> signature(☉) on the instrument the person(☉), or the entity upon behalf of which the person(☉) acted, executed the instrument.</p>	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;">  </div>
<p>I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.</p>	
<p><del>WITNESS</del> my hand and official seal.</p>	
<p><u>[Signature]</u> Signature of Notary</p>	
<p>CERTIFICATE OF PARCEL MERGER NO. 2020-2 WAS APPROVED BY THE MONTCLAIR CITY COUNCIL</p>	
<p>ON: _____</p>	
<p>BY: _____</p>	
<p>TITLE: _____</p>	
<p>DATE: _____</p>	
<p>(Engineer's Stamp)</p>	<p>(Surveyor Stamp)</p>

**EXHIBIT "B"**  
**CERTIFICATE OF PARCEL MERGER 2020-2**  
**EXISTING LEGAL DESCRIPTION**

**PARCEL 1:**

PARCEL 3 OF PARCEL MAP 3623, IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 33, PAGE 28 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 1012-082-07

**PARCEL 2:**

ALL THAT PORTION OF LOT 29 OF "PORTION OF SAN ANTONIO TRACT" IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 3, PAGE 16 OF MAPS, LYING SOUTH OF PARCEL 3 OF PARCEL MAP 3623, AS PER MAP RECORDED IN BOOK 33, PAGE 28 OF PARCEL MAPS. THE WEST AND EAST BOUNDARY LINES BEING THE SOUTHERLY EXTENSIONS OF THE WEST AND EAST BOUNDARY LINES OF SAID PARCEL 3.

APN: 1012-082-08

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



DENNIS C. FARNSWORTH  
RCE 31653, EXPIRES: 12/31/2020

8/14/2020  
DATE:



**EXHIBIT "B"**  
**CERTIFICATE OF PARCEL MERGER 2020-2**  
**PROPOSED LEGAL DESCRIPTION**

**PARCEL A:**

PARCEL 3 OF PARCEL MAP 3623, IN THE CITY OF MONTCLAIR, AS PER MAP RECORDED IN BOOK 33, PAGE 28 OF PARCEL MAPS, AND THAT PORTION OF LOT 29 OF "PORTION OF SAN ANTONIO TRACT" IN THE CITY OF MONTCLAIR, AS PER MAP RECORDED IN BOOK 3, PAGE 16 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF SAID PARCEL 3, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BROOKS STREET DISTANT 30.00 FROM THE CENTERLINE THEREOF,

THENCE SOUTH 89° 44' 37" EAST ALONG SAID RIGHT-OF-WAY LINE, 235.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 3;

THENCE SOUTH 00° 54' 00" EAST ALONG THE EAST LINE OF SAID PARCEL 3, 469.07 FEET TO POINT ON THE SOUTHERLY LINE OF SAID LOT 29;


THENCE SOUTH 88° 15' 43" WEST, ALONG THE SAID SOUTHERLY LINE, 234.98 FEET TO THE POINT OF PROLONGATION OF THE WEST LINE OF SAID PARCEL 3;

THENCE NORTH 00° 54' 00" WEST ALONG THE PROLONGATION LINE AND SAID WEST LINE, 477.25 FEET TO THE **POINT OF BEGINNING**.

THE AREA OF THIS PARCEL CONTAINS 111,170 SQUARE FEET (2.55 ACRES) MORE OR LESS.

APN: 1012-082-07 AND 1012-082-08

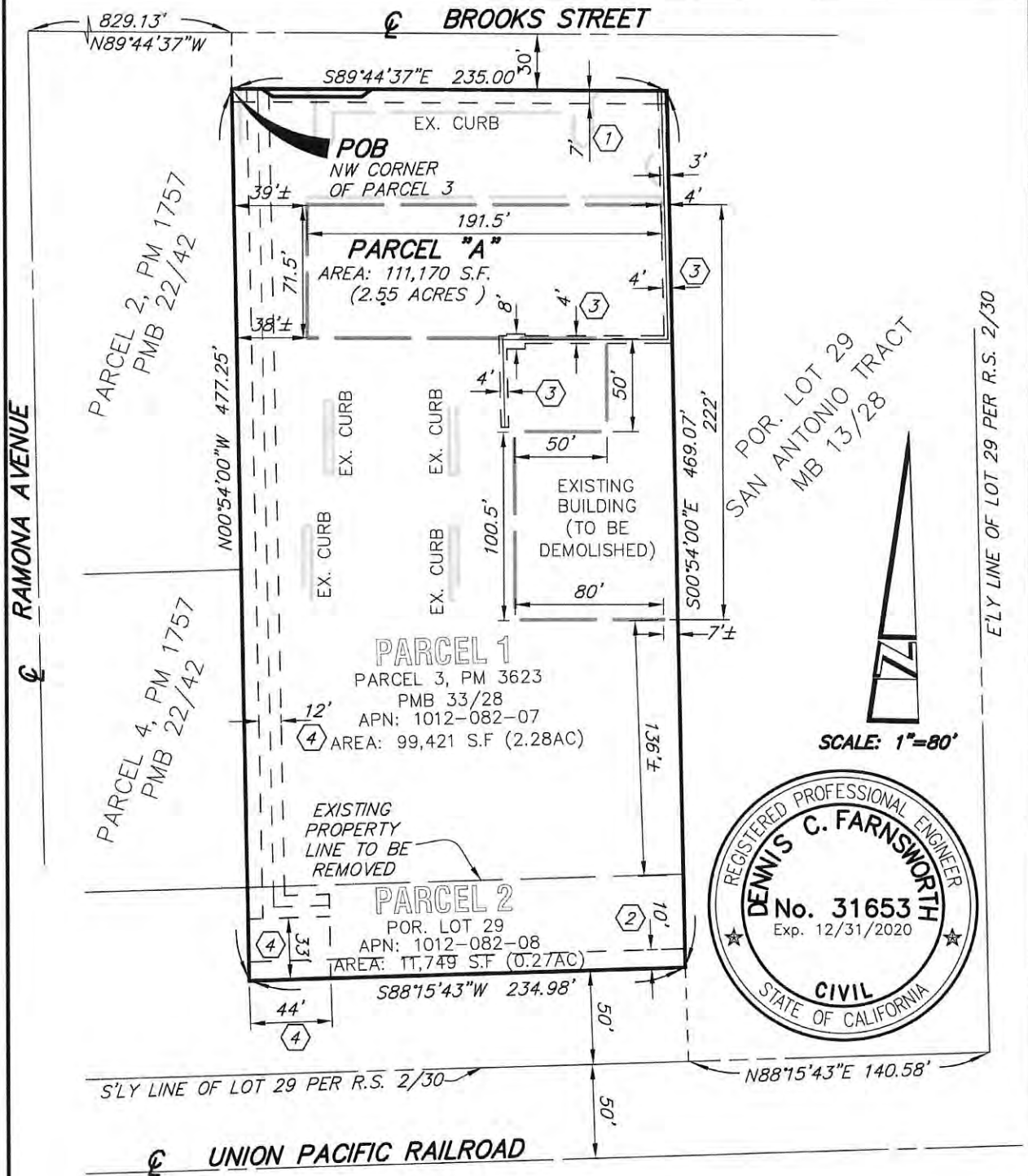
THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.

  
DENNIS C. FARNSWORTH  
RCE 31653, EXPIRES: 12/31/2020

8/14/2020  
DATE:



**EXHIBIT "A"**  
**CERTIFICATE OF PARCEL MERGER 2020-2**



PREPARED UNDER THE SUPERVISION OF:  
*Dennis C. Farnsworth*  
 DENNIS C. FARNSWORTH  
 RCE 31653, EXPIRES: 12/31/2020  
 LAND DEVELOPMENT DESIGN COMPANY  
 2312 E. PHILADELPHIA STREET, UNIT F  
 ONTARIO CA 91761

**NOTES:**  
 SEE EASEMENT NOTES ON SHEET 2.

**EXHIBIT "A"**  
**CERTIFICATE OF PARCEL MERGER 2020-2**

**EASEMENT NOTES:**

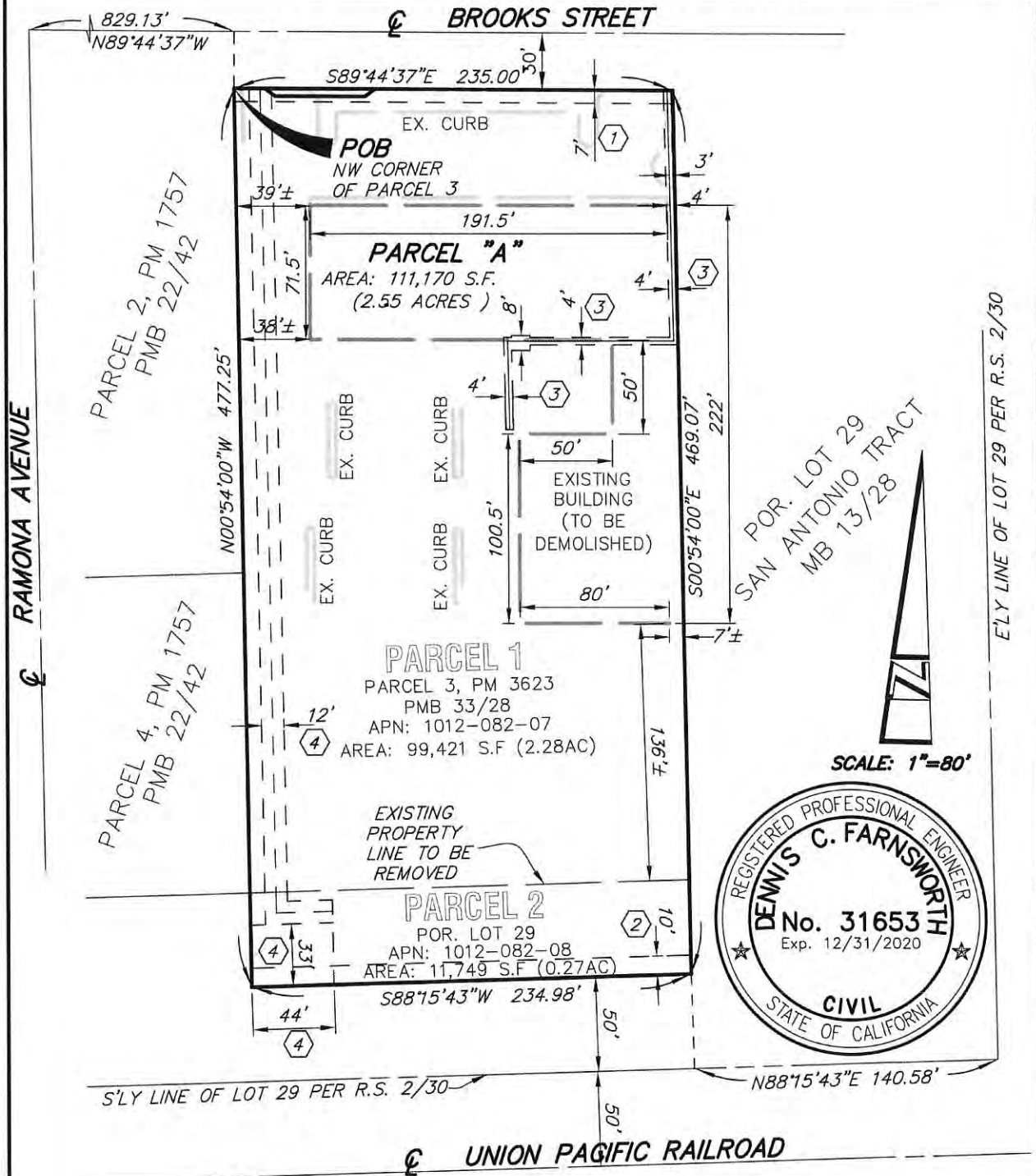
- ① AN EASEMENT FOR PUBLIC UTILITY AND INCIDENTAL PURPOSES IN FAVOR OF CITY OF MONTCLAIR, RECORDED FEBRUARY 24, 1977 AS BOOK 9121, PAGE 753, O.R., SHOWN HEREON.
  - ② AN EASEMENT FOR STORM DRAIN AND INCIDENTAL PURPOSES IN FAVOR OF CITY OF MONTCLAIR, RECORDED AUGUST 17, 1977 AS BOOK 9243, PAGE 947, O.R., SHOWN HEREON.
  - ③ AN EASEMENT FOR UNDERGROUND CONDUITS AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, RECORDED JANUARY 13, 1978 AS BOOK 9346, PAGE 1677, O.R., SHOWN HEREON.
  - ④ AN EASEMENT FOR WIRELESS COMMUNICATION EASEMENT AND ASSIGNMENT AGREEMENT, RECORDED FEBRUARY 24, 2010 AS INSTRUMENT NO. 2010-0071796, O.R., SHOWN HEREON.
- AN EASEMENT FOR PUBLIC UTILITY AND INCIDENTAL PURPOSES, RECORDED FEBRUARY 19, 1887 IN BOOK 54 OF DEEDS, PAGE 30 OF DEEDS. NOT PLOTTABLE PER RECORD.
- AN EASEMENT FOR ENCROACHMENT AND INCIDENTAL PURPOSES IN FAVOR OF BROOKS COMMERCE CENTER, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, RECORDED JUNE 29, 2015 AS INSTRUMENT NO. 2015-0273505, O.R. NOT PLOTTABLE PER RECORDS.



SHEET 2 OF 2



**SITEPLAN  
CERTIFICATE OF PARCEL MERGER 2020-2**



**NOTES:**

SEE EASEMENT NOTES ON SHEET 2.

**OWNER:**

HIGHBROOK LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY  
6444 SAN FERNANDO ROAD, #3944  
GLENDALE CA 91221

PREPARED UNDER THE SUPERVISION OF:

DENNIS C. FARNSWORTH  
RCE 31653, EXPIRES: 12/31/2020  
LAND DEVELOPMENT DESIGN COMPANY  
2312 E. PHILADELPHIA STREET, UNIT F  
ONTARIO CA 91761

SHEET 1 OF 1



# CITY COUNCIL AGENDA REPORT

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**DATE:** SEPTEMBER 8, 2020                      **FILE I.D.:** CVC600/PUB135  
**SECTION:** CONSENT - ADMIN. REPORTS                      **DEPT.:** PUBLIC WORKS  
**ITEM NO.:** 6    **PREPARER:** S. STANTON

**SUBJECT:** CONSIDER AUTHORIZING AN ADDITIONAL APPROPRIATION OF \$19,150 FROM BOND PROCEEDS FOR COSTS RELATED TO CONSTRUCTION OF THE CITY OF MONTCLAIR CITY HALL REMODEL PHASE 2 PROJECT

CONSIDER APPROVING THE FILING OF A NOTICE OF COMPLETION OF CONTRACT WITH RASMUSSEN BROTHERS, INC., FOR CONSTRUCTION OF THE CITY OF MONTCLAIR CITY HALL REMODEL PHASE 2 PROJECT

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

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**REASON FOR CONSIDERATION:** State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a completed Public Works project. The City Council is requested to consider approving the filing of a Notice of Completion with the San Bernardino County Recorder and related actions concerning the City of Montclair City Hall Remodel Phase 2 Project.

**BACKGROUND:** On October 21, 2019, Rasmussen Brothers, Inc., was awarded a construction contract for the City of Montclair City Hall Remodel Phase 2 Project and entered into Agreement No. 19-98 with the City. The project included closure of the former breezeway, construction of a new conference room, and expansion of the Finance Department. Rasmussen Brothers, Inc. was awarded a construction contract for \$862,833 and the City Council authorized a construction contingency of \$90,000, bringing the total award authority to \$952,833.

During the course of construction, the contractor was directed to expand the scope of work to incorporate additional expenses that resulted in a price increase. The storage building connected to the east side of the new conference room required a complete new roof; the IT Department requested additional data cables for future growth, and the former breezeway area required additional fire rating measures. The additional improvements resulted in five change orders, totaling a cost of \$19,150.

**FISCAL IMPACT:** The overall construction cost for the City of Montclair City Hall Remodel Phase 2 Project was \$971,983, resulting, in a \$19,150 shortfall of the \$952,833 award authority. An additional appropriation of \$19,150 of bond proceeds is necessary.

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

1. Approve an additional appropriation of \$19,150 from bond proceeds for costs related to construction of the Project.
2. Approve the filing of a Notice of Completion of contract with Rasmussen Brothers, Inc., for construction of the Project with the San Bernardino County Recorder.
3. Authorize release of retention 30 days after recordation of Notice of Completion.

RECORDING REQUESTED BY:

**City of Montclair**

AND WHEN RECORDED MAIL DOCUMENT AND  
TAX STATEMENT TO:

NAME: **City of Montclair**

STREET ADDRESS: **5111 Benito Street**

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

Government Code 6103

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

## NOTICE OF COMPLETION

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

fee

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

The work was completed on that certain work known as:

City of Montclair City Hall Remodel Phase 2 Project

for the undersigned City of Montclair,  
a Municipal Corporation, on the 13th day of August 2020

The City accepted the job on the 31st day of August 2020

The Contractor on said job was  
Rasmussen Brothers, Inc.  
40441 Gavilan Mountain Rd.  
Fallbrook, CA. 92028

The improvement consisted of:  
Street Improvements

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

5111 Benito Street, Montclair, CA. 91763

(1010-301-20-0000)

### VERIFICATION

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

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

Executed on: September 8, 2020 at 5111 Benito Street, Montclair, California

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



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	SEPTEMBER 8, 2020	<b>FILE I.D.:</b>	FIN540
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	7	<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 September 8, 2020, and the Payroll Documentation dated August 2, 2020, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated September 8, 2020, totals \$3,044,114.28; and the Payroll Documentation dated August 2, 2020, totals \$613,405.74 gross, with \$425,639.79 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>	SEPTEMBER 8, 2020	<b>FILE I.D.:</b>	PDT175/PDT362
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	POLICE
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	M. BUTLER
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NOS. 20-72, 20-73, and 20-74 WITH THE COUNTY OF SAN BERNARDINO TO PROVIDE FOR THE RECEIPT OF GRANT FUNDS FROM THE 2017, 2018, AND 2019 JUSTICE ASSISTANCE GRANT AWARDS		
	CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO SIGN SAID AGREEMENTS		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement Nos. 20-72, 20-73, and 20-74 with the County of San Bernardino to provide for the receipt of grant funds from the 2017, 2018, and 2019 Justice Assistance Grant (JAG) awards and authorizing City Manager Edward C. Starr to sign said Agreements.

Copies of proposed Agreement Nos. 20-72, 20-73, and 20-74 are attached for the City Council's review and consideration.

**BACKGROUND:** The federal government has provided funding for state and local criminal justice programs through Edward Byrne Memorial JAG Program grants since 2006. In FY 2017, the U.S. Department of Justice (DOJ) announced three new conditions that state and local governments must satisfy in order to receive Byrne grants: Compliance Condition, Access Condition, and Notice Condition. Several cities and states responded to the new conditions by filing lawsuits against the federal government, including a lawsuit filed by the City and County of San Francisco and the State of California, Ex Rel. Xavier Becerra, in his official capacity as Attorney General of the State of California, challenging the imposition of immigration enforcement requirements entailed in these three new conditions. Plaintiffs sued to prevent DOJ from denying funding of Byrne grants for failure to comply with these new conditions. This litigation challenging the DOJ's withholding of JAG funds has been ongoing.

In August 2017, the City entered into Agreement No. 17-69 with the County of San Bernardino related to distribution of 2017 Edward Byrne Memorial JAG Program Award funds. In August 2018, the City and County entered into Agreement No. 18-60 for the 2018 JAG Program Award, and in July 2020, entered into Agreement No. 20-56 for the 2019 JAG Program Award. These Interlocal Agreements, or Memorandum of Understandings, were signed by local jurisdictions identifying the County of San Bernardino as the fiscal agent and JAG Program Administrator for these joint funds.

In July 2020, the United States Court of Appeals for the Ninth Circuit held that DOJ lacked statutory authority to impose these new conditions, and DOJ was barred from withholding, terminating, or clawing back Byrne funding based on the challenged conditions, stating that the plaintiffs are so-called "sanctuary" jurisdictions, which have enacted laws that limit their employees' authority to assist in the enforcement of federal immigration laws.

The San Bernardino County Board of Supervisors has now accepted the 2017, 2018, and 2019 grant awards from DOJ. For the 2017 award, \$15,795 has been allocated to the

City; for the 2018 award, \$15,947 has been allocated to the City; and for the 2019 award, \$15,483 has been allocated to the City. Proposed Agreement Nos. 20-72, 20-73, and 20-74 are subrecipient sub-award grant agreements with the County, and include special conditions, a supplemental statement by the County of San Bernardino, and subrecipient monitoring procedures. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, shall disburse appropriate grant allocations, less a 5 percent administrative fee as allowable under JAG guidelines. Appropriations must be released within 60 days of receipt of grant funds by the JAG Program Administrator.

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

Staff is currently exploring options to utilize the funds on specialized equipment to enhance services to meet the law enforcement safety needs of the community.


**FISCAL IMPACT:** Approval of proposed Agreement No. 20-72 would result in a \$15,005 JAG Program fund allocation to the Police Department's Fiscal Year 2020-21 Budget. The San Bernardino County Board of Supervisors would retain a 5 percent administrative fee of \$790.

Approval of proposed Agreement No. 20-73 would result in a \$15,175 JAG Program fund allocation to the Police Department's Fiscal Year 2020-21 Budget. The San Bernardino County Board of Supervisors would retain a 5 percent administrative fee of \$799.

Approval of proposed Agreement No. 20-74 would result in a \$14,709 JAG Program fund allocation to the Police Department's Fiscal Year 2020-21 Budget. The San Bernardino County Board of Supervisors would retain a 5 percent administrative fee of \$774.

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

1. Approve Agreement Nos. 20-72, 20-73, and 20-74 with the County of San Bernardino to provide for the receipt of grant funds from the 2017, 2018, and 2019 Justice Assistance Grant awards.
2. Authorize City Manager Edward C. Starr to sign said Agreements.

 <p><b>County of San Bernardino</b> 385 North Arrowhead Avenue San Bernardino, CA 92415-0123</p> <p>Law and Justice Group 909-387-5005</p>	<p><b>Grant Sub-Award</b></p>	<p>PAGE 1 OF 26</p>
<p>SUBRECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>City of Montclair 5111 Benito Street, PO Box 2308 Montclair, CA 91763-2808</p>	<p>AWARD NUMBER: 2017-DJ-BX-0991</p>	
<p>SUBRECIPIENT IRS/VENDOR NO.</p> <p>95-6005731</p>	<p>SUB-AWARD NUMBER: 2017-DJ-BX-0991-Montclair</p> <p>PROJECT PERIOD: FROM 10/01/2016 TO 09/30/2020</p> <p>BUDGET PERIOD: FROM 10/01/2016 TO 09/30/2020</p>	
<p>SUBRECIPIENT DUNS NO.</p> <p>08-497-6919</p>	<p>AWARD DATE 11/02/2018</p> <p>PREVIOUS AWARD AMOUNT \$0</p>	
<p>PROJECT TITLE</p> <p>2017 Justice Assistance Grant</p>	<p>AMOUNT OF THIS AWARD \$15,005</p> <p>TOTAL SUB-AWARD \$15,005</p>	
<p>SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S), WHICH INCLUDE THE AWARD CONTINUATION SHEETS (PAGES 2-21), A SUPPLEMENTAL STATEMENT BY THE COUNTY OF SAN BERNARDINO (1 PAGE), AND THE SUBRECIPIENT MONITORING PROCEDURES FOR THE COUNTY OF SAN BERNARDINO LAW AND JUSTICE GROUP (4 PAGES).</p>		
<p>STATUTORY AUTHORITY FOR GRANT</p> <p>This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 42 U.S.C. 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U.S.C. 530C(a).</p>		
<p>CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>		
<p><b>GRANTEE APPROVAL</b></p>		<p><b>SUBRECIPIENT ACCEPTANCE</b></p>
<p>TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>G. Christopher Gardner, Chair San Bernardino County Law and Justice Group</p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF APPROVING OFFICIAL</p> <p>_____</p> <p style="text-align: center;">DATE</p>	<p>TYPED NAME AND TITLE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>Edward C. Starr, City Manager City of Montclair</p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>_____</p> <p style="text-align: center;">DATE</p>	



PROJECT NUMBER 2017-DJ-BX-0991

AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 42 U.S.C. 3795a), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2017 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2017 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2017 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

The recipient agrees to comply with the DOJ Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance.





PROJECT NUMBER 2017-DJ-BX-0991

AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

4. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

5. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

6. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



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AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

7. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

8. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

9. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.



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AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

10. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

11. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

12. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

13. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/ojptrainingguidingprinciples.htm>.

14. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

15. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.



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AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

17. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

19. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.



U.S. Department of Justice  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
Grant**

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AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

20. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2017, are set out at <https://ojp.gov/funding/Explore/FY17AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

21. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



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*SPECIAL CONDITIONS*

22. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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*SPECIAL CONDITIONS*

23. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

24. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

25. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

26. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



PROJECT NUMBER 2017-DJ-BX-0991

AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

27. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

28. Justice Information Sharing

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, the recipient (and any subrecipient at any tier) must comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular award. The recipient shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). The recipient shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

29. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

30. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). The recipient may not satisfy such a fine with federal funds.

31. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

32. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 42 U.S.C. 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.





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33. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

34. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)).

35. Required attendance at BJA-sponsored events

The recipient (and its subrecipients at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

36. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



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37. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

38. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



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39. Prohibition on use of award funds for match under BVP program

JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

40. Certification of body armor "mandatory wear" policies

The recipient agrees to submit a signed certification that all law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

41. Body armor - compliance with NIJ standards

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/>). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

42. Required monitoring of subawards

The recipient must monitor subawards under this JAG award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

43. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPR) and the GPR Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website ([www.bjaperformancetools.org](http://www.bjaperformancetools.org)). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

44. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.



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45. Prohibited Expenditures List

Award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure List may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

46. Controlled expenditures - prior written approval required

Award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions are set out at <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

47. Controlled expenditures - incident reporting

If an agency uses award funds to purchase or acquire any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, the agency must collect and retain (for at least 3 years) certain information about the use of-- (1) any federally-acquired Controlled Equipment in the agency's inventory, and (2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and the agency must make that information available to BJA upon request. Details about what information must be collected and retained are set out at <https://ojp.gov/docs/LE-Equipment-WG-Final-Report.pdf>.

48. Sale of items on Controlled Expenditure List

Notwithstanding the provision of the Part 200 Uniform Requirements set out at 2 C.F.R. 200.313, no equipment listed on the Controlled Expenditure List that is purchased with award funds may be transferred or sold to a third party, except as described below:

- a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it were requesting approval to use award funds for the initial purchase of items on the Controlled Expenditure List.
- b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.
- c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.

The recipient must notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased with award funds, and must abide by any applicable laws (including regulations) in such disposal.

49. Prohibited or controlled expenditures - Effect of failure to comply

Failure to comply with an award condition related to prohibited or controlled expenditures may result in denial of any further approvals of controlled expenditures under this or other federal awards.



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50. Controlled expenditures - Standards

Consistent with recommendation 2.1 of Executive Order 13688, a law enforcement agency that acquires controlled equipment with award funds must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP's request, the recipient must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.

51. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2016

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2016), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.



"Certification of Compliance with 8 U.S.C. 1373" required for valid award acceptance by a unit of local government

In order validly to accept this award, the applicant local government must submit the required "Certification of Compliance with 8 U.S.C. 1373" (executed by the chief legal officer of the local government). Unless that executed certification either-- (1) is submitted to OJP together with the fully-executed award document, or (2) is uploaded in OJP's GMS no later than the day the signed award document is submitted to OJP, any submission by a unit of local government that purports to accept the award is invalid.

If an initial award-acceptance submission by the recipient is invalid, once the unit of local government does submit the necessary certification regarding 8 U.S.C. 1373, it may submit a fully-executed award document executed by the unit of local government on or after the date of that certification.

For purposes of this condition, "local government" does not include any Indian tribes.



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**X**

Ongoing compliance with 8 U.S.C. 1373 is required

1. With respect to the "program or activity" funded in whole or part under this award (including any such "program or activity" of any subrecipient at any tier), throughout the period of performance for the award, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in 8 U.S.C. 1373(b). For purposes of this award, any prohibition (or restriction) that violates this condition is an "information-communication restriction."

2. Certifications from subrecipients. The recipient may not make a subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Similarly, the recipient must require that no subrecipient (at any tier) may make a further subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the further subaward, using the appropriate OJP form.

3. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State or local government or a "public" institution of higher education, incurs to implement this condition.

5. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is one that is owned, controlled, or directly funded by a State or local government.

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means for purposes of 8 U.S.C. 1373 (Illegal Immigration Reform and Immigrant Responsibility Act of 1996); and terms that are defined in 8 U.S.C. 1101 (Immigration and Nationality Act) mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 42 U.S.C. 901(a)(2)).

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any "public" institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.



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IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.



Authority to obligate award funds contingent on compliance with 8 U.S.C. 1373; unallowable costs; obligation to notify

1. If the recipient is a State or local government--

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any "information-communication restriction."

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and all subrecipients (regardless of tier) are in compliance with 8 U.S.C. 1373.

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded "program or activity" of the recipient, or of any subrecipient at any tier that is either a State or a local government or a "public" institution of higher education, may be subject to any "information-communication restriction." In addition, any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient such credible evidence regarding an "information-communication restriction."

2. Any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

B. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.



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*SPECIAL CONDITIONS*

**X**

Required State-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a State government, and also apply to any State-government subrecipient at any tier (whether or not the recipient is a State government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given to access any State (or State-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that, when a State (or State-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, rules, regulations, policies, and practices to satisfy this condition, and (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3)).

(2) the term "correctional facility" means what it means under the Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 42 U.S.C. 3791(a)(7)).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual would have been released in the absence of this condition.

Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). In the event that (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to permit the advance notice that DHS has requested, it shall not be a violation of this condition to provide only as much advance notice as practicable.





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NOTE: Current DHS practice is to use one form (DHS Form I-247A (3/17)) for two distinct purposes -- to request advance notice of scheduled release, and to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition imposes NO requirements as to such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

**X**

Required local-government-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a unit of local government, and also apply to any local-government subrecipient of this award at any tier (whether or not the recipient itself is a unit of local government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given access a local-government (or local-government-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that, when a local-government (or local-government-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see "Rules of Construction" incorporated by para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, ordinances, rules, regulations, policies, and practices to satisfy this condition, (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. The "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

B. The "Rules of Construction" set out in the award condition entitled "Required State-level rules or practices related to aliens; allowable costs" are incorporated by reference as though set forth here in full.



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57. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

58. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.

59. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at [OJP.ComplianceReporting@ojp.usdoj.gov](mailto:OJP.ComplianceReporting@ojp.usdoj.gov). For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

60. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

61. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.



U.S. Department of Justice  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 21 OF 21

PROJECT NUMBER 2017-DJ-BX-0991

AWARD DATE 11/02/2018

*SPECIAL CONDITIONS*

62. Withholding of funds: Memorandum of Understanding

The recipient may not obligate, expend, or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

63. Withholding of funds: Budget narrative

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and OJP reviews and accepts, the budget narrative for the award, and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

64. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.



**County of San Bernardino**  
 385 North Arrowhead Avenue  
 San Bernardino, CA 92415-0123  
 Law and Justice Group  
 909-387-5005

**Grant  
 Supplemental  
 Statement**

RECIPIENT NAME AND ADDRESS (Including Zip Code)  County of San Bernardino 385 North Arrowhead Avenue San Bernardino, CA 92415-0123	AWARD NUMBER: 2017-DJ-BX-0991
	PROJECT PERIOD: FROM 10/01/2016 TO 09/30/2020 BUDGET PERIOD: FROM 10/01/2016 TO 09/30/2020
	AWARD DATE 11/02/2018
GRANTEE IRS/VENDOR NO. 956002748	PREVIOUS AWARD AMOUNT \$0
GRANTEE DUNS NO. 136763120	AMOUNT OF THIS AWARD \$611,642
PROJECT TITLE 2017 Justice Assistance Grant	TOTAL AWARD \$611,642

**SUPPLEMENTAL STATEMENT**

It is our understanding pursuant to the lawsuit filed by the California Attorney General challenging the imposition of immigration enforcement requirements that were added to the FY 2017 JAG funding and in response to a motion filed by the California Attorney General, that the U.S. District Court for the Northern District of California ordered the issuance of the FY 2017 JAG funding that had been withheld from the State of California and political subdivisions within the State and enjoined the enforcement of the immigration enforcement requirements (California v. Sessions I). The 2017 JAG Grant Award documents include the immigration enforcement requirements in paragraphs 52, 53, 54, 55 and 56 of those documents. **Please note that acceptance of the award for 2017 does not constitute acceptance of the immigration enforcement requirements. While the U.S. DOJ requires that as a recipient of the grant, we must initial every page of the award, the initialing of the pages is only an acknowledgement of receipt and is not an acceptance of any particular immigration enforcement requirement, certification of action, or condition on an initialed page. Also, please note that we are not submitting the "State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. 1373" referenced in paragraphs 52 and 53 of the 2017 Grant Award and in addition, we are striking paragraph 7 of the "Certification and Assurances by the Chief Executive of the Applicant Government." Additionally, please note we will not execute or require our subrecipients to execute the Certification of Compliance with 8 U.S.C. 1373.**

CHIEF EXECUTIVE APPROVAL	CHIEF LEGAL OFFICER APPROVAL
TYPED NAME AND TITLE OF CHIEF EXECUTIVE  Gary McBride, Chief Executive Officer  County of San Bernardino  _____ SIGNATURE OF CHIEF EXECUTIVE  _____ DATE	TYPED NAME AND TITLE OF CHIEF LEGAL OFFICER  Michelle Blakemore, County Counsel  County of San Bernardino  _____ SIGNATURE OF CHIEF LEGAL OFFICER  _____ DATE

**Subrecipient Monitoring Procedures  
County of San Bernardino  
Law and Justice Group**



**Grant Award/Sub-Award Process**

When the Law and Justice Group (L&JG) has been notified that it has been awarded a grant, a Board Agenda Item to accept the grant will be prepared and submitted to the Board of Supervisors (BOS) for approval. Where there is a sub-award to be granted, a Sub-Award Agreement will be prepared by the L&JG (recipient) and approved by the BOS and the subrecipient. The appropriate officials will sign the sub-award documents. The Sub-Award Agreement will identify the federal award information and applicable compliance requirements, including applicable special conditions for each federal sub-award. The Sub-Award Agreement will include the Grant Award Number, Award Date, Catalog of Federal Domestic Assistance (CFDA) number, Project Title, Project Period, Award Amount, and all applicable Special Conditions for the sub-award. The L&JG's Subrecipient Monitoring Procedures will be included in the Sub-Award Agreement.

**Grant Revenue**

When notified that a grant award has been made, the Grant Coordinator requests a budget code for the grant award from the Auditor-Controller/Treasurer/Tax Collector (ATC), and submits appropriate budget documents for the Board of Supervisors approval. Once the budget is established, the Grant Coordinator requests a drawdown of grant funds and deposits the funds into the applicable special revenue fund. Timeframes for the drawdown requests will be accomplished in accordance with award requirements specified by the awarding agency. The Grant Coordinator maintains a record of revenues requested and received and reconciles the account.

**Disbursement of Funds to Subrecipients**

When disbursing sub-award funds to subrecipients, the Grant Coordinator will prepare the appropriate payment document. The payment document is reviewed and approved by the Chair of the L&JG. The ATC processes payments and disbursement of funds.

To notify subrecipients of the federal award number, CFDA number, and the amount of federal funds at the time of the disbursement of funds, the following steps will be followed:

- The payment documents will reference the federal award number, CFDA number, and the amount of federal funds.
- Correspondence will be sent to subrecipients at the time of disbursement identifying the payment and detailing the required federal information.

**Subrecipient Monitoring Requirement**

Sub-awards will be monitored in accordance with all applicable statutes, regulations, the Uniform Grant Guidance, OMB Circulars, and guidelines, including the Office of Justice Programs Financial Guide. The recipient will include the applicable conditions of this award in any sub-award. The recipient is responsible for the following:

- Ensure that every sub-award is clearly identified to the subrecipient as a sub-award and includes applicable conditions of the federal award.
- Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations and the terms and conditions of the sub-award for purposes of determining the appropriate subrecipient monitoring procedures.
- Oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to the use of funds.
- Review financial and performance reports.
- Follow-up and ensure that subrecipients take timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the pass-through entity detected through audits, on-site monitoring visits, and other means.
- Issue a management decision for audit findings pertaining to the federal award provided to the subrecipient from the pass-through entity as required by 2 CFR 200.521 Management Decision.
- Verify that every subrecipient who is expected to expend \$750,000 or more is audited as required by 2 CFR 200 Subpart F Audit Requirements.
- Consider whether the results of the subrecipient's audits, on-site monitoring visits or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
- Consider taking enforcement against noncompliant subrecipients as described in 2 CFR 200.338 Remedies.

#### **Subrecipient Monitoring Process**

On-site monitoring of grant-funded projects may be conducted by the U.S. Department of Justice or the County of San Bernardino. At that time, the identified subrecipient agency will be required to provide documentation supporting expenditures, and/or a physical review of items funded through the grant may be requested.

To ensure full compliance with this legislative mandate, all grant related documentation to include timesheets, invoices, purchase orders, canceled checks, and contracts must be maintained in a location accessible to the person responsible for managing the sub-award, and the agency's chief executive.

If it is determined funds are not being used for approved purposes, or if proper documentation is not maintained, the amount in question must be returned to the U.S. Department of Justice. The subrecipient agency may also be deemed ineligible for future federal funding.

#### **On-Site Monitoring**

The County of San Bernardino L&JG may conduct on-site monitoring. The monitoring will be based upon performance and reported expenditure of funds. The monitoring will be based upon performance, tracked through reports and regular correspondence. This method will ensure the subrecipient in greatest need for assistance in managing their award is provided the necessary tools to be in full compliance with U.S. Department of Justice requirements.

If selected for monitoring, the subrecipient will be notified at least 20 days prior to the monitoring. The staff person responsible for managing the sub-award, the staff person assigned to managing fiscal operations, the chief executive of the subrecipient agency, and any other applicable persons directly involved in the oversight of grant funds will be asked to attend. Appropriate documentation will also be requested for review. During the monitoring, the following items will be reviewed and/or discussed:

invoices, timesheets, canceled checks, equipment purchased, policies and procedures, financial status reports, performance reports and grant files.

If the subrecipient is non-compliant with award requirements, the following actions will be taken: The County of San Bernardino will assist the subrecipient with the resolution of identified issues, a recommendation to the U.S. Department of Justice for a federal monitoring of the sub-award will be made, future payments will be withheld until all issues are resolved, and closer oversight of the subrecipient by San Bernardino County will be implemented.

#### **Project Accounting and Record Keeping**

Adequate control of funds received to ensure compliance with federal and state regulations and grant sub-award conditions will be accomplished. Separate records are maintained for each project to avoid commingling of project funds with other funds.

#### **Obligation and Expenditure of Funds**

All Grant funds must be obligated by the termination date of the project.

Grant funds legally obligated by the termination date must be expended within the timeframe specified within the Grant Contract, Agreement, or Sub-Award Agreement. Justice Assistance Grant funds must be expended by the end of the project period.

#### **Reporting Requirements**

Submission of financial reports will be accomplished in accordance with the guidelines specified in the Grant Contract, Agreement, or Sub-Award Agreement.

#### **Subrecipient Audits – Uniform Grant Guidance and OMB Circular A-133 Compliance**

Subrecipients are required to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200 (Uniform Grant Guidance) for federal awards made on or after December 26, 2014, or with the OMB Circular A-133 for federal awards made prior to December 26, 2014.

A single or program specific audit is required in any year that a government expends \$750,000 or more a year in federal awards. Both the Uniform Grant Guidance and the OMB Circular A-133 require audits to be completed and submitted to the Federal Audit Clearinghouse (FAC) no later than nine (9) months after the close of each fiscal year during the term of each grant award. As a condition of the sub-award agreement, the Law and Justice Group will require the subrecipient to submit a copy of the audit, including any corrective action plan within 30 days from the date of submission to the FAC. The Grant Coordinator will review and ensure that the subrecipient audit reports are received and that all audit findings have been resolved. Failure of the subrecipient to have audits performed as required may result in the withholding of new discretionary awards and/or withholding of funds.

#### **Project Closeout**

The Grant Coordinator will schedule, monitor, and ensure timely completion of all required closeout activities and final financial reports in conformance with the guidelines required by the awarding agency.

#### **Inventory Control**

Subrecipients will maintain an inventory of equipment purchased with grant funds and submit inventory records to the Grants Coordinator if requested. Records shall be retained for a period of three years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. As

equipment or other non-expendable property is purchased and received, it will be permanently marked, a property inventory record completed, and the property inventory record will be made part of the permanent grant sub-award file. Disposition of equipment will be done in accordance with the awarding agency's guidelines.

**Retention Period**

Project records must be maintained for the required period after the awarding agency determines that the grantee has met all the project requirements and the project has been accepted for closeout. Records will be maintained for a minimum of three years. The three-year retention period starts from the date of the submission of the closure of the single audit report which covers the grant period and lasts until completion of any disputes arising prior to the expiration of the three year period, whichever is later.

APPROVED BY:




G. Christopher Gardner, Chair  
Law and Justice Group

June 1, 2020

Date



 <p><b>County of San Bernardino</b> 385 North Arrowhead Avenue San Bernardino, CA 92415-0123</p> <p>Law and Justice Group 909-387-5005</p>	<p><b>Grant Sub-Award</b></p>	<p>PAGE 1 OF 27</p>
<p>SUBRECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>City of Montclair 5111 Benito Street, PO Box 2308 Montclair, CA 91763-2808</p>	<p>AWARD NUMBER: 2018-DJ-BX-0650</p>	
<p>SUBRECIPIENT IRS/VENDOR NO.</p> <p>95-6005731</p>	<p>SUB-AWARD NUMBER: 2018-DJ-BX-0650-Montclair</p> <p>PROJECT PERIOD: FROM 10/01/2017 TO 09/30/2021</p> <p>BUDGET PERIOD: FROM 10/01/2017 TO 09/30/2021</p>	
<p>SUBRECIPIENT DUNS NO.</p> <p>08-497-6919</p>	<p>AWARD DATE 11/16/2018</p> <p>PREVIOUS AWARD AMOUNT \$0</p>	
<p>PROJECT TITLE</p> <p>FY 18 Local JAG Program</p>	<p>AMOUNT OF THIS AWARD \$15,175</p> <p>TOTAL SUB-AWARD \$15,175</p>	
<p>SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S), WHICH INCLUDE THE AWARD CONTINUATION SHEETS (PAGES 2-22), A SUPPLEMENTAL STATEMENT BY THE COUNTY OF SAN BERNARDINO (1 PAGE), AND THE SUBRECIPIENT MONITORING PROCEDURES FOR THE COUNTY OF SAN BERNARDINO LAW AND JUSTICE GROUP (4 PAGES).</p>		
<p>STATUTORY AUTHORITY FOR GRANT</p> <p>This project is supported under FY18(BJA - JAG State &amp; JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10101 - 10726), including subpart I of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a).</p>		
<p>CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>		
<p><b>GRANTEE APPROVAL</b></p>		<p><b>SUBRECIPIENT ACCEPTANCE</b></p>
<p>TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>G. Christopher Gardner, Chair San Bernardino County Law and Justice Group</p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF APPROVING OFFICIAL</p> <p>_____</p> <p style="text-align: center;">DATE</p>	<p>TYPED NAME AND TITLE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>Edward C. Starr, City Manager City of Montclair</p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>_____</p> <p style="text-align: center;">DATE</p>	



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2018 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2018 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2018 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

9. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

10. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

11. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.

12. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

13. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

14. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

15. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

16. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

17. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

19. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

20. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



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21. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

22. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2018)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2018, are set out at <https://ojp.gov/funding/Explore/FY18AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

23. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



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24. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.





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25. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

26. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

27. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at [OJP.ComplianceReporting@ojp.usdoj.gov](mailto:OJP.ComplianceReporting@ojp.usdoj.gov). For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

28. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).



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29. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

30. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

31. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

32. Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

33. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

34. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.



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35. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

36. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

37. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

38. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)).

39. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



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40. Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

**X**

41. Certification of Compliance with 8 U.S.C. 1373 and 1644 (within the funded "program or activity") required for valid award acceptance by a local government

In order validly to accept this award, the applicant local government must submit the required "State or Local Government: FY 2018 Certification of Compliance with 8 U.S.C. 1373 and 1644" (executed by the chief legal officer of the local government). Unless that executed certification either-- (1) is submitted to OJP together with the fully-executed award document, or (2) is uploaded in OJP's GMS no later than the day the signed award document is submitted to OJP, any submission by a local government that purports to accept the award is invalid.

If an initial award-acceptance submission by the recipient is invalid, once the local government does submit the necessary certification regarding 8 U.S.C. 1373 and 1644, it may submit a fully-executed award document executed by the local government on or after the date of that certification.

For purposes of this condition, "local government" does not include any Indian tribe.



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**X**

Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any subrecipient at any tier), throughout the period of performance, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. Certifications from subrecipients. The recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or educational institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Also, the recipient must require that no subrecipient (at any tier) may make a further subaward to a State, a local government, or a public institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or institution that would receive the further subaward, using the appropriate OJP form.

3. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

5. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 and 1644 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.



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award acceptance.

**X**

Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement (8 U.S.C. 1373 and 1644); unallowable costs; notification

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition.

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" condition.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" condition are incorporated by reference as though set forth here in full.



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*SPECIAL CONDITIONS*

**X**

Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no public disclosure may be made of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3));

(2) the term "federal law enforcement information" means law enforcement sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation-- (1) through any database, (2) in connection with any law enforcement partnership or -task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

(3) the term "law enforcement sensitive information" means records or information compiled for any law enforcement purpose; and

(4) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any subrecipient (at any tier) that is a government entity.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



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*SPECIAL CONDITIONS*



Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- within the funded program or activity, no State or local government entity, -agency, or -official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. 1101(a)(3)).

(2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).

(3) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that--

(a) is designed to prevent or to significantly delay or complicate, or

(b) has the effect of preventing or of significantly delaying or complicating.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.





PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

**X**

Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. Noninterference with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[ felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the INA (see 8 U.S.C. 1101(a)(3)).

(2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

C. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.



U.S. Department of Justice  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
Grant**

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PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

D. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.

**X**

47. Requirement to collect certain information from subrecipients

The recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed subrecipient responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All subrecipient responses must be collected and maintained by the recipient, consistent with regular document retention requirements, and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

48. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

49. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

50. Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

51. Certification of body armor "mandatory wear" policies

The recipient agrees to submit a signed certification that all law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

52. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

53. Body armor - impact on eligibility for other program funds

The recipient understands that the use of funds under this award for purchase of body armor may impact eligibility for funding under the Bulletproof Vest Partnership (BVP) program, a separate program operated by BJA, pursuant to the BVP statute at 34 USC 10531(c)(5).

54. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website ([www.bjaperformancetools.org](http://www.bjaperformancetools.org)). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

55. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

56. Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

57. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2017

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2017), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

58. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

59. Three percent set-aside for NIBRS compliance

The recipient must ensure that at least 3 percent of the total amount of this award is dedicated to achieving full compliance with the FBI's National Incident-Based Reporting System (NIBRS), unless the FBI or appropriate State official has certified that the recipient locality is already NIBRS compliant, and evidence of this has been submitted to and approved by BJA. The recipient will be required by BJA to make revisions to budgets that do not clearly indicate what projects will be supported by this 3 percent set-aside, unless evidence of NIBRS compliance has been submitted to and approved by BJA. Recipients serving as fiscal agents for "disparate jurisdictions," (as defined at 34 USC 10156(d)(4)) have to pass this requirement through to in subawards to other localities in the disparate jurisdiction, so that each locality in a disparate jurisdiction group dedicates at least 3 percent of award funds to NIBRS compliance, unless, with respect to each locality in the disparate jurisdiction group, evidence of NIBRS compliance has been submitted to and approved by BJA.



PROJECT NUMBER 2018-DJ-BX-0650

AWARD DATE 11/16/2018

*SPECIAL CONDITIONS*

60. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.

61. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

62. Withholding of funds: NIBRS set-aside

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and BJA reviews and accepts, a budget that clearly dedicates at least 3 percent of the total amount of the award to NIBRS compliance activities or documentation showing that the recipient has been certified as NIBRS compliant, and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

63. Withholding of funds: Memorandum of Understanding

The recipient may not obligate, expend, or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

64. Withholding of funds: Budget narrative or information

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and OJP reviews and accepts, the required budget information or narrative for the award, and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

65. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.



**County of San Bernardino**  
 385 North Arrowhead Avenue  
 San Bernardino, CA 92415-0123  
 Law and Justice Group  
 909-387-5005

**Grant  
 Supplemental  
 Statement**

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RECIPIENT NAME AND ADDRESS (Including Zip Code)  County of San Bernardino 385 North Arrowhead Avenue San Bernardino, CA 92415-0123	AWARD NUMBER: 2018-DJ-BX-0650
	PROJECT PERIOD: FROM 10/01/2017 TO 09/30/2021 BUDGET PERIOD: FROM 10/01/2017 TO 09/30/2021
	AWARD DATE 11/16/2018
GRANTEE IRS/VENDOR NO. 956002748	PREVIOUS AWARD AMOUNT \$0
GRANTEE DUNS NO. 136763120	AMOUNT OF THIS AWARD \$638,246
PROJECT TITLE FY 18 Local JAG Program	TOTAL AWARD \$638,246

**SUPPLEMENTAL STATEMENT**

It is our understanding pursuant to the lawsuit filed by the California Attorney General challenging the imposition of immigration enforcement requirements that were added to the FY 2018 JAG funding, that the U.S. District Court for the Northern District of California found the immigration enforcement requirements unconstitutional and enjoined the enforcement of those requirements (California v. Sessions II). The 2018 JAG Grant Award documents include the immigration enforcement requirements in paragraphs 41, 42, 43, 44, 45, 46 and 47 of those documents. **Please note that acceptance of the award for 2018 does not constitute acceptance of the immigration enforcement requirements. While the U.S. DOJ requires that as a recipient of the grant, we must initial every page of the award, the initialing of the pages is only an acknowledgement of receipt, nor a certification of action or acceptance of any particular immigration enforcement requirement or condition on an initialed page. Also, please note that we are not submitting the "State or Local Government: FY 2018 Certification of Compliance with 8 U.S.C. 1373 and 1644" referenced in paragraphs 41 and 42 or the "State or Local Government: FY 2018 Certification Relating to 8 U.S.C. 1226(a) and (c), 1231(a), 1324(a), 1357(a), and 1366(1) and (3)." In addition, we are striking paragraphs 7 and 8 that refer to those two certifications in the "Certification and Assurances by the Chief Executive of the Applicant Government." Additionally, please note we will not execute or require our subrecipients to execute the Certification of Compliance with 8 U.S.C. 1373 and 1644.**

CHIEF EXECUTIVE APPROVAL	CHIEF LEGAL OFFICER APPROVAL
TYPED NAME AND TITLE OF CHIEF EXECUTIVE  Gary McBride, Chief Executive Officer  County of San Bernardino  _____ SIGNATURE OF CHIEF EXECUTIVE  _____ DATE	TYPED NAME AND TITLE OF CHIEF LEGAL OFFICER  Michelle Blakemore, County Counsel  County of San Bernardino  _____ SIGNATURE OF CHIEF LEGAL OFFICER  _____ DATE

**Subrecipient Monitoring Procedures  
County of San Bernardino  
Law and Justice Group**



**Grant Award/Sub-Award Process**

When the Law and Justice Group (L&JG) has been notified that it has been awarded a grant, a Board Agenda Item to accept the grant will be prepared and submitted to the Board of Supervisors (BOS) for approval. Where there is a sub-award to be granted, a Sub-Award Agreement will be prepared by the L&JG (recipient) and approved by the BOS and the subrecipient. The appropriate officials will sign the sub-award documents. The Sub-Award Agreement will identify the federal award information and applicable compliance requirements, including applicable special conditions for each federal sub-award. The Sub-Award Agreement will include the Grant Award Number, Award Date, Catalog of Federal Domestic Assistance (CFDA) number, Project Title, Project Period, Award Amount, and all applicable Special Conditions for the sub-award. The L&JG's Subrecipient Monitoring Procedures will be included in the Sub-Award Agreement.

**Grant Revenue**

When notified that a grant award has been made, the Grant Coordinator requests a budget code for the grant award from the Auditor-Controller/Treasurer/Tax Collector (ATC), and submits appropriate budget documents for the Board of Supervisors approval. Once the budget is established, the Grant Coordinator requests a drawdown of grant funds and deposits the funds into the applicable special revenue fund. Timeframes for the drawdown requests will be accomplished in accordance with award requirements specified by the awarding agency. The Grant Coordinator maintains a record of revenues requested and received and reconciles the account.

**Disbursement of Funds to Subrecipients**

When disbursing sub-award funds to subrecipients, the Grant Coordinator will prepare the appropriate payment document. The payment document is reviewed and approved by the Chair of the L&JG. The ATC processes payments and disbursement of funds.

To notify subrecipients of the federal award number, CFDA number, and the amount of federal funds at the time of the disbursement of funds, the following steps will be followed:

- The payment documents will reference the federal award number, CFDA number, and the amount of federal funds.
- Correspondence will be sent to subrecipients at the time of disbursement identifying the payment and detailing the required federal information.

**Subrecipient Monitoring Requirement**

Sub-awards will be monitored in accordance with all applicable statutes, regulations, the Uniform Grant Guidance, OMB Circulars, and guidelines, including the Office of Justice Programs Financial Guide. The recipient will include the applicable conditions of this award in any sub-award. The recipient is responsible for the following:



- Ensure that every sub-award is clearly identified to the subrecipient as a sub-award and includes applicable conditions of the federal award.
- Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations and the terms and conditions of the sub-award for purposes of determining the appropriate subrecipient monitoring procedures.
- Oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to the use of funds.
- Review financial and performance reports.
- Follow-up and ensure that subrecipients take timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the pass-through entity detected through audits, on-site monitoring visits, and other means.
- Issue a management decision for audit findings pertaining to the federal award provided to the subrecipient from the pass-through entity as required by 2 CFR 200.521 Management Decision.
- Verify that every subrecipient who is expected to expend \$750,000 or more is audited as required by 2 CFR 200 Subpart F Audit Requirements.
- Consider whether the results of the subrecipient's audits, on-site monitoring visits or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
- Consider taking enforcement against noncompliant subrecipients as described in 2 CFR 200.338 Remedies.

#### **Subrecipient Monitoring Process**

On-site monitoring of grant-funded projects may be conducted by the U.S. Department of Justice or the County of San Bernardino. At that time, the identified subrecipient agency will be required to provide documentation supporting expenditures, and/or a physical review of items funded through the grant may be requested.

To ensure full compliance with this legislative mandate, all grant related documentation to include timesheets, invoices, purchase orders, canceled checks, and contracts must be maintained in a location accessible to the person responsible for managing the sub-award, and the agency's chief executive.

If it is determined funds are not being used for approved purposes, or if proper documentation is not maintained, the amount in question must be returned to the U.S. Department of Justice. The subrecipient agency may also be deemed ineligible for future federal funding.

#### **On-Site Monitoring**

The County of San Bernardino L&JG may conduct on-site monitoring. The monitoring will be based upon performance and reported expenditure of funds. The monitoring will be based upon performance, tracked through reports and regular correspondence. This method will ensure the subrecipient in greatest need for assistance in managing their award is provided the necessary tools to be in full compliance with U.S. Department of Justice requirements.

If selected for monitoring, the subrecipient will be notified at least 20 days prior to the monitoring. The staff person responsible for managing the sub-award, the staff person assigned to managing fiscal operations, the chief executive of the subrecipient agency, and any other applicable persons directly involved in the oversight of grant funds will be asked to attend. Appropriate documentation will also be requested for review. During the monitoring, the following items will be reviewed and/or discussed:

invoices, timesheets, canceled checks, equipment purchased, policies and procedures, financial status reports, performance reports and grant files.

If the subrecipient is non-compliant with award requirements, the following actions will be taken: The County of San Bernardino will assist the subrecipient with the resolution of identified issues, a recommendation to the U.S. Department of Justice for a federal monitoring of the sub-award will be made, future payments will be withheld until all issues are resolved, and closer oversight of the subrecipient by San Bernardino County will be implemented.

#### **Project Accounting and Record Keeping**

Adequate control of funds received to ensure compliance with federal and state regulations and grant sub-award conditions will be accomplished. Separate records are maintained for each project to avoid commingling of project funds with other funds.

#### **Obligation and Expenditure of Funds**

All Grant funds must be obligated by the termination date of the project.

Grant funds legally obligated by the termination date must be expended within the timeframe specified within the Grant Contract, Agreement, or Sub-Award Agreement. Justice Assistance Grant funds must be expended by the end of the project period.

#### **Reporting Requirements**

Submission of financial reports will be accomplished in accordance with the guidelines specified in the Grant Contract, Agreement, or Sub-Award Agreement.

#### **Subrecipient Audits – Uniform Grant Guidance and OMB Circular A-133 Compliance**

Subrecipients are required to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200 (Uniform Grant Guidance) for federal awards made on or after December 26, 2014, or with the OMB Circular A-133 for federal awards made prior to December 26, 2014.

A single or program specific audit is required in any year that a government expends \$750,000 or more a year in federal awards. Both the Uniform Grant Guidance and the OMB Circular A-133 require audits to be completed and submitted to the Federal Audit Clearinghouse (FAC) no later than nine (9) months after the close of each fiscal year during the term of each grant award. As a condition of the sub-award agreement, the Law and Justice Group will require the subrecipient to submit a copy of the audit, including any corrective action plan within 30 days from the date of submission to the FAC. The Grant Coordinator will review and ensure that the subrecipient audit reports are received and that all audit findings have been resolved. Failure of the subrecipient to have audits performed as required may result in the withholding of new discretionary awards and/or withholding of funds.

#### **Project Closeout**

The Grant Coordinator will schedule, monitor, and ensure timely completion of all required closeout activities and final financial reports in conformance with the guidelines required by the awarding agency.

#### **Inventory Control**

Subrecipients will maintain an inventory of equipment purchased with grant funds and submit inventory records to the Grants Coordinator if requested. Records shall be retained for a period of three years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. As

equipment or other non-expendable property is purchased and received, it will be permanently marked, a property inventory record completed, and the property inventory record will be made part of the permanent grant sub-award file. Disposition of equipment will be done in accordance with the awarding agency's guidelines.

**Retention Period**

Project records must be maintained for the required period after the awarding agency determines that the grantee has met all the project requirements and the project has been accepted for closeout. Records will be maintained for a minimum of three years. The three-year retention period starts from the date of the submission of the closure of the single audit report which covers the grant period and lasts until completion of any disputes arising prior to the expiration of the three year period, whichever is later.


APPROVED BY:



G. Christopher Gardner, Chair  
Law and Justice Group

June 1, 2020

Date

 <p><b>County of San Bernardino</b> 385 North Arrowhead Avenue San Bernardino, CA 92415-0123</p> <p>Law and Justice Group 909-387-5005</p>	<p><b>Grant Sub-Award</b></p>	<p>PAGE 1 OF 35</p>
<p>SUBRECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>City of Montclair 5111 Benito Street, PO Box 2308 Montclair, CA 91763-2808</p>	<p>AWARD NUMBER: 2019-DJ-BX-0699</p>	
<p>SUBRECIPIENT IRS/VENDOR NO.</p> <p>95-6005731</p>	<p>SUB-AWARD NUMBER: 2019-DJ-BX-0699-Montclair</p> <p>PROJECT PERIOD: FROM 10/01/2018 TO 09/30/2022</p> <p>BUDGET PERIOD: FROM 10/01/2018 TO 09/30/2022</p>	
<p>SUBRECIPIENT DUNS NO.</p> <p>08-497-6919</p>	<p>AWARD DATE 09/18/2019</p> <p>PREVIOUS AWARD AMOUNT \$0</p>	
<p>PROJECT TITLE</p> <p>FY 19 Local JAG Program</p>	<p>AMOUNT OF THIS AWARD \$14,709</p> <p>TOTAL SUB-AWARD \$14,709</p>	
<p>SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S), WHICH INCLUDE THE AWARD CONTINUATION SHEETS (PAGES 2-30), A SUPPLEMENTAL STATEMENT BY THE COUNTY OF SAN BERNARDINO (1 PAGE), AND THE SUBRECIPIENT MONITORING PROCEDURES FOR THE COUNTY OF SAN BERNARDINO LAW AND JUSTICE GROUP (4 PAGES).</p>		
<p>STATUTORY AUTHORITY FOR GRANT</p> <p>This project is supported under FY19(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a).</p>		
<p>CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>		
<p><b>GRANTEE APPROVAL</b></p>		<p><b>SUBRECIPIENT ACCEPTANCE</b></p>
<p>TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>G. Christopher Gardner, Chair San Bernardino County Law and Justice Group</p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF APPROVING OFFICIAL</p> <p>_____</p> <p style="text-align: center;">DATE</p>	<p>TYPED NAME AND TITLE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>Edward C. Starr, City Manager City of Montclair</p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>_____</p> <p style="text-align: center;">DATE</p>	



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*SPECIAL CONDITIONS*

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award. By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts all such assurances or certifications as if personally executed by the authorized recipient official.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period - - may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The U.S. Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2019 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2019 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2019 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.



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3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.



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7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



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9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify ([www.e-verify.gov](http://www.e-verify.gov)), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.





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any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at [E-Verify@dhs.gov](mailto:E-Verify@dhs.gov). E-Verify employer agents can email E-Verify at [E-VerifyEmployerAgent@dhs.gov](mailto:E-VerifyEmployerAgent@dhs.gov).

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.



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13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.



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14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



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19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



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24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2019)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2019, are set out at <https://ojp.gov/funding/Explore/FY19AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Fraud Detection Office (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



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27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at [OJP.ComplianceReporting@ojp.usdoj.gov](mailto:OJP.ComplianceReporting@ojp.usdoj.gov). For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any subrecipient at any tier), throughout the period of performance, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 and 1644 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

**IMPORTANT NOTE:** Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.





U.S. Department of Justice  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
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AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. Throughout the period of performance, no State or local government entity, -agency, or -official may use funds under this award (including under any subaward, at any tier) to prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance" condition are incorporated by reference as though set forth here in full.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; unallowable costs; notification

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" award condition.

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" condition.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" condition are incorporated by reference as though set forth here in full.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

Authority to obligate award funds contingent on no use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; unallowable costs; notification

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "No use of funds to interfere ... 8 U.S.C. 1373 and 1644; ongoing compliance" award condition.

4. Rules of Construction. The "Rules of Construction" set out in the "Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; unallowable costs; notification" condition are incorporated by reference as though set forth here in full.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no public disclosure may be made of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3));

(2) the term "federal law enforcement information" means law enforcement sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation-- (1) through any database, (2) in connection with any law enforcement partnership or -task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

(3) the term "law enforcement sensitive information" means records or information compiled for any law enforcement purpose; and

(4) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any subrecipient (at any tier) that is a government entity.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

No use of funds to interfere with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no funds under this award may be used to make any public disclosure of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction.

The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information" award condition are incorporated by reference as though set forth here in full.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- within the funded program or activity, no State or local government entity, -agency, or -official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. 1101(a)(3)).

(2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).

(3) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that—

(a) is designed to prevent or to significantly delay or complicate, or

(b) has the effect of preventing or of significantly delaying or complicating.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

No use of funds to interfere with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- no State or local government entity, -agency, or -official may use funds under this award to interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction.

The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. Noninterference with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[ felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

C. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.





PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

**X**

0. No use of funds to interfere with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. No use of funds to interfere with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[ felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may use funds under this award to interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction.

The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release" award condition are incorporated by reference as though set forth here in full.

**X**

0. Requirement to collect certain information from subrecipients

Except as provided in this condition, the recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed subrecipient responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All subrecipient responses must be collected and maintained by the recipient, consistent with document retention requirements, and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.



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*SPECIAL CONDITIONS*

42. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

43. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

44. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

45. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

46. Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.



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*SPECIAL CONDITIONS*

47. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

48. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

49. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

50. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

51. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

52. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)).

53. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

54. Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

55. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

56. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

57. Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

58. Certification of body armor "mandatory wear" policies

If recipient uses funds under this award to purchase body armor, the recipient must submit a signed certification that law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

59. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

60. Body armor - impact on eligibility for other program funds

The recipient understands that the use of funds under this award for purchase of body armor may impact eligibility for funding under the Bulletproof Vest Partnership (BVP) program, a separate program operated by BJA, pursuant to the BVP statute at 34 USC 10531(c)(5).

61. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website ([www.bjaperformancetools.org](http://www.bjaperformancetools.org)). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

62. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

63. Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

64. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2018

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2018), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

65. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

66. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.



PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

67. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

68. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

69. Withholding of funds: Budget narrative or information

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and OJP reviews and accepts, the required budget information or narrative for the award, and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

70. Withholding of funds: Program narrative

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and OJP reviews and accepts, the program narrative for this award, and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

71. Withholding of funds: NIBRS set-aside

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and BJA reviews and accepts, a budget that clearly dedicates at least 3 percent of the total amount of the award to NIBRS compliance activities or documentation showing that the recipient has been certified as NIBRS compliant, and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

72. Withholding - DHS question attachment

The recipient may not obligate, expend or draw down funds until the Office of Justice Programs has received and approved the required application attachment(s) described in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)," and has issued a Grant Adjustment Notice (GAN) releasing this special condition.





U.S. Department of Justice  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 30 OF 30

PROJECT NUMBER 2019-DJ-BX-0699

AWARD DATE 09/18/2019

*SPECIAL CONDITIONS*

73. Recipient may not obligate, expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has received and approved the required application attachment(s) and has issued a Grant Adjustment Notice (GAN) releasing this special condition.
  
74. Withholding of funds: Disclosure of lobbying  
  
The recipient may not obligate, expend, or draw down any funds under this award until it has provided to the grant manager for this OJP award a complete Disclosure of Lobbying Activities (SF-LLL) form, and OJP has issued a Grant Adjustment Notice to remove this special condition.
  
75. Withholding of funds: Memorandum of Understanding  
  
The recipient may not obligate, expend, or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.



**County of San Bernardino**  
 385 North Arrowhead Avenue  
 San Bernardino, CA 92415-0123  
 Law and Justice Group  
 909-387-5005

**Grant  
 Supplemental  
 Statement**

PAGE 31 OF 35

RECIPIENT NAME AND ADDRESS (Including Zip Code)  County of San Bernardino 385 North Arrowhead Avenue San Bernardino, CA 92415-0123	AWARD NUMBER: 2019-DJ-BX-0699
	PROJECT PERIOD: FROM 10/01/2018 TO 09/30/2022 BUDGET PERIOD: FROM 10/01/2018 TO 09/30/2022
	AWARD DATE 09/18/2019
GRANTEE IRS/VENDOR NO. 956002748	PREVIOUS AWARD AMOUNT \$0
GRANTEE DUNS NO. 136763120	AMOUNT OF THIS AWARD \$637,997
PROJECT TITLE FY 19 Local JAG Program	TOTAL AWARD \$637,997

SUPPLEMENTAL STATEMENT

It is our understanding pursuant to the lawsuit filed by the California Attorney General challenging the imposition of immigration enforcement requirements that were added to the FY 2019 JAG funding, that the U.S. District Court for the Northern District of California found the immigration enforcement requirements unconstitutional and enjoined the enforcement of those requirements (California v. Sessions II). The 2019 JAG Grant Award documents include the immigration enforcement requirements in paragraphs 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41 of those documents. **Please note that acceptance of the award for 2019 does not constitute acceptance of the immigration enforcement requirements. While the U.S. DOJ requires that as a recipient of the grant, we must initial every page of the award, the initialing of the pages is only an acknowledgement of receipt, not a certification of action, or acceptance of any particular immigration enforcement requirement or condition on an initialed page.**

CHIEF EXECUTIVE APPROVAL	CHIEF LEGAL OFFICER APPROVAL
TYPED NAME AND TITLE OF CHIEF EXECUTIVE  Gary McBride, Chief Executive Officer  County of San Bernardino  _____ SIGNATURE OF CHIEF EXECUTIVE  _____ DATE	TYPED NAME AND TITLE OF CHIEF LEGAL OFFICER  Michelle Blakemore, County Counsel  County of San Bernardino  _____ SIGNATURE OF CHIEF LEGAL OFFICER  _____ DATE

**Subrecipient Monitoring Procedures  
County of San Bernardino  
Law and Justice Group**



**Grant Award/Sub-Award Process**

When the Law and Justice Group (L&JG) has been notified that it has been awarded a grant, a Board Agenda Item to accept the grant will be prepared and submitted to the Board of Supervisors (BOS) for approval. Where there is a sub-award to be granted, a Sub-Award Agreement will be prepared by the L&JG (recipient) and approved by the BOS and the subrecipient. The appropriate officials will sign the sub-award documents. The Sub-Award Agreement will identify the federal award information and applicable compliance requirements, including applicable special conditions for each federal sub-award. The Sub-Award Agreement will include the Grant Award Number, Award Date, Catalog of Federal Domestic Assistance (CFDA) number, Project Title, Project Period, Award Amount, and all applicable Special Conditions for the sub-award. The L&JG's Subrecipient Monitoring Procedures will be included in the Sub-Award Agreement.

**Grant Revenue**

When notified that a grant award has been made, the Grant Coordinator requests a budget code for the grant award from the Auditor-Controller/Treasurer/Tax Collector (ATC), and submits appropriate budget documents for the Board of Supervisors approval. Once the budget is established, the Grant Coordinator requests a drawdown of grant funds and deposits the funds into the applicable special revenue fund. Timeframes for the drawdown requests will be accomplished in accordance with award requirements specified by the awarding agency. The Grant Coordinator maintains a record of revenues requested and received and reconciles the account.

**Disbursement of Funds to Subrecipients**

When disbursing sub-award funds to subrecipients, the Grant Coordinator will prepare the appropriate payment document. The payment document is reviewed and approved by the Chair of the L&JG. The ATC processes payments and disbursement of funds.

To notify subrecipients of the federal award number, CFDA number, and the amount of federal funds at the time of the disbursement of funds, the following steps will be followed:

- The payment documents will reference the federal award number, CFDA number, and the amount of federal funds.
- Correspondence will be sent to subrecipients at the time of disbursement identifying the payment and detailing the required federal information.

**Subrecipient Monitoring Requirement**

Sub-awards will be monitored in accordance with all applicable statutes, regulations, the Uniform Grant Guidance, OMB Circulars, and guidelines, including the Office of Justice Programs Financial Guide. The recipient will include the applicable conditions of this award in any sub-award. The recipient is responsible for the following:

- Ensure that every sub-award is clearly identified to the subrecipient as a sub-award and includes applicable conditions of the federal award.
- Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations and the terms and conditions of the sub-award for purposes of determining the appropriate subrecipient monitoring procedures.
- Oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to the use of funds.
- Review financial and performance reports.
- Follow-up and ensure that subrecipients take timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the pass-through entity detected through audits, on-site monitoring visits, and other means.
- Issue a management decision for audit findings pertaining to the federal award provided to the subrecipient from the pass-through entity as required by 2 CFR 200.521 Management Decision.
- Verify that every subrecipient who is expected to expend \$750,000 or more is audited as required by 2 CFR 200 Subpart F Audit Requirements.
- Consider whether the results of the subrecipient's audits, on-site monitoring visits or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
- Consider taking enforcement against noncompliant subrecipients as described in 2 CFR 200.338 Remedies.

### **Subrecipient Monitoring Process**

On-site monitoring of grant-funded projects may be conducted by the U.S. Department of Justice or the County of San Bernardino. At that time, the identified subrecipient agency will be required to provide documentation supporting expenditures, and/or a physical review of items funded through the grant may be requested.

To ensure full compliance with this legislative mandate, all grant related documentation to include timesheets, invoices, purchase orders, canceled checks, and contracts must be maintained in a location accessible to the person responsible for managing the sub-award, and the agency's chief executive.

If it is determined funds are not being used for approved purposes, or if proper documentation is not maintained, the amount in question must be returned to the U.S. Department of Justice. The subrecipient agency may also be deemed ineligible for future federal funding.

### **On-Site Monitoring**

The County of San Bernardino L&JG may conduct on-site monitoring. The monitoring will be based upon performance and reported expenditure of funds. The monitoring will be based upon performance, tracked through reports and regular correspondence. This method will ensure the subrecipient in greatest need for assistance in managing their award is provided the necessary tools to be in full compliance with U.S. Department of Justice requirements.

If selected for monitoring, the subrecipient will be notified at least 20 days prior to the monitoring. The staff person responsible for managing the sub-award, the staff person assigned to managing fiscal operations, the chief executive of the subrecipient agency, and any other applicable persons directly involved in the oversight of grant funds will be asked to attend. Appropriate documentation will also be requested for review. During the monitoring, the following items will be reviewed and/or discussed:

invoices, timesheets, canceled checks, equipment purchased, policies and procedures, financial status reports, performance reports and grant files.

If the subrecipient is non-compliant with award requirements, the following actions will be taken: The County of San Bernardino will assist the subrecipient with the resolution of identified issues, a recommendation to the U.S. Department of Justice for a federal monitoring of the sub-award will be made, future payments will be withheld until all issues are resolved, and closer oversight of the subrecipient by San Bernardino County will be implemented.

#### **Project Accounting and Record Keeping**

Adequate control of funds received to ensure compliance with federal and state regulations and grant sub-award conditions will be accomplished. Separate records are maintained for each project to avoid commingling of project funds with other funds.

#### **Obligation and Expenditure of Funds**

All Grant funds must be obligated by the termination date of the project.

Grant funds legally obligated by the termination date must be expended within the timeframe specified within the Grant Contract, Agreement, or Sub-Award Agreement. Justice Assistance Grant funds must be expended by the end of the project period.

#### **Reporting Requirements**

Submission of financial reports will be accomplished in accordance with the guidelines specified in the Grant Contract, Agreement, or Sub-Award Agreement.

#### **Subrecipient Audits – Uniform Grant Guidance and OMB Circular A-133 Compliance**

Subrecipients are required to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200 (Uniform Grant Guidance) for federal awards made on or after December 26, 2014, or with the OMB Circular A-133 for federal awards made prior to December 26, 2014.

A single or program specific audit is required in any year that a government expends \$750,000 or more a year in federal awards. Both the Uniform Grant Guidance and the OMB Circular A-133 require audits to be completed and submitted to the Federal Audit Clearinghouse (FAC) no later than nine (9) months after the close of each fiscal year during the term of each grant award. As a condition of the sub-award agreement, the Law and Justice Group will require the subrecipient to submit a copy of the audit, including any corrective action plan within 30 days from the date of submission to the FAC. The Grant Coordinator will review and ensure that the subrecipient audit reports are received and that all audit findings have been resolved. Failure of the subrecipient to have audits performed as required may result in the withholding of new discretionary awards and/or withholding of funds.

#### **Project Closeout**

The Grant Coordinator will schedule, monitor, and ensure timely completion of all required closeout activities and final financial reports in conformance with the guidelines required by the awarding agency.

#### **Inventory Control**

Subrecipients will maintain an inventory of equipment purchased with grant funds and submit inventory records to the Grants Coordinator if requested. Records shall be retained for a period of three years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. As

equipment or other non-expendable property is purchased and received, it will be permanently marked, a property inventory record completed, and the property inventory record will be made part of the permanent grant sub-award file. Disposition of equipment will be done in accordance with the awarding agency's guidelines.

**Retention Period**

Project records must be maintained for the required period after the awarding agency determines that the grantee has met all the project requirements and the project has been accepted for closeout. Records will be maintained for a minimum of three years. The three-year retention period starts from the date of the submission of the closure of the single audit report which covers the grant period and lasts until completion of any disputes arising prior to the expiration of the three year period, whichever is later.

APPROVED BY:



G. Christopher Gardner, Chair  
Law and Justice Group

June 1, 2020

Date



# CITY COUNCIL AGENDA REPORT

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**DATE:** SEPTEMBER 8, 2020                      **FILE I.D.:** PDT175/PDT362  
**SECTION:** CONSENT - AGREEMENTS                      **DEPT.:** POLICE  
**ITEM NO.:** 2    **PREPARER:** M. BUTLER  
**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 20-75 WITH THE COUNTY OF SAN BERNARDINO RELATED TO DISTRIBUTION OF 2020 JUSTICE ASSISTANCE GRANT PROGRAM AWARD FUNDS  
  
CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO SIGN SAID AGREEMENT

---

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 20-75 with the County of San Bernardino related to distribution of 2020 Justice Assistance Grant (JAG) Program Award funds and authorizing City Manager Edward C. Starr to sign said Agreement.

A copy of proposed Agreement No. 20-75 is attached for the City Council's review and consideration.

**BACKGROUND:** The Police Department has been notified by the Bureau of Justice Assistance (BJA) that it is eligible to receive a \$14,572 FY 2020 JAG Program award. BJA will award JAG Program funds to eligible units of local government for the purpose of preventing and reducing crime and violence. The JAG Program requires that the state's allocation for municipal agencies in the region be distributed and administered directly through San Bernardino County. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, shall submit a joint application for local jurisdictions and shall disburse appropriate grant allocations, less a 5 percent administrative fee as allowable under JAG guidelines. Each participating jurisdiction must enter into an Interlocal Agreement, or Memorandum of Understanding, identifying the County as the fiscal agent for these joint funds. Appropriations must be released within 60 days of receipt of grant funds by the JAG Program Administrator. Before receiving grant funds, the City must also enter into a sub-recipient sub-award grant agreement with the County.

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

**FISCAL IMPACT:** Approval of proposed Agreement No. 20-75 would result in a \$13,844 JAG Program fund allocation to the Police Department's Fiscal Year 2020-21 Budget. The San Bernardino County Board of Supervisors would retain a 5 percent administrative fee of \$728.

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

1. Approve Agreement No. 20-75 with the County of San Bernardino related to distribution of the 2020 Justice Assistance Grant Program Award funds.
2. Authorize City Manager Edward C. Starr to sign said Agreement.



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

CONCERNING DISTRIBUTION OF THE  
2020 JUSTICE ASSISTANCE GRANT AWARD

This Agreement is made and entered into this 11th day of August, 2020, by and between THE COUNTY OF SAN BERNARDINO, acting by and through its governing body, the Board of Supervisors (hereinafter referred to as "COUNTY"), and the aforementioned TOWN (hereinafter referred to as "TOWN") and named CITIES (hereinafter referred to as "CITIES"), acting by and through their respective governing bodies, the Town Council and City Councils, all of whom are situated within the County of San Bernardino, State of California, as follows:

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

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

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

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

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

**Section 1.**

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

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

**Section 2.**

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

**Section 3.**

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

**Section 4.**

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

**Section 5.**

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

**Section 6.**

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

**Section 7.**

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

**Section 8.**

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

**Section 9.**

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

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

TOWN OF APPLE VALLEY, CA

COUNTY OF SAN BERNARDINO, CA

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

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

ATTEST:

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

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

APPROVED AS TO FORM:

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

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

APPROVED AS TO FORM:

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

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

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















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

CITY OF HIGHLAND, CA

\_\_\_\_\_  
City Manager

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

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

CITY OF REDLANDS, CA

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Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

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**2020 Justice Assistance Grant  
Appendix 1**

<b>Jurisdiction</b>	<b>Allocation</b>	<b>5% Administrative Fee</b>	<b>Award</b>
San Bernardino County	\$60,951	(\$3,047)	\$57,904
Adelanto	\$16,161	(\$808)	\$15,353
Apple Valley	\$16,568	(\$828)	\$15,740
Barstow	\$20,346	(\$1,017)	\$19,329
Chino	\$14,873	(\$744)	\$14,129
Colton	\$13,778	(\$689)	\$13,089
Fontana	\$49,212	(\$2,461)	\$46,751
Hesperia	\$24,037	(\$1,202)	\$22,835
Highland	\$13,585	(\$679)	\$12,906
Montclair	\$14,572	(\$728)	\$13,844
Ontario	\$41,958	(\$2,098)	\$39,860
Rancho Cucamonga	\$18,994	(\$950)	\$18,044
Redlands	\$15,130	(\$756)	\$14,374
Rialto	\$29,896	(\$1,495)	\$28,401
San Bernardino	\$184,334	(\$9,217)	\$175,117
Upland	\$16,418	(\$821)	\$15,597
Victorville	\$51,916	(\$2,596)	\$49,320
<b>Total</b>	<b>\$602,729</b>	<b>(\$30,136)</b>	<b>\$572,593</b>



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	SEPTEMBER 8, 2020	<b>FILE I.D.:</b>	CCK140-30
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	CITY MGR./CITY CLERK
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	A. PHILLIPS
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 20-78 WITH THE SAN BERNARDINO COUNTY REGISTRAR OF VOTERS RELATED TO THE INSTALLATION OF SECURE MAIL BALLOT DROP BOXES ON CITY PROPERTY		

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**REASON FOR CONSIDERATION:** The San Bernardino County Registrar of Voters (ROV) has requested assistance from cities within the County by allowing the installation of secure mail ballot drop boxes on City property. The City Council is requested to consider approval of Agreement No. 20-78 with the ROV related to the installation of secure mail ballot drop boxes on City property.

A copy of proposed Agreement No. 20-78 is attached for the City Council's review and consideration.

**BACKGROUND:** On May 8, 2020, Governor Newsom issued Executive Order N-64-20 requiring a ballot be mailed to every voter in California. Counties are being required by the state to provide at least one vote-by-mail ballot drop-off location for every 15,000 registered voters, with most located inside or outside essential businesses that are accessible for at least 12 hours per day, and with some being drive-through locations. San Bernardino County has assessed it will need at least 105 mail ballot drop-off locations, including 70 permanent mail ballot drop-off boxes.

On May 27, 2020, the ROV held a roundtable meeting with City Clerks to discuss collaborative solutions to logistical challenges presented by an anticipated increase in voter turnout and the ongoing and developing pandemic situation for the upcoming November 3, 2020 election. The roundtable meeting included a request by the ROV to each city for the installation of secure mail ballot drop boxes at their respective civic centers and at least one other city-owned location.

After receiving input from all participating cities, the ROV developed a contract wherein the County shall:

- Purchase the secure ballot drop boxes.
- Reimburse cities up to \$2,000 per box for the installation and eventual removal and restoration of the site to its original condition.
- Maintain, repair, and replace boxes as needed.
- Remove ballots from the boxes throughout the duration of the election period (October 5 through November 3, 2020).

The participating cities would be responsible for:

- Providing an accessible location for the box on City-owned property.
- Installing the boxes and invoicing the County for costs.
- Assigning staff to unlock the boxes at the beginning (October 5, 2020), and lock the boxes at the end (November 3, 2020, at 8:00 p.m.) of the voting period.
- Maintaining the area around the boxes in good condition.

The County is requesting a term of five years for the contract; however, the contract may be terminated earlier upon agreement by both parties.

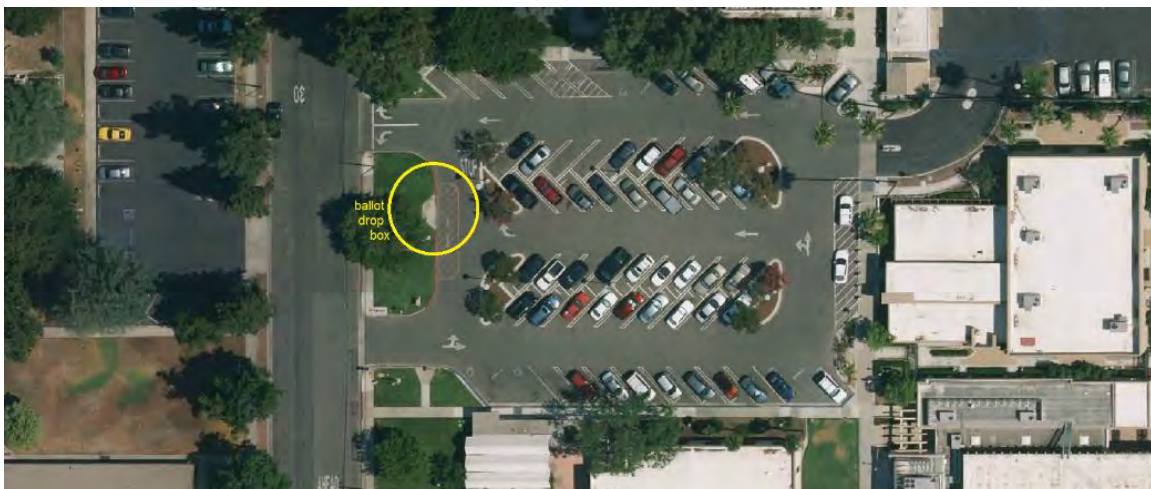
Cities were asked to identify at least two locations at City facilities that would be ideal to locate mail ballot drop boxes. Based on the City's size and population, only one or two boxes would be required pending the County's final analysis. Some of the criteria for assessing locations for mail ballot drop boxes include proximity to public transit and communities with low rates of vehicle ownership, access to free parking, traffic patterns, and accessibility to alternative voting methods for voters with disabilities. After using a mapping tool to evaluate the locations offered by the cities, the final list of proposed mail ballot drop box locations will be posted on the County's website for a 10-day public review and comment period. After reviewing public comments and making appropriate adjustments, the County will finalize the 70 locations to install the mail ballot drop boxes.

Two locations identified by staff that would meet the state's criteria are the north Civic Center parking lot at 5111 Benito Street, and the Police Department parking lot at 4870 Arrow Highway. These proposed locations were submitted to the County.

Proposed Police Department  
Secure Mail Ballot Drop Box Location



Proposed Civic Center  
Secure Mail Ballot Drop Box Location



The boxes the County is purchasing, pictured below, measure 32" x 32" x 56" high, will be wrapped with graphics by the County containing state-required information, and will have the following security measures to prevent tampering with ballots inside the box:



- Installation involves bolting to concrete that can only be accessed from inside the box by opening the locked door.
- Double lock access brass locks with lock covers.
- Double bitted keys.
- Anti-pry door jamb.
- Anti-tamper chute.
- Lockable push plate for poll closing.

**FISCAL IMPACT:** The City Council's approval of Agreement No. 20-78 would have no fiscal impact. The County will reimburse the City for installation and removal costs up to \$2,000 per box, and will repair or replace the boxes if damaged.

**RECOMMENDATION:** Staff recommends that the City Council approve Agreement No. 20-78 with the San Bernardino County Registrar of Voters related to the installation of secure mail ballot drop boxes on City property.



**Contract Number**

\_\_\_\_\_

**SAP Number**

\_\_\_\_\_

**Agreement No. 20-78**

**REGISTRAR OF VOTERS**

**Department Contract Representative**      Bob Page  
**Telephone Number**                              (909) 387-2100

**Contractor**    City of Montclair  
**Contractor Representative**                      Andrea Phillips, City Clerk  
**Telephone Number**                              (909) 625-9416  
**Contract Term**    5 Years  
**Original Contract Amount**                      \_\_\_\_\_  
**Amendment Amount**                              \_\_\_\_\_  
**Total Contract Amount**                              \_\_\_\_\_  
**Cost Center**    \_\_\_\_\_

**IT IS HEREBY AGREED AS FOLLOWS:**

**WHEREAS**, the County of San Bernardino (County) desires to place a secure ballot drop box on City of Montclair (Contractor’s) property located at 5111 Benito Street, Montclair, CA 91763 and 4870 Arrow Highway, Montclair, CA 91763, for the purpose of allowing city and county voters to deposit official ballots, 24/7, for all elections in San Bernardino County; and

**WHEREAS**, the County finds Contractor qualified to provide a location for a secure ballot drop box on its property; and

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

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

**A. CONTRACTOR RESPONSIBILITIES**

**A.1** To install the ballot box in a location on the Contractor’s property agreed upon by the Contractor and the County. Installation instructions for the ballot box are attached hereto as Attachment “1.”

**A.2** To allow access to the box by voters during any scheduled Countywide consolidated election and during any other election in which voters within the Contractor’s jurisdiction are eligible to vote.

**A.3** To maintain the area adjacent to the box by keeping the area in good condition and conduct regular inspections at least once a day during business hours during voting periods and routine maintenance of the area to ensure the public has access to the box.

**A.4** To report any damage, tampering or defacement of the box to the County.

**A.5** To monitor the status of the box during an election and report any issues to the County.

**A.6** To remove and secure mail ballots from the box on an emergency basis only upon direction by County.

**A.7** To unlock the box at the start of regular Contractor business hours twenty-nine (29) days before the day of an election to allow voters to return their voted mail ballots by depositing the ballots into the box.

**A.8** To securely lock the box promptly at 8:00 p.m. on the day of an election to prevent late ballots from being deposited.

**A.9** Contractor is receiving the ballot box from County and Contractor is not responsible or liable in any way what-so-ever for the adequacy of the box for its intended purpose or for acts of third parties that may damage to the box, tamper with or spoil of its contents, or any other criminal act of a third party related to the box or its contents.

## **B. GENERAL CONTRACT REQUIREMENTS**

### **B.1 Recitals**

The recitals set forth above are true and correct and incorporated herein by this reference.

### **B.2 Contract Amendments**

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

### **B.3 Contract Assignability**

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

### **B.4 Contract Exclusivity**

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

### **B.5 Attorney's Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

### **B.6 Change of Address**

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

### **B.7 Choice of Law**

This Contract shall be governed by and construed according to the laws of the State of California.



**B.8 Primary Point of Contact**

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

**B.9 County Representative**

The Registrar of Voters or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

**B.10 Damage to County Property**

Contractor shall repair, or cause to be repaired, at its own cost, all damages to the box caused by the willful or negligent acts of Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

**B.11 Drug and Alcohol Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

- B.11.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- B.11.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- B.11.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

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

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

**B.12 Duration of Terms**

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

**B.13 Employment Discrimination**

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

**B.14 Informal Dispute Resolution**

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

**B.15 Legality and Severability**

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

**B.16 Material Misstatement/Misrepresentation**

If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

**B.17 Mutual Covenants**

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

**B.18 Relationship of the Parties**

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

**B.20 Representation of the County**

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

**B.21 Strict Performance**

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

**B.22 Subpoena**

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

**B.23 Termination for Convenience**

The County and the Contractor each reserve the right to terminate the Contract, for any reason, with a sixty (60) day written notice of termination. Such termination may include all or part of the services described herein. If Contractor desires to terminate the Contract, they shall give the County ample notice and access to remove the drop box. County shall have sixty (60) days from the date Contractor terminates the contract to remove the drop box and restore the property to its original condition. Should County fail to remove the drop box within sixty (60) days, Contractor may remove the box and charge the cost to County. County shall have sixty (60) days from the mailing of the cost notice to reimburse Contractor for the cost of removing the drop box. If Contractor removes the drop box due to County's failure to remove the box, Contractor shall not be responsible for any damages to the drop box notwithstanding any other provision in this Contract.

**B.24 Time of the Essence**

Time is of the essence in performance of this Contract and of each of its provisions.

**B.25 Venue**

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

**B.26 Prevailing Wage Laws**

By its execution of this Contract, Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Section 1720 of the California Labor Code states in part: "For purposes of this paragraph, 'construction' includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction including, but not limited to, inspection and land surveying work..." If the Services/Scope of Work are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture

of penalties prescribed in the Labor Code for violations. Contractor shall defend, indemnify and hold the County, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with Prevailing Wage Laws. See Attachment A, which is attached and incorporated by reference, for additional information regarding Prevailing Wage Laws. Contractor shall comply with all applicable terms and conditions in Attachment A. The applicable general prevailing wage determinations are on file with the County and are available to any interested party on request. Contractor shall post a copy of the applicable prevailing wage determinations at the job site.

**C. TERM OF CONTRACT**

This Contract is effective as of \_\_\_\_\_ and expires \_\_\_\_\_ but may be terminated earlier in accordance with provisions of this Contract.

**D. COUNTY RESPONSIBILITIES**

**D.1** To provide the ballot box at County expense and reimburse Contractor for the cost to install and remove the ballot box. Reimbursement shall not exceed \$2,000.

**D.2** To timely notify the Contractor of any elections to be conducted where the box will need to be available.

**D.3** To service the box by removing the ballots as required by County and State requirements during an election period.

**D.4** To maintain, repair or replace the box as needed.

**D.5** To promptly respond to any reported problems or incidents related to the box.

**E. FISCAL PROVISIONS**

**E.1** The maximum amount of reimbursement under this Contract shall not exceed \$2,000 per box (for up to 2 boxes). The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.

**E.2** Contractor shall submit an invoice (in a format acceptable to County) to County within 30 days of the completion of the installation of the ballot box. The County shall make a payment to Contractor within sixty (60) working days after receipt of invoice or the resolution of any billing dispute. Reimbursement for the cost to install the ballot box shall be the only payment from County to Contractor under this Contract.

**E.3** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

**E.4** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.

## **F. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

### **F.1 Indemnification**

- a. Contractor agrees to indemnify, defend (with counsel approved by County) and hold harmless the County and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability resulting from the Contractor's negligent acts or omissions which arise from the Contractor's performance of its obligations under this Contract.

County agrees to indemnify, defend (with counsel approved by Contractor), and hold harmless the Contractor and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability resulting from the County's negligent acts or omissions which arise from the County's performance of its obligations under this Contract.

In the event the County and/or the Contractor is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Contract, the County and/or Contractor shall indemnify the other to the extent of its comparative fault. Furthermore, if the County or Contractor attempts to seek recovery from the other for Workers' Compensation benefits paid to an employee, the County and Contractor agree that any alleged negligence of the employee shall not be construed against the employer of that employee.

- b. This section F survives the termination or expiration of this Contract.

### **F.2 Self-Insurance**

If both County and Contractor are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement, then that shall suffice for coverage and meet the insurance requirements for this Contract.

### **F.3 Additional Insured**

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

### **F.4 Waiver of Subrogation Rights**

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

### **F.5 Policies Primary and Non-Contributory**

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

### **F.6 Severability of Interests**

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

**F.7 Proof of Coverage**

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request. If Contractor is self-insured or a member of a JPIA, evidence of such coverage shall be furnished to County within fifteen (15) days of the commencement of this contract.

**F.8 Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII". Self-insurance or membership in a JPIA shall suffice for coverage.

**F.9 Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**F.10 Failure to Procure Coverage**

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

**F.11 Insurance Review**

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

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

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

**F.12** The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

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

**F.12.1** Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

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

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

**F.12.2** Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

**F.12.3** Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

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

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

**F.12.4** Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

**G. CORRECTION OF PERFORMANCE DEFICIENCIES**

**G.1** Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

**G.2** In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Afford Contractor thereafter two (2) calendar days within which to cure the breach; and/or
- b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
- c. Withhold funds pending duration of the breach; and/or
- d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
- e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

**H. NOTICES**

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

County of San Bernardino  
Registrar of Voters  
777 E. Rialto Ave.  
San Bernardino, CA 92415

City of Montclair  
City Clerk's Office  
5111 Benito Street  
Montclair, CA 91763

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**I. ENTIRE AGREEMENT**

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.



**IN WITNESS WHEREOF**, the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

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**COUNTY OF SAN BERNARDINO**

**CITY OF MONTCLAIR**

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

► \_\_\_\_\_

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

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

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

Title **Mayor**  
*(Print or Type)*

Attest: \_\_\_\_\_  
**Andrea M. Phillips, City Clerk**

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

Address **5111 Benito Street**  
**Montclair, CA 91763**

**FOR COUNTY USE ONLY**

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► Jolena Grider, Deputy County Counsel	►	► Bob Page, Registrar of Voters
Date _____	Date _____	Date _____

## ATTACHMENT A

### PREVAILING WAGE REQUIREMENTS

**A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:**

**1. Determination of Prevailing Rates:**

Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at [www.dir.ca.gov](http://www.dir.ca.gov). The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

**2. Payment of Prevailing Rates**

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

**3. Prevailing Rate Penalty**

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

**4. Ineligible Contractors:**

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

**5. Payroll Records:**

a. Pursuant to California Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
- ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County, the Division of Labor Standards Enforcement of the DIR;
- iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement,

the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;

- iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
  - v. Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.
- b. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

#### **6. Limits on Hours of Work:**

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

#### **7. Penalty for Excess Hours:**

The Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

#### **8. Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:**

- a. Contractor shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:
  - i. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).
  - ii. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5.
  - iii. This project is subject to compliance monitoring and enforcement by the DIR.
  - iv. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
  - v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all public works projects.
    - 1) The certified payroll must be submitted at least monthly to the Labor Commissioner.
    - 2) The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
    - 3) The certified payroll records must be in a format prescribed by the Labor Commissioner.
  - vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is \$25,000 or less when the project is for construction,

alteration, demolition, installation or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.

b. Labor Code section 1725.5 states the following:

“A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, “contractor” includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

c. Labor Code section 1771.1 states the following:

"(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars

(\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:

(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.

(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or

to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.”

d. Labor Code section 1771.4 states the following:

“a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.”

**B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS**

**1. State Public Works Apprenticeship Requirements:**

a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

b. Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

**2. Compliance with [California Labor Code section 1777.5](#) requires all public works contractors to:**

a. Submit Contract Award Information (DAS-140):

- i. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
  - ii. The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice.*
  - iii. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.
  - iv. Contractors who are already approved to train apprentices (i.e. check “Box 1” on the DAS-140) shall only be required to submit the form to their approved program.
  - v. Contractors who are NOT approved to train apprentices (i.e. those that check either “Box 2” or “Box 3” on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.
- b. Employ Registered Apprentices
- i. Labor Code section 1777.5 requires that a contractor performing work in an “apprenticeable” craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor’s completion of work on the project. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
  - ii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
  - iii. Contractors may use the “DAS-142” form for making a request for the dispatch of an apprentice.
  - iv. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
  - v. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
  - vi. Only “registered” apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).
- c. Make Training Fund Contributions
- i. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
  - ii. Contractors may use the “CAC-2” form for submittal of their training fund contributions.
  - iii. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
  - iv. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
  - v. The “training” contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

**3. Exemptions to Apprenticeship Requirements:**

- a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:



- i. When the Contractor holds a sole proprietor license (“Owner-Operator”) and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
- ii. Contractors performing in non-apprenticeable crafts. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
- iii. When the Contractor has a direct contract with the Public Agency that is under \$30,000.
- iv. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
- v. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

**4. Exemption from Apprenticeship Ratios:**

- a. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:
  - i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
  - ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
  - iii. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
  - iv. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.
- b. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

**5. Contractor’s Compliance:**

- a. The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.

# M910 BALLOT DROP INSTALLATION INSTRUCTIONS

01

Carefully unpack your M910 Ballot Drop. Please inspect your shipment at the time of delivery. Customers are responsible if damaged merchandise is signed for at the time of delivery.

02

Place your M910 Ballot Drop in the area that you want it to be of service to the community. Mark the 4 holes at the bottom of the cabinet and move the cabinet out of the way.

03



Drill a 1/2 inch hole at 4 inches deep for all 4 marks.

Move the cabinet back to align with the holes.

04



Tap in all 4 included stainless steel wedge anchors.

05



Secure each anchor with a wrench.

## M910 BALLOT DROP STAINLESS STEEL CARE INSTRUCTIONS

Clean monthly with an oil based stainless steel cleaner.

Polish for a long lasting shine.

Use a powder graphite or lock lubricant to help the lock work smoothly.



# CITY COUNCIL AGENDA REPORT

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**DATE:** SEPTEMBER 8, 2020                      **FILE I.D.:** PRK025  
**SECTION:** CONSENT - AGREEMENTS                      **DEPT.:** PUBLIC WORKS  
**ITEM NO.:** 4    **PREPARER:** S. STANTON

**SUBJECT:** CONSIDER AMENDING THE 2019-2024 CAPITAL IMPROVEMENT PROGRAM TO INCLUDE THE REEDER RANCH PARK PROJECT

CONSIDER AUTHORIZING A \$371,965 APPROPRIATION FROM THE STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM GRANT FUND FOR CONSTRUCTION OF THE REEDER RANCH PARK PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 20-79 WITH EPT DESIGN FOR DESIGN SERVICES FOR THE REEDER RANCH PARK PROJECT

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**REASON FOR CONSIDERATION:** Architectural design services are required for the development of construction plans for construction of the new Reeder Ranch Park. The City Council is requested to consider approval of Agreement No. 20-79 with EPT Design for design services for the Reeder Ranch Park Project.

A copy of proposed Agreement No. 20-79 is attached for City Council review and consideration.

**BACKGROUND:** On March 19, 2020, the City was notified of its successful application with the Statewide Park Development and Community Revitalization Program for construction of a new park at the Reeder Ranch. In total, the City received \$5,137,000 in grant funding for the park. The funding is intended to be used for design services as well as construction of the new park.

A request for proposals (RFP) was prepared for preparation and development of plans, specifications and bid documents. The RFP was solicited to seven qualified architect firms:

- Architerra Design Group, Rancho Cucamonga, CA.
- RJM Design Group, San Juan Capistrano, CA.
- EPT Design, Pasadena, CA.
- Hirsch & Associates, Inc., Anaheim, CA.
- BMLA Landscape Architecture, Corona, CA.
- Gruen Associates, Los Angeles, CA.
- ICG Incorporated, Chino Hills, CA.

The City received and opened seven responses to the RFP. The City's evaluation team determined that the proposal submitted by EPT Design exhibited the most knowledge and experience, as well as a portfolio of projects similar in nature to the proposed park.

**FISCAL IMPACT:** Funding for this project is provided through the Statewide Park Development and Community Revitalization Program. The total budget for the project is \$5,137,000. The design services agreement with EPT Design is for a not-to-exceed amount of \$371,965.

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

1. Amend the Fiscal Years 2019–2024 Capital Improvement Program to include the Reeder Ranch Park Project.
2. Authorize a \$371,965 appropriation of Statewide Park Development and Community Revitalization Program grant funds for costs related to design and construction of the Reeder Ranch Park Project.
3. Approve Agreement No. 20-79 with EPT Design for design services for the Reeder Ranch Park Project.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

DESIGN SERVICES FOR REEDER RANCH PARK

THIS AGREEMENT is made and effective as of September 9, 2020, between the City of Montclair, a municipal corporation ("City") and EPT Design a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on September 9, 2020 and shall remain and continue in effect for a period of 12 months until tasks described herein are completed, but in no event later than September 9, 2021, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

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

3. PERFORMANCE

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

4. CITY MANAGEMENT

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

5. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. **This amount shall not exceed**

**\$371,965** for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Ten Thousand Dollars (\$10,000.00). Any additional work in excess of this amount shall be approved by the City Council.

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

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

## 6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

## 7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the

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

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

## 8. OWNERSHIP OF DOCUMENTS

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

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

## 9. INDEMNIFICATION

(a) Defense, Indemnity and Hold Harmless. Contractor shall defend, indemnify, and hold harmless the City, its present and former officers, directors,

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

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

(c) Subcontractors and Indemnification. Contractor agrees to and shall obtain executed indemnity agreements in favor of the Indemnified Parties with provisions identical to those set forth from each and every Subcontractor, Sub consultant, or other person or entity involved by, for, with, or on behalf of Contractor in the performance of any aspect of this Agreement. In the event Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible for each and every Subcontractor, Subconsultant or other person or entity in terms of defense, indemnity and hold harmless obligations in favor of the Indemnified Parties as set forth above. This obligation to indemnify and defend the Indemnified Parties is binding on the successors,



assigns, or heirs of Contractor and shall survive the full performance or termination of this Agreement. These indemnification provisions are independent of and shall not in any way be limited or superseded by the insurance requirements and insurance-related provisions of this Agreement.

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

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

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

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

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

## 10. INSURANCE

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

### (a) Types of Required Coverages

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

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

### (b) Endorsements

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

(1) Commercial General Liability

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

Additional Insured Endorsements shall not:

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

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

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

(2) Auto Liability

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

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

(3) Workers' Compensation

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

(c) Notice of Cancellation

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

(d) Waiver of Subrogation

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

(e) Evidence of Insurance

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

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

(f) Deductible or Self-Insured Retention

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

(g) Contractual Liability/Insurance Obligations

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

(h) Failure to Maintain Coverage

Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Contract. In addition, the City may either immediately terminate this

Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.

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

(i) Acceptability of Insurers

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

(j) Claims Made Policies

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

(k) Insurance for Subcontractors

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

## 11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

## 16. NOTICES

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

To City:

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

To Consultant: EPT Design  
844 East Green Street, Suite 201  
Pasadena, CA 91101

17. ASSIGNMENT AND SUBCONTRACTING

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF REQUEST FOR PROPOSALS

Consultant is bound by the contents of City's Request for Proposal, Exhibit "C" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit "A" hereto. In the event of conflict, the



requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

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

25. CLAIMS AGAINST CITY

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

26. AUTHORITY TO EXECUTE THIS AGREEMENT

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

27. NO THIRD PARTY BENEFICIARIES

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

28. COST OF LITIGATION

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

29. AUTHORITY TO EXECUTE THIS AGREEMENT

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

30. COUNTERPARTS

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

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

**CITY OF MONTCLAIR**

**CONSULTANT / EPT DESIGN**

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

By: \_\_\_\_\_  
(Title)

Attest:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
(Title)

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

**EXHIBIT A**

## COST PROPOSAL FOR DESIGN SERVICES

### I. SCOPE OF SERVICES

- A. Conceptual Design Phase
- B. Design Development Phase
- C. Construction Documents Phase
- D. Permitting
- E. Bid & Permitting Phase - Not Included
- F. Construction Administration Phase - Not Included
- G. Closeout Phase - Not Included

We understand the scope of this project to entail the design and construction documentation of Reeder Ranch Park, a 1.53-acre neighborhood park being developed in the City of Montclair, California. The amenities for the Park will include those noted in the RFP dated June 1, 2020, and as depicted in the conceptual design plan shown below.



## II. SCOPE OF WORK

### A. Conceptual Design Phase

1. Objective: Develop a Conceptual Design direction for the project based on the conceptual plan developed by the Client. (3) options will be presented for review and (1) is assumed to be selected for further development.

#### Process

2. Site Visit: Make one (1) site visit to evaluate site conditions during the Schematic Design Phase to determine if any special design considerations are required.
3. Project Research: Research the historical, cultural, political, and/or legal issues that will impact the design.
4. Kick Off Meeting: Attend kick off meeting with The Client and project team.
5. Meetings: Attend two (3) meetings with The Client during the Conceptual Design Phase.
  - a. Progress Meeting
  - b. Coordination Meeting
  - c. Presentation Meeting

#### Product

6. Topographic Survey: Generate Topographic survey based on conditions recorded during a visit to the site.
7. Geotechnical and Soils Engineering and Exploration Report: Provide a geotechnical report showing sub surface exploration and infiltration rates.
8. Design Plans: Prepare a package of preliminary drawings and presentation materials to assist in communicating the design intent of the project to the Client.
  - a. Provide (3) Design Options
9. 3D Modeling: EPTDESIGN will utilize 3D modeling in the design process and to communicate specific project areas.
10. Image Boards: Images representing the character of the design option presented.
11. Community Building Plan / Elevations: Provide (3) design options for the Community Building
12. Electrical Plan: Create plan identifying electrical scope, service connections and major coordination items.
13. Cost Estimate: Create an estimate of probable construction costs for the entire project (including landscape, architectural, civil, electrical, and structural), factoring in Low Impact Development standards. The design will apply our estimates based on current information available, we recommend client seek services of Construction Management or Pre-Construction Services for cost verification.
14. Revisions: Provide a written response and related revisions to all Client comments.

B. **Design Development Phase**

1. Objective: Prepare a set of Design Development documents based on approved Conceptual Design documents.

Process

2. Meetings: Attend up to three (2) meetings with City Staff or Agencies during the Design Development phase.
3. Artist Coordination: Coordinate with the Public Artist secured by The Client. It is anticipated that **EPTDESIGN** will work with The Client to develop art placement opportunities within the overall design of the park. We will work closely with this artist to fully integrate such art into project documentation.
4. Plan Checking: Upon completion of the Design Development Phase documents, conduct a thorough plan check, verifying all coordination items.

Product

5. Title Sheet: Create plan illustrating the location, table of contents, and other basic introductory information.
6. Demolition Plans: Create plan(s) documenting the proposed site demolition.
7. Grading/Drainage Plans: Create plans documenting the proposed site grading and drainage, emphasizing grading for maximum water capture on-site.
8. Stormwater Plans: Prepare Stormwater Pollution Prevention Plan (SWPPP) required to meet all site conditions.
9. Community Building Plans: Create progress plans for community building including MEP and Structural considerations.
10. Construction Plans: Create plans documenting the proposed site construction layout. Plans will include paving material types and locations including steps, ramps, walls, fences, play equipment, etc. Material colors and finishes will be noted on material schedules. Note that horizontal control/layout will be provided in the CD phase once the design has been approved.
11. Construction Details: Create sheets illustrating the proposed site construction details.
12. Construction Specifications: Assemble an outline of pertinent specifications Sections to be provided in more detail in following phase(s).
13. Structural Plans: Create plans documenting site structural items and calculations for both the building and site conditions requiring Structural design. Plans during this phase will focus on coordination with additional design and calculation detail to follow.
14. Irrigation Plans: Create plans documenting the proposed site irrigation layout. Irrigation plans in this phase will include extent of irrigated area, irrigation zones, and equipment schedule only. Piping, valve location, and head layout will occur during the CD phase. We assume we need a new irrigation pump to replace the existing pump equipment and facility structure. Consideration will be given for relocating new pump in proximity with Splash Pad mechanical equipment.
15. Irrigation Details: Create approximately one (1) sheet illustrating the proposed irrigation details.

16. Planting Plans: Create documenting the proposed site planting layout. Plans will include location of material and plant material schedule noting type and size.
17. Planting Details: Create approximately one (1) sheet illustrating the proposed planting details.
18. Lighting and Security Plans: Create plans documenting the proposed lighting layout and power plan. Plans will include photometric analysis and security camera locations.
19. Cost Estimate: EPT (with assistance from consultant team)\_Update Conceptual Design cost estimate to reflect final Design Development plans.
20. Revisions: Provide a written response and related revisions to all City/client comments at the completion of the Design Development phase.

C. **Construction Documents Phase**

1. Objective: Prepare a set of Construction Documents based on the accepted Design Development documents.

Process

2. Team Meetings: Attend up to four (4) meetings during the Construction Document phase with the Project Team.
3. Plan Checking: Upon completion of the Construction Documents Phase documents, conduct a thorough plan check, verifying all coordination items. **EPTDESIGN** will endeavor to use our best professional efforts to produce complete and coordinated construction documents to avoid revisions and construction change orders caused by errors and omissions or lack of coordination.

Product

4. Title Sheet: Complete plan illustrating the location, table of contents, and other basic introductory information.
5. Demolition Plans: Complete final plans documenting the proposed site demolition.
6. Grading/Drainage Plans: Complete plans documenting the proposed site grading and drainage, emphasizing grading for maximum water capture on-site.
7. Stormwater Plans: Complete Stormwater Pollution Prevention Plan (SWPPP) required to meet all site conditions.
8. Community Center Building: Architectural plans for the Community Center Building. Including but not limited to Floor Plans, Elevations, and Sections needed for Approval/Bid/and Construct.
9. Construction Plan: Complete plans documenting the proposed site construction layout. Plans will include paving material types and locations including steps, ramps, and walls. Material colors and finishes will be noted on material schedules. Provide final horizontal control/layout to reflect final design.
10. Construction Details: Complete approximately four (4) sheets illustrating the proposed site construction details.

11. Construction Specifications: Assemble a set of pertinent written construction specifications in Microsoft Word format.
12. Play Equipment Plans: Complete plans documenting the proposed play equipment manufacturer, finishes, and location. The play equipment will be selected with approval from The City/Client
13. Structural Plans: Complete plans documenting site structural items and calculations.
  - a. This may include walls, fences, and light pole footings. Scope is undetermined at this point, but an allowance has been established for miscellaneous items.
  - b. Community Building Structural Design
14. Irrigation Plans: Complete plans documenting the proposed site irrigation layout. Irrigation plans in this phase will include pump, piping, valve locations, and drip and head layout.
15. Irrigation Details: Complete approximately one (1) sheet illustrating the proposed irrigation details.
16. Planting Plans: Complete plans documenting the proposed site planting layout. Plans will include final location of material and plant material schedule noting type and size.
17. Planting Details: Complete approximately one (1) sheet illustrating the proposed planting details.
18. Lighting, Electrical and Security Plans: Complete plans documenting final fixture schedule, power service, circuiting, lighting controls, and Title 24 energy compliance plans. Plans will include final location of security cameras.
19. Cost Estimate: Update Design Development cost estimate to reflect final Construction Documents.
20. Revisions: Provide a written response and related revisions to all City/Client comments at the completion of the Construction Documents phase.

**D. Permitting Phase**

1. Objective: Process plans through city and jurisdictional agencies to be 'Issue Ready'.



**EXHIBIT B**

**III. FEES**

- A. Fee Schedule: Provide the Concept Design, Design Development, Construction Documents phases on a fixed fee basis.

**EPTDESIGN (Prime / Landscape Architect)**

Conceptual Design	\$43,000
Design Development	\$31,000
Construction Documents	\$69,000
Permitting	\$6,000
Construction Administration	Not Included
<hr/>	
<b>Landscape Architect</b>	<b>\$149,000</b>

**GOODALE ARCHITECTURE PLANNING - Includes Mechanical, Structural, Plumbing**

Conceptual Design	\$18,000
Design Development	\$18,000
Construction Documents	\$35,000
Construction Administration	Not Included
<hr/>	
<b>Architecture</b>	<b>\$71,000</b>

**PSOMAS - Includes Surveying, SWPPP, LID**

Surveying	\$9,500
Conceptual Design	\$13,200
Design Development	\$21,600
Construction Documents	\$56,700
Permitting	\$10,000
Construction Administration	Not Included
<hr/>	
<b>Civil Engineering</b>	<b>\$111,000</b>

**ECCO – Electrical Engineering**

Conceptual Design	\$4,200
Design Development	\$4,200
Construction Documents	\$12,180
Construction Administration	Not Included

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**Electrical Engineering \$20,580**

**EARTH SYSTEMS – Geotechnical Engineering and Soil Report**

Conceptual Design	\$10,675
Construction Administration	Not Included

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**Geotech Engineer \$10,675**

**PROJECT TEAM FEE TOTAL: \$362,255**

Estimated Reimbursable Expenses	\$6,000
Geotech Investigation Potential Expenses	<u>\$3,710</u>
<b>Total with Reimbursable Expenses</b>	<b>\$371,965</b>

<b>Fee Summary</b>	
<b>Conceptual Design</b>	<b>\$98,575</b>
<b>Design Development</b>	<b>\$74,800</b>
<b>Construction Documents</b>	<b>\$172,880</b>
<b>Permitting</b>	<b>\$16,000</b>
<b>Estimated Reimbursable Expenses</b>	<b>\$9,710</b>

- B. Additional Services: **EPTDESIGN** will provide to Client such additional services as may be requested in writing. For additional services of **EPTDESIGN**, compensation shall be on an hourly basis or negotiated lump-sum basis.

- C. Hourly Rates: **EPTDESIGN** hourly rates for 2020 are listed below. Please note that rates are subject to a 5% escalation clause each year thereafter.

Principal	\$ 200.00
Senior Associate	\$ 145.00
Associate	\$ 120.00
Project Manager	\$ 100.00
Team Captain	\$ 85.00
Designer	\$ 75.00
Clerical	\$ 60.00

Above rates are effective through December 31, 2021

- D. Reimbursable Expenses: **EPTDESIGN** defines reimbursable expenses as additional compensation for basic services including actual expenditures made by **EPTDESIGN** in the development of the project. These expenses shall include but not be limited to: printing, plotting and reproduction; overnight delivery and messenger services; and travel expenses when approved in advance.

#### IV. EXCLUSIONS

The following items are specifically excluded from the services to be performed by **EPTDESIGN** under this contract:

- A. Reeder Ranch Home property design services. EPTDESIGN will design the Reeder Ranch Park
- B. Community Workshop, it is assumed these meeting and workshops have already been completed.
- C. Tree survey and Arborist report.
- D. Plan check and building permit fees.
- E. CEQA reports.
- F. Traffic Engineering, street median modifications, street lighting
- G. Reproduction, plotting, and printing costs for purposes other than coordination with Project Team.
- H. Travel and expenses when within Consultant's greater metropolitan travel area. Mileage assumed to be a reimbursable expense.

#### V. TERMS AND CONDITIONS

- A. Reimbursable Expenses: Reimbursable expenses are in addition to the fees for services and shall include the following:

All reprographic, plotting, delivery charges, messenger services, and photography supplies will be invoiced at cost plus fifteen percent (15%).

Mileage for site visits will be charged at \$.575 per mile.

Any items purchased for a project, (i.e.: plants, furnishings, accessories) will be invoiced at cost plus ten percent (10%).

**REEDER RANCH PARK - Resources and Man Hours**

6/25/2020

City of Montclair  
 Fee Calculation  
 EPTDESIGN

Hours (Rates from original contract)

Task	Design Principal (Steve Carroll) \$200	Managing Principal (Scott Horsley) \$200	Associate (Eric Haley) \$120	PM Devon Santy \$100	PC \$85	Designer \$75	Fee per Task
<b>Conceptual Design</b>							
Meetings	8	8	4	12	4		\$5,220
Research	4		3	4			\$1,560
Design	32	16	40	40	16		\$19,760
Drafting				20	40	40	\$8,400
Rendering including 3d			4		24		\$2,520
Cost Estimate		4		4	8		
Project Management		8		40			\$5,540
	\$8,800	\$7,140	\$6,120	\$12,000	\$7,820	\$3,000	\$43,000
	44	36	51	120	92	40	
						<b>Total</b>	<b>\$43,000</b>
<b>Design Development</b>							
Meetings	4			8			\$1,600
Design	16	8	16	16			\$8,320
Construction Plan Development		8		16	16	16	\$5,760
Construction Details		12		16	16		\$5,360
Planting Design	8				16		\$2,960
Irrigation Planning		4		8	16		\$2,960
Cost Estimate		1		3	4		\$840
Project Management				32			\$3,200
	\$5,600	\$6,600	\$1,920	\$9,900	\$5,780	\$1,200	\$31,000
	28	33	16	99	68	16	
						<b>Total</b>	<b>\$31,000</b>
<b>Construction Documents</b>							
Meetings	4	8		16			\$4,000
Design	16	8	8	16			\$7,360
Construction Plan Development		16	4	40	60	60	\$17,280
Construction Details	4	16	4	16	60	60	\$15,680
Planting Design	8	8	4	5	16	24	\$7,340
Irrigation Planning		8		4	24	16	\$5,240
Cost Estimate		4		4	4		\$1,540
Project Management		8	8	80			\$10,560
	\$6,400	\$15,200	\$3,360	\$18,100	\$13,940	\$12,000	\$69,000
	32	76	28	181	164	160	
						<b>Total</b>	<b>\$69,000</b>
<b>Permitting</b>							
Meetings				20			\$2,000
Project Management				40			\$4,000
				\$6,000			\$6,000
				60			
						<b>Total</b>	<b>\$6,000</b>
<b>Consultants</b>							
Architect - Goodale							\$71,000
Civil - PSOMAS							\$111,000
Electrical - ECCO							\$20,580
Geotech - Earth Systems							\$10,675

**Total** **\$362,255**  
 Estimated Reimbursable Expenses \$9,710

# SUBCONSULTANTS

## SCOPE AND FEES

PROPOSED WORK PLAN (by phases and tasks)

DURATIONS	SCHEMATIC DESIGN
	1 Kick-off Mtg 1: Preparation+Intros. Site walk, info requests, Schedule, Guiding Principles, Prelim program, confirmation.
	2 Review existing docs, Prelim zoning/bldg code research, Analyze grades and siting, Draft program diagrams
	3 Develop 3 architectural concepts with floor plans, prototype imagery, and digital 3-D conceptual block massing sketches
	4 Coordinate site interface with EPT
	5 Mtg 2: Preparation+ Present 3 architectural options and work with staff towards a preferred option
	6 Develop initial draft Schematic drawings for preferred option / bldg plans, sections, elevations, advance 3-D model
	7 Mtg 3: Preparation + Client progress review
	8 Refine draft Schematic Drawings, develop materials palette, Develop (1) preliminary rendered view
	9 Mtg 4: Preparation + Client final Schematic review
	10 Estimate, Refinements, Final Schematic Package
	11 Mtg 5: Preparation + Parks and Recreation Commission Presentation
	12 Mtg 6: Preparation + City Council Presentation
	<b>DESIGN DEVELOPMENT</b>
	1 Prep formats for next phase
	2 Study Multi-Purpose Room layouts, furniture storage, and feedback to client re: capacity and revenue potentials.
	3 Coordinate engineering systems
	4 Develop restroom floor plan detail
	5 Develop roof plans, interior elevations
	6 Develop lighting concepts and reflected ceiling plan
	7 Assemble product cut sheets and draft finish palette board
	8 Mtg 7: Preparation + Draft Design Development package, cut sheets, color/materials draft board
	9 Refine Design Development package, estimate, and publish
	10 Mtg 8: Preparation + Parks and Recreation Commission Presentation
	11 Mtg 9: Preparation + City Council Presentation
	<b>CONSTRUCTION DOCUMENTS</b>
	1 Pick-up District review comments and Quality Assurance check comments on drawings
	2 Develop drawings appropriate to construction document submittal and construction, plan blow-ups, door and finish schedules, wall sections, wall types, exterior details, roofing details, ceiling details, interior details, etc.
	3 Coordinate and integrate engineering systems into architectural drawings
	4 Develop draft Project Specifications
	5 Mtg 10: Preparation + Progress review as required
	6 Develop title sheet plan check related code analyses, diagrams, typical accessibility notes/requirements, index, definitions, etc.
	7 Refine details, refine dimensioning, and quality assurance
	8 Complete Project Specifications
	9 Submit drawings for plan check
	10 Refine drawings and incorporate Agency and OA review comments
	11 Issue Final Construction Documents - ready for Bid

PROPOSED WORK EFFORTS

ROLE	GOODALE ARCHITECTURE PLANNING / TAM STUDIO			CONSULTANTS			ROUNDED PHASE SUBTOTALS
	PRIN, PROJ MGR	ARCH DES	CLER	Structural Engineer	Mechanical & Plumbing	Electrical Engineering	
	\$15,345			\$2,000	\$1,000	\$1,000	\$19,000
	\$595	4	3				
	\$880	8					
	\$3,510	33	30				
	\$285	2	1				
	\$595	4	3				
	\$2,780	26	24				
	\$595	4	3				
	\$2,640	24	24				
	\$595	4	3				
	\$1,680	12	8				
	\$595	4	3				
	\$595	4	3				
	hours	121	21	87	13		
	\$12,860			\$3,500	\$1,500	\$1,000	\$19,000
	\$390	5	1				
	\$880	8	8				
	\$395	3	1				
	\$1,760	16	16				
	\$1,760	16	16				
	\$1,760	16	16				
	\$1,000	12	4				
	\$595	4	3				
	\$3,130	28	24				
	\$595	4	3				
	\$595	4	3				
	hours	108	6	87	15		
	\$24,645			\$5,000	\$4,500	\$2,500	\$37,000
	\$440	4	4				
	\$11,000	100	100				
	\$440	4	4				
	\$5,840	56	48				
	\$595	4	3				
	\$1,900	18	16				
	\$880	8	8				
	\$1,020	10	8				
	\$210	3	3				
	\$1,760	16	16				
	\$560	8	8				
	hours	231	3	204	24		
	\$52,850	460	30	378	52		\$75,000
	sub-total \$	total hrs					

NOTE: While Meeting 1,2,5,6 are deemed imperative. Deletion (or addition) of other meetings (\$595) at EPT discretion.

project expenses (printing, plotting, etc. for in-house use) \$2,000

\$77,000

**SCOPE OF SERVICES  
MONTCLAIR REEDER RANCH PARK  
PSOMAS PROPOSAL 2020-058  
JUNE 23, 2020**

**PROJECT DESCRIPTION**

The City of Montclair wishes to develop existing vacant land to a public City park, adjacent to the historic Reeder Ranch House at 4405 Holt Boulevard. The City intends the project to include a 2,500 square foot building, shade structures, a parking lot, and park amenities for active and passive recreation. The site limits are shown on Exhibit "A-1", attached.

The park will be developed with community input. The City intends to promote sustainable design in the development of the vacant land, including stormwater treatment to promote infiltration.

The City of Montclair prepared an RFP "Architectural and Engineering Design Services for Reeder Ranch Park", dated June 1, 2020. EPT Design requested this proposal from Psomas to provide civil engineering and survey services for the proposed site and civil related improvements within the project limits.

The fee schedule for civil engineering and survey services is shown in Schedule "A", herein.

Psomas agrees to perform professional services pertinent to the Project specifically outlined as follows:

**SCOPE OF WORK**

**Topographic Design Survey**

Prepare a Design Survey for the project. Specific items of service are as follows:

- Prepare a survey map at a scale of 1" = 20' over the site shown on attached Exhibit "A-1" delivered in both hard copy and AutoCAD format. A record boundary will be provided.
- Horizontal location, size, and description of buildings, driveways, walks, curbs, walls, fences, signs, poles, trees over 6" in diameter, and other permanent surface visible features.
- Topography at a 1 foot contour interval and spot elevations on a grid pattern in level areas.
- Elevations on driveways, walks, curbs, gutters, and walls, including at back of walk, top of curb, flow line, edge of gutter, and finish floor where applicable.
- Utilities in adjoining streets from available substructure maps joined, where possible, with visible signs of utilities located by the field crew. Special attention will be used to obtain the Storm Drain inverts that discharge on Brooks Street.
- Horizontal control shall be per CCS Zone 5, NAD 83 and Vertical Control shall be established per local jurisdiction.



**SCOPE OF SERVICES  
MONTCLAIR REEDER RANCH PARK  
PSOMAS PROPOSAL 2020-058  
JUNE 23, 2020**

**Schematic Design Phase**

Prepare schematic-level plans required to adequately describe the Project. Schematic Design Phase documents shall be consistent with the project construction budget and schedule. Work elements include:

- Coordinate with the project design team.
- Collect the following plans and reports (prepared by others and provided by Others, unless otherwise noted):
  - Geotechnical reports and studies
  - Facilities Master Plan and Appendices
  - Environmental Documents
  - Fire hydrant flow tests
- Review and evaluate collected documents for accuracy and relevance to the project, identify additional data needs and request as applicable.
- Contact utility agencies based on records provided by Underground Service Alert (DigAlert) for current as-built utility plans. These documents will be added to our site assessment.
- One (1) project site visit to become familiar with existing conditions and site constraints, photo-document findings, evaluate additional data needs and meet with appropriate City personnel.
- Contact or visit the appropriate agencies to obtain relevant and currently available reference information for the project. This information and documentation may include improvement plans and general design criteria as needed to establish the base information and constraints for the project.
- Prepare schematic level drawings (demolition, paving and grading, and civil utility plans).
- Submit 100% Schematic Design documents to the EPT Design per City guidelines.
- Assist EPT Design in preparation of schematic-level, discipline specific, anticipated project costs.
- Attend a maximum of two (2) meetings at the Architects' office or project site with the Architects and project design team.

**On-site Hydrology Study**

Based on the Schematic Design-level grading and drainage plan, Psomas will provide an on-site hydrology study to calculate the runoff (run-on to the project site) in support of the development of the site. This will include research of allowable discharge rates per the City of Montclair requirements. This study will be for flows within the project limits only. While no off-site or CEQA level analysis is included, Psomas will make a cursory review for off-site watersheds that impact the project.

SCOPE OF SERVICES  
MONTCLAIR REEDER RANCH PARK  
PSOMAS PROPOSAL 2020-058  
JUNE 23, 2020

**Design Development Phase**

Design Development documents will be provided for the City-approved layout developed during the Schematic Design phase. Prepare Design Development-level plans required to adequately describe the Project. Design Development documents shall be consistent with the project construction budget and schedule. Incorporate into documents civil systems and materials. Work elements include:

- Prepare Design Development-level plans identifying locations of new civil site improvements (demolition, paving and grading, and civil utility plans).
- Develop the scheme from previous phase for final horizontal and preliminary vertical location of project elements.
- Establish project site limits and identify desired civil improvements within the project limits.
- Participate in up to three (3) review meetings with the project design team to receive design direction and approval.
- Prepare outline specifications.
- Deliver documents at 50% and 100% completion.
- Respond to City comments at 50% completion. Comments based on the 100% Design Development submittal will be addressed during the Construction Documents Phase.
- Assist EPT Design in preparation of a Design Development estimate of probable costs (civil components only).
- Participate in one Value Engineering meeting.

**Construction Document Phase**

Construction Documents will be provided for the City-approved layout developed during the Design Development phase. The Construction Documents shall describe the quality, configuration, size and relationships of site components to be incorporated into the project. The Construction Documents shall be consistent with the project construction budget and project schedule. Work elements include the following sheets.

<u>Plan Deliverables</u>	<u>Remarks</u>
• Existing Conditions Plan	Site survey showing existing improvements (prepared by Psomas)
• Demolition Site Plan	Demolition plan indicating site improvements to be removed, relocated or protected in place
• Horizontal Control Plan	Locate new site improvements, with dimensions and detail call-outs within project limit.
• Erosion Control Plan	
• Precise Grading and Paving Plan	For on-grade site improvements, only

**SCOPE OF SERVICES  
 MONTCLAIR REEDER RANCH PARK  
 PSOMAS PROPOSAL 2020-058  
 JUNE 23, 2020**

- 
- Civil Utility Plan Storm drain, sanitary sewer, fire and domestic water to serve the new building and site, up to 5’ from the building.
- 
- Civil Construction Details
    - Provisions shall be made to protect in place or reconstruct the surface indications, of existing utilities as required.
    - Provide engineering design of retaining walls less than 6’ high, light footings, and fence footings.
    - Prepare technical specification sections in CSI format
    - Submit drawings and technical specifications for review at 50% and 100% completion.
    - Respond to City comments at 50% and 100% completion.
    - Participate in up to four (4) review meetings with the project design team to compare the design scope with actual site conditions and receive design direction and approval.
    - Assist EPT Design in preparation of Construction Documents estimate of probable costs (civil components only) at 50% and 100% completion.
    - Provide final drawings and technical specifications for review and approval for bid process.

Stormwater Quality Management Plan

Psomas will prepare a Stormwater Quality Management Plan (SQMP) for the entire project site in conformance with the City of Montclair’s requirements for MS4 permit compliance. The SQMP will comply with the current and applicable Low Impact Development (LID) ordinances. The SQMP will identify long-term post-construction Best Management Practices (BMPs) for managing storm water on the project site and will incorporate required structural and non-structural BMPs.

Storm Water Pollution Prevention Plan (SWPPP)

Scope of Services shall include preparation and submittal of a Notice of Intent (NOI) and Vicinity Map to the SWRCB. Psomas shall prepare Storm Water Pollution Prevention Plan (SWPPP) in conformance with the State Water Resources Control Board, Order No. 2009-0009-DWQ, and General Permit No. CAS000002.

As a requirement of the SWPPP, during the Construction Document Phase Psomas will prepare an Erosion and Sediment Control Plan for the project site addressing Best Management Practices to be implemented during and the construction activities to control sediment or prevent erosion within disturbed areas of a construction site. The plan will be included in the SWPPP report.

SCOPE OF SERVICES  
 MONTCLAIR REEDER RANCH PARK  
 PSOMAS PROPOSAL 2020-058  
 JUNE 23, 2020

SWPPP Preparation scope of services includes preparation of one (1) NOI and development of one (1) single comprehensive SWPPP for the entire project site. Preparation of separate SWPPP documents or a phased SWPPP for the two phases is excluded from this scope of work. The SWPPP will be prepared by a qualified SWPPP Developer (QSD).

Off-Site Street Improvement Plans

Prepare Street Improvement Plans for proposed off-site improvements within the adjacent public right-of-way. Plans shall conform with City of Montclair standards. Right-of-way improvements shall include:

- Two new driveways to serve the project parking lot
- Elimination of existing driveway
- Sidewalk replacement on Holt Avenue, at the direction of the City, within project frontage
- Curb replacement on Holt Avenue, at the direction of the City, within project frontage

Permitting

EPT Design shall submit 100% Construction Documents prepared during the Construction Documents phase to the City of Montclair for plan check review and approval. Psomas shall address discipline-specific plan check comments accordingly. Psomas will assist in processing the Grading and Drainage Plan, Stormwater Quality Management Plan, and Off-Site Improvement Plans through the City of Montclair. All related fees shall be paid by the City.

Exclusions

- Utility profiles
- Utility mapping
- Utility capacity analysis
- Backbone (public) utility design
- Traffic engineering
- Geotechnical studies, soils reports, design of paving structural cross-sections
- Hazardous materials studies or reports
- Structural engineering (including retaining walls over 6' in height)
- Design of fences and gates
- Fire Department coordination
- Legal descriptions, government fees, permits and assessments
- Plan check fees
- Construction staking
- Storm Water Pollution Prevention Plan (SWPPP) updates, monitoring or inspections

**SCOPE OF SERVICES  
MONTCLAIR REEDER RANCH PARK  
PSOMAS PROPOSAL 2020-058  
JUNE 23, 2020**

- Public hearing attendance
- Arborist studies or consulting
- Landscape and irrigation design
- Traffic control
- Street lighting, electrical, natural gas, or telecommunications design or relocation

**Assumptions**

- All drawings shall be developed in AutoCAD Civil 3D 2018 and shall be submitted in PDF and AutoCAD format. The Architect will develop the proposed site base files in AutoCAD format.
- This scope of services specifically excludes development of civil plans and specifications for utility trenching for electrical and communication systems. However, trenching plans and specifications can be provided for an additional fee.
- We assume that the existing public utility infrastructure has sufficient capacity for the proposed project.
- Changes in design precipitated by the Owner after approval of the Preliminary Design phase will be addressed for an additional fee.
- The scope of services described herein assumes that the Project will be awarded as a single bid package. Additional fees will be required for additional bid phase support and construction administration services required for any additional bid packages.
- Prior to commencement of the Construction Documents phase, a geotechnical report shall be provided including new pavement section design, recommendations for existing soil suitability as subgrade material, recommendations for over-excavation of existing subgrade soils, as well as recommendations for bedding conditions for all structures, piping and appurtenances, and slope stability. Consultant will assist the Owner as to requirements of the geotechnical report.
- Changes in design, including project limits and content, precipitated by EPT Design or the City will be addressed for an additional fee. Changes in design due to normal design coordination are anticipated and included in this proposal.
- It will be the Contractor's responsibility to coordinate with the City on traffic flow and other operational specifics of implementation.

FEE SCHEDULE  
MONTCLAIR REEDER RANCH PARK  
PSOMAS PROPOSAL 2020-058  
JUNE 23, 2020

Client agrees to pay Consultant as compensation for the professional services described in *Exhibit "A"* in accordance with the following schedule on a fixed fee basis:

<u>DESCRIPTION</u>	<u>BUDGET</u>
<b>Scope of Work</b>	
Topographic Design Survey	\$ 9,500
Schematic Design	\$13,200
Design Development	\$21,600
Construction Documents	\$56,700
Permitting	\$10,000
<b>Total</b>	<b>\$111,000</b>
<b>Reimbursables (T&amp;M*)</b>	\$2,000

The above-mentioned fee is based on our new *Fee Schedule* effective through December 31, 2020. Increases in the *Fee Schedule* will be applied as a percentage increase to all remaining compensation.



# ECCO ENGINEERING FIRM LLC

CONSULTING ELECTRICAL ENGINEERS

## PROPOSAL

Date : 6/11/2020  
Firm : EPT Design  
844 East Green Street  
Pasadena CA. 91011

Reference : Reeder Ranch Park  
Location : 4405 Holt Blvd. Montclair, CA 91763  
Subject : Proposal for engineering services

Attention : Scott Horsley

We are pleased to provide you with our fee proposal for performing the electrical engineering Work on the reference project.

The Electrical engineering shell and core work will be limited to the following:

### Project Description:

Our understanding of the project is based on the RFQ dated 6-10-2020, the proposed schematic 1.53 acre park and green infrastructure project with recreation building, playground, fitness stations, walking trail, outdoor stage for movies or concerts, picnic tables and public art display area in a neighborhood of the City Montclair. We have summarized our understanding of the project below, as it pertains to electrical engineering scope: The Electrical engineering work will be limited to the following:

### Electrical included:

- a. Coordination with local power company for new electrical service.
1. **Prepare lighting plans including:**
  - a. Security and walking paths lighting fixture circuiting. Light fixture Selection and layout by EPT.
  - b. Recreation building lighting fixtures selection and circuiting.
  - c. Outdoor lighting controls (photo cell on - time clock off)
  - d. Indoor lighting controls via motion detectors.
  - e. Lighting controls to comply with Title 24 requirements.
  - f. Title 24 energy compliance documents.
2. **Prepare power plans including:**
  - a. Site power distribution system.
  - b. Single line diagram, load calculations, panel schedules and construction details.
  - c. Power connections to irrigation controller.
  - d. Power connections to water play equipment's if any.
  - e. Power connection to future security CCTV /DVR.
  - f. Conduit provision for future security system.
  - g. Power connection to air conditioning and ventilation equipment's.
  - h. Power provisions for outdoor movies and concerts.
3. **Prepare signal plans including:**
  - a. Site conduit distribution from future DVR cabinet to all future CCTV camera location.  
**Note: Design of the CCTV systems for the entire site is excluded.**

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ECCO ENGINEERING FIRM LLC ♦ 726 WEST BRAODWAY, SUITE #A ♦ GLENDALE, CA 91204  
TEL (818) 507-5623 ♦ FAX (818) 507-5607  
eccoeng@earthlink.net



4. (2) Design meeting at project location.
5. Coordination with the members of the design team.
6. Design, documentation and specification in compliance with local building and fire department.
7. Respond to bidding questions.
8. Corrections to documents as required for permit approvals resulting from plan check agency.
9. Review submittals.

**Fee proposal**

The electrical engineering services of the subject project based on a fixed fee of **\$21,000**  
**(Twenty-One thousand dollars)**

Any changes in the scope of work during and after preparation of the construction documents will be based on the following rates. If project is abandoned or delayed more than sixty (60) days after completion of the drawings and specifications, our charge will be 1-1/2 times direct personal expense, not to exceed 85% of the above fee.

- |    |                  |          |
|----|------------------|----------|
| 1. | Principal        | \$150/hr |
| 2. | Project engineer | \$100/hr |
| 3. | Cad operator     | \$40/hr  |
| 4. | Clerical         | \$35/hr  |

**Payment would be as follows:**

- 20% Upon completion of schematic design phase **\$4,200**
- 20% Upon completion of DD phase **\$4,200**
- 30% Upon completion of CD phase **\$6,300**
- 3% Upon bid and permitting phase **\$630**
- 25% Upon bid and permitting phase **\$5,250**
- 2% Closeout **\$420**

ECCO engineering will submit to s EPT Inc. an invoice of services as indicated above.  
EPT Inc. shall pay the amount due to ECCO Engineering Firm within (14) days.

**IF ANY ACTION IN LAW OR IN EQUITY IS BROUGHT TO ENFORCE OR INTERPRET THE PROVISIONS OF THIS AGREEMENT THE PREVAILING PARTY WILL BE ENTITLED TO REASONABLE ATTORNEY'S/COURT FEE'S COSTS INCURRED IN ANY SUCH ACTION.**

Additional services include, but are not limited to following:

The fee and scope of services is based on the following terms and conditions:

1. The EPT will provide full information to the **ECCO engineering firm** as to the requirements of the project including building floor plans and required ceiling plans in AutoCAD format. No Revit
2. EPT shall provide lighting fixtures cut sheets and power requirements for all electrical items including voltage, phase and wattage.
3. The client acknowledges that the engineer's plans, report and specifications are instruments of professional service. Nevertheless, the plans, reports and specifications prepared under this agreement shall become the property of the Client upon completion of the work and final payment. The Client agrees to hold harmless, indemnify and defend the engineer against all the damages, claims and losses, including defense cost, arising out of any misuse of his plans or specifications without a written authorization by the engineer.

4. It is agreed that the professional services of the Engineer do not extend to or include the review or site observation of the contractor's work or performance except as noted. It is further agreed that the Client will defend, indemnify and hold harmless the Engineer for any claim or suit whatsoever, including but not limited to all payments, expenses or costs involved, arising from or alleged to have arisen from the contractor's performance or failure of the contractor's work to conform to the design intent and the contract documents. The engineer agrees to be responsible for his own employee's negligent acts, errors or omissions.

**5. The scope of work excludes the following:**

- a. Design for emergency generator, auto transfer switch system with associated distribution system.
- b. Design for alternate bid items, construction phasing and similar.
- c. Design for Fire alarm, PA, clock, data, and Intrusion alarm, telephone and CCTV system.
- d. Special studies, reports and similar such as arc flash and circuit breaker coordination study.
- e. Reproduction, messenger or any delivery service costs for documents.
- f. Preparation of drawing revisions because of changes authorized by the owner or SHA including changes in data regarding equipment to be furnished by the owner.
- g. Evaluation of equipment substitutions or changes.
- h. Performance of services which are not, identified by the initial design.
- i. Actual plan check submittal / resubmittal permit and plan check fees.

This proposal may be withdrawn by **ECCO Engineering Firm LLC** if not accepted in 30 days.

Engineering will not commence until a signed proposal is received by **ECCO Engineering Firm LLC**.

We would like to thank you for the opportunity to submit this proposal. We hope you find every thing satisfactory. Please call us if you have any questions.

If this proposal meets with your approval, please indicate your acceptance of this proposal by signing one copy in the space provided and return a copy for our record.

Client: **EPT Design**

**ECCO ENGINEERING FIRM**

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

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

Name: Vartan  
Date Signed: 06/11/2020

Name/Title: \_\_\_\_\_

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

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

Name: Regino Lavarrias  
Date Signed: 06/11/2020

Project Name:  
Reeder Ranch Park  
4405 Holt Blvd. Montclair, CA 91763

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ECCO ENGINEERING FIRM LLC ♦ 726 WEST BRAODWAY, SUITE #A ♦ GLENDALE, CA 91204  
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June 17, 2020

PAS-20-06-008

Scott Horsley, Principal  
EPT Design  
844 East Green Street, Suite 201  
Pasadena, CA 91101

**SUBJECT: Proposal – Preliminary Geotechnical Engineering Services**  
Preliminary Investigation for the Reeder Ranch Park Project  
4405 Holt Boulevard,  
Montclair, California

### INTRODUCTION

Earth Systems Pacific has prepared this proposal to provide preliminary geotechnical engineering services for the park and playground improvements described in City of Montclair Request For Proposals for Architectural and Engineering Design Services for Reeder Ranch Park dated June 1, 2020.

The scope of services that is presented in this proposal is for the geotechnical engineering related parts of the RFP. This includes the identification of existing soil conditions and is based on our preliminary review of the site and preliminary library research.

At the current time, the scope of services for preparation of a design level geotechnical report shall meet the California Building Code requirements of engineering practice for investigation for specific structures. The code changes based on the Triennial Code Adoption Cycle and the effective date of the 2019 California Building Standards Code is January 2020.

- The site has not been evaluated by the California Geological Survey for liquefaction potential or landslide hazard. See following CGS map.
- The site is not located within a fault rupture hazard (“Alquist-Priolo”) zone.
- The site is not situated within the mapped oil field per the DOGGR maps.

### PROJECT DESCRIPTION

The subject property is situated on Holt Boulevard, south of the San Bernardino Freeway (10) in the City of Montclair, California.

It is understood that this project will create the new Reeder Ranch Park that will include a recreation center, a playground, walking trails, various shade structures, and a parking lot.

LOCATION

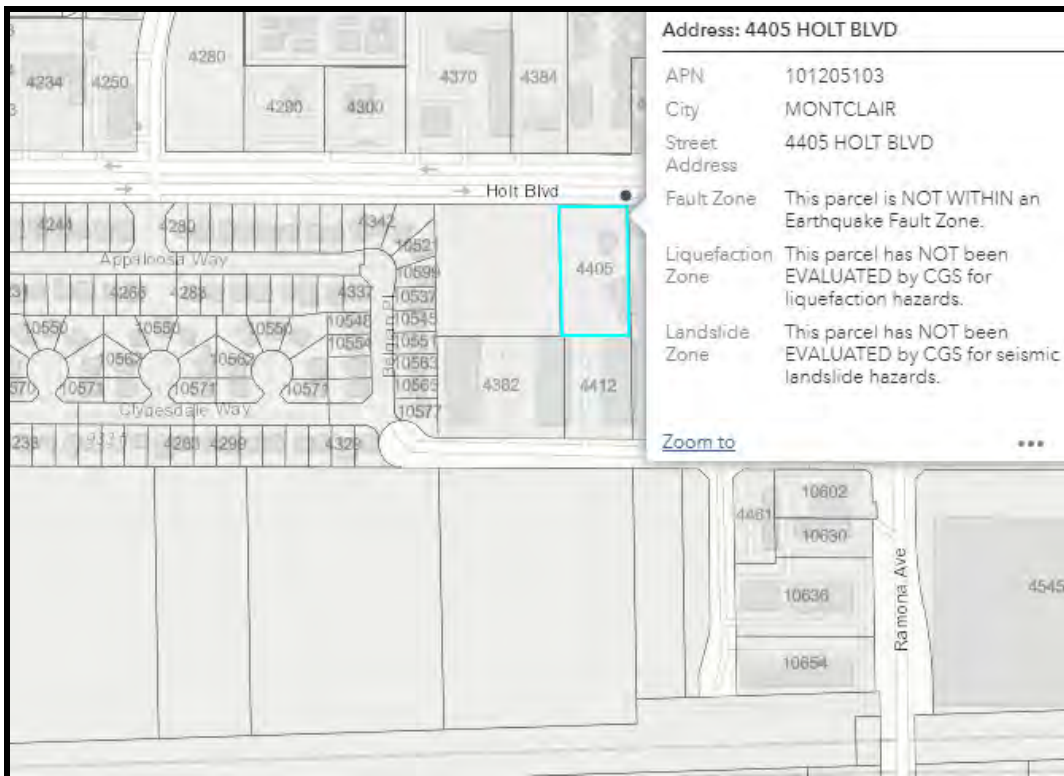


Aerial view of the existing Reeder Ranch



Street view of park concept area

**RESEARCH**



CGS Earthquake Zones of Required Investigation map

**PROPOSED SCOPE OF SERVICES**

The proposed construction will require a geotechnical site investigation to address the potential presence of artificial fill and the profile of the native soil. The City of Montclair RFP and the Reeder Ranch conceptual plan for the project indicate that the following improvements will require geotechnical investigation:

- Construction of a 2,500sqft recreation center with indoor/outdoor stage
- Natural playground with shade structure
- Walking trails, fitness stations, picnic tables with shade structure
- Public art
- Parking lot
- Lighting and landscaping throughout the park.

In addition to the preparation of a geotechnical report to address the above items, the City of Montclair RFP requires that groundwater recharge shall be included requiring the park to direct storm water flow along bioswales on the southern portion of the park.

Earth Systems has included a scope of services for infiltration testing in an area determined for the stormwater bioswales.

This proposed preliminary geotechnical report and infiltration testing does not include assessment of the environmental conditions on the property. Environmental studies can be performed by Earth Systems and would be the subject of a supplemental proposal.

**Geotechnical Engineering**

Earth Systems’ scope of services with options is as follows:

- A. A site reconnaissance, marking the shallow boring locations and notification of Underground Service Alert will be performed by Earth Systems professional staff. The property owner’s maintenance division is required to provide clearance of the proposed boring locations. If they do not have accurate location plans for the infrastructure it is recommended that they approve the use of Ground Penetrating Radar (GPR) to confirm clearance of utilities. Earth Systems is not responsible for utility clearance.

A Site Plan and topographic map showing the existing site conditions, existing property limits and improvements should be provided to Earth Systems for our use during the exploration phase of our services. The client is required to provide access to the boring locations.

- B. For preparation of the design level report, Earth Systems will conduct a limited exploratory program of the subsurface site conditions and materials by drilling and sampling multiple manual test pits and borings to approximately 4 to 12 feet in depth to identify any artificial fill thickness and near surface natural soil conditions.

Soil samples will be obtained from the test pits and borings for visual examination and potential laboratory testing. The test pits and borings will be logged by an engineer from our office to document the encountered soil conditions.

June 17, 2020

5

- C. Geotechnical laboratory testing will be performed on select samples of earth materials retrieved from the field exploration that are considered to be reasonably representative of the earth materials underlying the proposed construction areas.

Tests may include evaluation of in-place density and moisture content, expansion, soil corrosion, soil classification and compaction characteristics.

- D. For preparation of the design level report, the final recommendations will be set forth in a written report based on data obtained from the exploration and testing program, evaluation of this data and other knowledge, past experience and judgment. Recommendations provided will typically relate to criteria for site preparation, at-grade construction and pavement analysis and foundation design for any lightly loaded structures that are proposed.

#### **Infiltration testing for the Stormwater Bioswale Requirements**

Field investigations to obtain percolation rate data typically include test pits or test borings or monitoring wells. Tests used to evaluate soil infiltration capacity for the proposed bioswales will typically include standard percolation test methods.

The historic high groundwater contours show a depth to groundwater of 300+ feet. A nearby Local well No. CHINO-1002642 indicates a groundwater depth of 356 feet.

At this time, Earth Systems proposes to perform at least four shallow test pit/boring percolation tests in the area of the proposed bioswale infiltration system. The tests will provide infiltration rates at specific locations and depth ranges for use in determining the area required for allowing storm water to enter the ground (infiltration).

The proposed scope of services will approximately as follows:

- A. Earth Systems staff will mark the proposed shallow test pit/boring locations and notify Underground Service Alert. Plans for the proposed project including infiltration locations should be provided to Earth Systems for our use during the exploration phase of services.
- B. Earth Systems proposes to perform a total of four test pit/boring percolation tests in areas that will be determined by the architect/civil engineer. The tests will provide infiltration rates at specific locations for use in determination of the area required for allowing storm water to enter into the subgrade soil profile.
- C. The borings will be filled with water on the day of drilling as a “presoak” and covered for safety overnight pending percolation testing on the following day or soon thereafter. Percolation testing will be conducted in accordance with the Percolation Test procedure (GS200.1, L.A.Co. 2014)
- D. Laboratory testing will be performed on selected samples of earth materials retrieved from the field explorations that are considered to be reasonably representative of the materials encountered within the investigation area. Soil tests may include evaluation of in-place grain size testing, density and moisture content, expansion and compaction characteristics.
- E. Engineering analyses will be conducted once field and laboratory test data has been completed. A report of percolation testing will be prepared showing test pit/boring logs, laboratory results and percolation rates.

**ESTIMATED FEES**

It is understood that at this time this is a **prevailing wage** project – see **Prevailing Wage** in the Terms of this proposal.

**Additional Services.** Any services to be performed by Earth Systems which are not set forth in this proposal are “Additional Services”. Any Additional Services provided by Earth Systems shall be subject to the terms of this agreement and charged per Earth Systems’ current fee schedule.

\*Consultations, research and design Team meetings are based on hourly rates of the current fee schedule.

\*\*It must be noted that costs incurred for such items as DBS research, research copies, excavations etc. and outside laboratory chemical testing for corrosion are not included in this proposal as a fixed fee. These costs will be invoiced in addition to the engineering and geologic fees at cost plus 20%.

Based on the above scope of services, the estimated engineering cost of completing the requested Preliminary Geotechnical Engineering Report is as follows:

<b>Task</b>	<b>Estimated Fees</b>
<b>Preliminary Geotechnical Investigation</b>	
<b>Earth Systems Fees</b>	
Project initiation, marking the boring locations, not including public access permitting, GPR, etc.	490.00
Field engineer/geologist to log the test pit/borings	1,400.00
Preliminary soil laboratory testing of soil samples from the borings	1,585.00
Preparation of the preliminary geotechnical engineering report	3,520.00
<b>Sub Total</b>	<b>6,995.00</b>
<b>Outside subcontract fees</b>	
** The manual excavation fees for test pits/borings - PW	1,100.00
** Soil corrosion testing per sample (outside laboratory)	200.00
<b>Estimate for Soil Infiltration Testing</b>	
This proposal is based on performing infiltration testing concurrently with the geotechnical investigation so not to incur additional mob/demob.	
Prepare the manual test pit/borings for percolation testing	500.00
Geotechnical engineer or geologist to log test pit/borings & perform the infiltration testing within the borings estimated to be two days	1,400.00
Laboratory analysis for grain size analysis and general soil properties	500.00
Engineering infiltration analysis and preparation of the report of infiltration testing	1,280.00
<b>Sub total</b>	<b>3,680.00</b>
*Consultations, research and design Team meetings are based on hourly rates of the current fee schedule - estimated	960.00
<b>Outside subcontract fees</b>	
**Water supply fee if water supply not available on site - PW	500.00
**Percolation casing, granular backfill, etc. if necessary	250.00
** The manual excavation fees for test pits/borings - PW	700.00

A retainer fee of \$4,000.00 will be required to initiate the fieldwork for the project. The retainer will be applied to the total fee at the completion of the report.



If a retainer fee cannot be provided, the fieldwork phase will be invoiced prior to completion of the reports.

Please note: Earth Systems fees do not include repairs to any landscape or hardscape that could be damaged while gaining access to the excavation locations. It should be understood that the test pits that are excavated for the geotechnical study will be backfilled but will not be compacted to the same density as previously existed and settlement of the backfill will occur with time. Earth Systems is not responsible for restoring any future settlement in these areas after we have left the site. In the event that you wish to minimize the potential for soil settlement, Earth Systems can provide you with the name of a contractor who will provide you with a proposal to repair any damaged hardscape, landscape or to densify the backfill to minimize settlement or import a gravel material or lean concrete to fill the excavation and haul away the excavated soil. Your signature on this proposal identifies that you are aware of this condition. Do not hesitate to contact Earth Systems should you have any questions regarding this matter.

The estimated fees above are only for preparation of the preliminary geotechnical engineering report as described in the scope of services. Additional study, analysis, reports, plan reviews etc. may be required by the review agency or other members of the design team after their review of the preliminary geotechnical report. Any additional services performed will be provided on a Fee Schedule basis in accordance with the Fee Schedule in effect at the time the services are provided.

If quality control testing and observation during construction is requested and a signed proposal for a specific scope of services is not in place at the time the services are requested, this proposal shall be deemed to be in force to cover the fees for such additional services. Fees for construction testing services can be negotiated once improvement plans are completed and the contractor's schedule is known.

### SCHEDULE

Based on the requested information, Earth Systems anticipates that we can provide the proposed report on the following schedule.

- The document/plan review phase of the study will be performed by Earth Systems professional geotechnical engineers and geologists prior to performing the geotechnical field investigation.
- Site reconnaissance and communication with the client's representatives on site, notification of Underground Service Alert and fieldwork initiation is expected to be scheduled within several days of receipt of your written authorization and requested retainer.
- It is expected that the geotechnical excavation and sampling program will require one day to complete, weather permitting. Infiltration testing will require two days.
- The soil laboratory testing should require about ten working days to complete.
- The time for any required consultation and meetings is unknown at this time.
- The Preliminary Geotechnical Report and the Infiltration Report should be ready for distribution approximately four weeks after completion of the laboratory work and the results of the consultations and meetings. Oral communication of the design criteria will be provided to the design team prior to the completion of the report.

**TERMS FOR SERVICES**

This proposal may be considered valid for ninety days from the date of this proposal at which time if it is not fully executed, we reserve the right to modify our proposal in both scope and fee. The following terms and conditions should be incorporated into the agreement for services.

**1. Investigation, Monitoring and Inspection.** If the services include monitoring or inspection of soil, construction and/or materials, Client shall authorize and pay for Consultant to provide sufficient observation and professional inspection to permit Consultant to form opinions according to accepted statistical sampling methods as to whether the work has been performed in accordance with recommendations. Such opinions, while statistically valid, do not guaranty uniformity of conditions or materials. Similarly, soils and geology investigations do not guaranty uniformity of subsurface conditions. Client hereby represents and warrants that it has provided and shall provide to Consultant all information and sufficient advance notice necessary in order for Consultant to perform the appropriate level of services. No statement or action of Consultant can relieve Client's contractors of their obligation to perform their work properly. Consultant has no authority to supervise or stop the work of others.

**2. Site Access and Utilities.** Client has sole responsibility for securing site access and locating utilities.

**3. Billing and Payment.** Client will pay Consultant the proposal amount or, if none is stated, according to the fee schedule attached to the proposal. Prior to initiation of field work, a retainer is required. This retainer shall be maintained throughout the project and shall be applied to the final invoice. Payment is due on presentation of invoices, and is delinquent if Consultant has not received payment within thirty (30) days from date of an invoice. Client will pay an additional charge of 1 1/2 (1.5) percent per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount, excepting any portion of the invoiced amount that is disputed in good faith. Each payment will first be applied to accrued interest, costs and fees and then to the principal unpaid amount. Services to be performed by Consultant hereunder which are not set forth in this proposal and/or Work Order are additional services. Any additional services provided by Consultant shall be subject to the terms of this contract and charged per Consultant's current fee schedule. Client shall provide written confirmation within three (3) days of any verbal authorization to the Consultant for additional services, but Client's failure to do so shall not relieve the Client from its obligation to pay the Consultant for such services.

**4. Ownership of Documents.** Consultant owns all documents it creates and grants Client limited license to use the documents for the purposes stated in the documents. Consultant reserves the right to withhold delivery of documents to Client until payment in full of current invoices has been received.

**5. Termination.** This agreement may be terminated by either party effective seven (7) days from the date of written notice, or if the client suspends the work for three (3) months. In the event of termination, Consultant will be paid for services performed prior to the date of termination plus reasonable termination expenses. If Consultant has not received payment for any invoice within thirty (30) days from the date of the invoice, or in the event of anticipatory breach by Client, Consultant may suspend performance of its services immediately and may terminate this contract.

**6. Risk Allocation.** In order for Client to obtain the benefit of a fee which includes a lesser allowance for compensating Consultant for its litigation risk, Client agrees to indemnify, hold harmless and defend Consultant, its agents, employees, or officers, from and against any and all loss, claim, expenses, including attorney's fees, injury, damages, liability or costs arising out of non-design services (i.e., services other than as defined by Civil Code Section 2784) performed by Consultant on this project, except where such loss injury, damage, liability, cost, expenses or claims are the result of the sole negligence or willful misconduct of Consultant. To the maximum extent permitted by law, Client agrees that the liability of Consultant, its parent, subsidiaries, affiliates and subcontractors, including their respective officers, directors, employees and agents, for any claims based in contract, in tort or otherwise arising out of or in connection with Consultant's services shall be limited to the aggregate sum of \$25,000.00 or the total fees paid to Consultant for its services, whichever is greater. Consultant shall not be responsible for any consequential, incidental or liquidated damages. These terms may be negotiable depending on the particular facts of your project. You should consult with an attorney experienced in construction contracts and litigation regarding this provision.

**7. Hazardous Materials.** Consultant is responsible only for hazardous materials brought by Contractor onto the site. Client retains ownership and responsibility in all respects for other hazardous materials and associated damage.

**8. Third Parties And Assignment.** This Contract is intended only to benefit the parties hereto. No person who is not a signatory to this Contract shall have any rights hereunder to rely on this Contract or on any of Consultant's services or reports without the express written authorization of Consultant. This Contract shall not be assigned by Client without the Consultant's written consent. This Contract is binding on any successor companies to Client or Consultant, and on the surviving corporation in the event of a merger or acquisition.

**9. Prevailing Wage.** Our proposal is based on the understanding that our services, as outlined in this proposal, are subject to the California Prevailing Wage Law. In the event that the Department of Industrial Relations determines that the Prevailing Wage Law applies, Client agrees to pay to Consultant any additional compensation necessary to adjust Consultants employees' wages to conform to the Prevailing Wage Law on this project.

**10. Governing Law, Survival and Forum Selection.** The contract shall be governed by laws of the State of California. If any of the provisions contained in this agreement are held invalid, the enforceability of the remaining provisions will not be impaired. Limitations of liability, indemnities, representations and warranties by Client will survive termination of this agreement. The signatories represent and warrant that they are authorized by the entities on whose behalf they sign to enter into this contract and that their principals have filed fictitious business name statements, if required. All disputes between Consultant and Client related to this agreement will be submitted to the court of the county where Consultant's principal place of business is located and Client waives the right to remove the action to any other county or judicial jurisdiction.

**11. Standard of Care.** Consultant will perform its services using that degree of skill and care ordinarily exercised under similar conditions by members of Consultant's profession practicing in the same or similar locality at the time of performance.

**CLOSURE**

Earth Systems appreciates the opportunity to provide this proposal for this project. The scope of services identified within this proposal will be reviewed and performed by Earth Systems registered engineers Mark Russell (GE 2393), Anthony Mazzei (GE 2823) or Fereidoun Jahani (PE 62875) and registered geologists Christopher F. Allen (EG 2648) or Steven Saunders (EG 2497). If this proposal meets with your approval, please sign, date and return one copy of this document with the requested retainer, to Earth Systems, 2122 E. Walnut Street, Suite 200, Pasadena, California 91107. Please feel free to contact the undersigned should you have any questions regarding this proposal.

Respectfully submitted,

**Earth Systems Pacific**



David J. Murray  
Sr. Vice President

**AGREED TO AND ACCEPTED**

**by the legal property owner (in the event that addressee is not the legal property owner, please request "Permission to Perform Preliminary Site Investigation" forms to be signed and approved by the legal property owner).**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
TIN/SSN

Distribution: Scott Horsley - [shorsley@eptdesign.com](mailto:shorsley@eptdesign.com)

**EXHIBIT C**



# REQUEST FOR PROPOSALS

## **Architectural and Engineering Design Services for**

### **Reeder Ranch Park**

June 1, 2020

I. INTRODUCTION

Incorporated on April 25, 1956, the City of Montclair is located at the west end of San Bernardino County, approximately 33 miles directly east of Los Angeles and approximately 30 miles west of the San Bernardino Civic Center and County seat. The western boundary of the City is contiguous with the Los Angeles County line. Adjacent to Montclair are the cities of Claremont and Pomona to the west and located in Los Angeles County, the City of Upland to the north, the City of Ontario to the east, and the City of Chino to the south.

Regional access to the City of Montclair is primarily provided by Interstate 10 which passes across the northern half of the City. Based on Department of Finance data, the current population of Montclair is 37,780.

Montclair is the main gateway community to Southern California's Inland Empire, a fast growing region located at the west end of San Bernardino County. Primary access to the City is via Interstate 10, which connects residents to destinations in Los Angeles, Orange, San Bernardino, and Riverside counties. Residents also have easy access to existing and developing alternative means of transit that include the Metrolink railway, the expected arrival of the Metro Gold Line light rail system, and nearby local and regional airports.

Among the amenities that contribute to the high quality of life that is valued by residents are the family-friendly atmosphere, well-maintained parks, trails, roads, top rated school districts, and the unparalleled public safety services which contribute to keeping Montclair among the top safest communities.

The City of Montclair Engineering Division is seeking to retain the services of a professional architecture and engineering consultant firm for Architectural and Engineering Design Services for a new park (Reeder Ranch Park)

Reeder Ranch

Located at 4405 Holt Boulevard, the site is a 1.53-acre vacant parcel that sets adjacent to the Reeder Farm house that was owned by the Reeder family since 1920.

This project will create the new Reeder Ranch Park. Construct a new 2,500sqft recreation center with indoor/outdoor stage, natural playground with shade, walking trails, fitness stations, picnic tables with shade structure, public art, a parking lot with lighting and landscaping throughout the park.

### SCOPE OF WORK

The City of Montclair requires the services of a professional architecture/engineering consultant firm to provide the technical conceptual and final design services for the above-mentioned project.

The proposal shall identify tasks to be included as part of the neighborhood program that will aid the consultant in developing three alternative designs to be discussed with the City staff, Parks and Recreation Commission, and City Council. At a minimum, the neighborhood outreach program and conceptual design phase shall include:

Meet with City staff prior to beginning work to discuss background, scope, objectives, and other pertinent details of the project. The Consultant shall attend periodic meetings with City staff at various stages of the project as needed.

Perform a complete site review including review all existing conditions and information pertaining to the site. Provide a report of findings to the City. This task shall include a field topographic survey of existing site conditions, soils report and utility research.

Develop conceptual design plans and presentation boards to be presented to City staff. This task shall include (3) three conceptual site designs, conceptual grading and drainage, amenities board, as well as (3) three architectural building alternatives.

Develop a site specific Water Quality Control Plan (WQMP) and prepare the necessary documents for obtaining a State General Construction Permit through the California Regional Water Quality Control Board.

Through community-based planning meetings, youth, seniors, and families selected additional design ideas from residents to be included in the project are:

- Locate the Community/Recreation Center in the center of the southern part of the park, for convenient access for future recreational and educational opportunities with the Ranch. The Outdoor Stage will be connected to the Community Center facing the main open area so that space will be available for large events such as movies or concerts in the park. The natural playground, fitness stations, walking trail and picnic tables/benches will be located around the center of the park to maximize the convenience, safety, and visibility of young children and other users. A parking lot will be located on the north side of the park, fronting Holt Boulevard and will provide convenient and safer access to the park. The



parking lot will also be designed to accommodate bus drop-off/pick-up for future school field trips. Fencing will also be incorporated along Holt Boulevard to act as a safety barrier keeping young children away from the street, and to ensure the park can be locked overnight, when not in use, to mitigate criminal behavior.

- For safety, 1) Fencing at street site to minimize the likelihood of young children wandering into the street, and to control unauthorized usage of the park when closed at night; 2) Safety lighting at pedestrian-level bollards along with landscape lighting for safer navigation during the evening/nighttime; 3) Landscaping planted at low levels to provide for visibility at the park and to limit potential “hiding places” that may encourage bad behavior; 4) ADA accessible parking spaces, ramps, restrooms and as required for other areas of the park.

- For park beautification, 1) Trees and other drought-tolerant landscaping. Approximately 50-75 trees will be planted throughout the park to provide shade and beauty; 2) Public Art. The City After-School programs at neighboring sites, including Lehigh and Montera Elementary, will develop art to incorporate at the park. A potential idea is to have the students paint individual 6”x 6” ceramic tiles focusing on historical aspects of Reeder Citrus Ranch and/or water conservation and other sustainability elements. The tiles will then be imbedded into the park either near the Recreation Center or along a pathway within the park. In addition to a public art project with students and residents, the City recommends that the consultant seek local artists to commission additional interactive art pieces that reflect the history and tradition of the original Reeder Citrus Ranch.

- Volunteering will include tree planting with 20 volunteers. Public art with 25 – 50 volunteers In addition to a public art project with students and residents, the City intends to issue an RFP for 1-2 local artists to commission interactive art pieces that reflect the history and tradition of the original Reeder Citrus Ranch.

12 – 15 of the Pomona’s Center CORP’S members will assist with minor demolition and clearing; construction of the natural playground; installation of fitness stations, walking trails, irrigation, signage, public art, benches, bike racks and trash receptacles; and the planting of shrubs and trees.

- Through the preparation of a Water Quality Management Plan (WQMP) and, a General Construction Permit, the architect shall include these sustainable techniques:

Groundwater recharge: The City will grade the park to direct storm water flows along an earthen/vegetative bioswale located at the southwestern corner of the park. From this location, storm water will flow along the earthen easement into Brooks Street, where it will flow directly into a water catch basin at the curb. From the catch basin, storm water will flow directly into the Brooks Recharge Basin located across the street.

Installation of an efficient irrigation system: The City will install an efficient irrigation landscape system that will include a rain sensor, evapotranspiration (ET) controllers, and flow sensors. Water from the irrigation system will remain on site and will percolate into the ground for use by plants. If any water is not absorbed, it will infiltrate further into the Chino Groundwater Basin, providing future drinking water for the community.

3. Use of recycled materials: The City will ensure that at least 10% of the materials for project construction will consist of recycled materials. Specifically, the City will consider using recycled materials for the following: 1) Parking lot: tired-derived asphalt; 2) Walking path: decomposed granite; 3) Natural playground: poured-in-place systems, tiles, loose fill mulch or synthetic turf; 4) Concrete work: fly ash instead of Portland cement; and 5) Picnic/Park benches: made from recycled plastic. The City will also work to ensure construction waste will be minimized by the separation and recycling of recoverable materials generated during construction.

4. Native Plants: The City will incorporate landscaping that excludes the use of invasive plants and instead features drought tolerant or climate appropriate non-invasive native turf, trees, shrubs, plants, and ground cover. The City intends to plant approximately 50-75 trees such as Jacaranda, Magnolia, Purple Plum, Eastern Redbud, Crepe Myrtle, Chinese Pistache and California Live Oak. The City will adhere to tree planting best practices to ensure the highest success rate.

Non-invasive drought tolerant landscaping practices will help improve the air quality on a local, regional and global level. By minimizing the use of pesticides and fertilizers, these pollutants will not run off into the bioswale/storm drain, which leads directly to the Brooks Recharge Basin just south of the new park.

5. Carbon sequestration: The city will plant approximately 75 California native trees within the new park. Examples of the types of trees the City will consider include (but are not limited to): Jacaranda, Magnolia, Purple Plum, Eastern Redbud, Crepe myrtle, Chinese Pistache, and California Live Oak. Tree sizes will be planted either from 24" boxes or 15-gallon size to minimize tree mortality and ensure maximum health.

The City may also consider planting two- three larger specimen trees.

6. Safe drinking water: The City will construct at least three new drinking fountains for park goers' use. One drinking fountain will be constructed within the Community Recreation Center. Two or three other drinking fountains will be located within the park boundaries near other recreational features.

7. Energy conservation: Solar panels will be constructed on the roof as part of the Community Recreation Center. The City will install LED lights and 80W photovoltaic panels to increase sustainability of the Recreation Center and minimize electricity costs.

- The park will be open 7 days a week from Dawn to Dusk. with no fees charged. The Recreation Center will be open from 8:00 a.m. – 5:00 p.m. Monday – Saturday.

## II. PROPOSAL FORMAT AND CONTENT

Consultants shall limit their proposal to 20 pages, excluding cover and resumes. The proposal shall provide all the information requested for the park site and grant requirements. The Consultant's proposal shall contain the following information and shall be organized as follows:

### a. Project Team

An organizational chart indicating principals and key project team members with an indication of their involvement in the project. Also, provide resumes of the key personnel involved with this project including personnel from sub-Consultants. For the project engineer/architect and project manager, include information for three (maximum) recent projects on his/her record of completion compared to the original project schedule.

### b. Firm's Experience

List a maximum of three (3) projects of similar size and scope that the firm has performed design services for other public agencies. For each project, provide the following information: location, owner, construction cost, year the design was completed, year the construction was completed, your project manager, engineer, and inspector's name. If any portion of the project is sub-contracted, provide similar information for a maximum of three projects.

c. Project Design

Discuss the methods and procedures that will be used in the design of the project. Provide a list of construction drawings that will be prepared for the project. Also identify any potential concerns or problems in the design of the site.

d. Project Scheduling

Provide a schedule identifying milestones for the major tasks in the design of the project, beginning with the Notice to Proceed. The City is seeking a quick time frame for design. The City expects conceptual design will be completed by December 15, 2020 and a park grand opening date of March 2022.

e. Resource Requirements

Provide a man-hour and fee estimate for the proposed scope of work. Please state all assumptions upon which the estimates are based. The fee proposal shall be submitted in a separate sealed envelope.

f. Fee Schedule

The fee proposal shall include a not-to-exceed (NTE) figure and hourly billing rates for typical staff classifications and cost breakdown per task. These rates will be used to negotiate any additional work the City may request. All assumptions upon which the costs are based shall be stated. The fee schedule shall be submitted in the same sealed envelope.

b. Agreement

Exhibit "B" is a copy of the City's professional services agreement. The agreement provides terms and conditions.

c. Insurance

Proof of insurance requirements addressed in the professional services agreement of this Request for Proposal shall be submitted by the selected Consultant upon execution of the original contract for submittal to the City Council.

All proposers shall submit a "Statement Certifying Insurance Coverage" certifying that the required insurance coverage will be obtained by the

Consultant, and that the Consultant understands said coverage is prerequisite for entering into an agreement with the City. The Consultant is required to confirm with its insurance carrier that it can meet all the requirements for insurance. Failure to meet the insurance regulations as set forth shall result in the Consultant's disqualification.

d. References

List of three (3) references for similar projects must be provided. Include contact person, address, and telephone number.

J. Consulting Services Agreement

Statement certifying that you agree to the City's Consulting Services Agreement terms and conditions. Any proposed edits to the agreement shall be submitted with the proposal for staff's review and consideration.

The proposals received by the submission date will be evaluated on the basis of their responsiveness to this RFP. The City of Montclair reserves the right to establish, add, delete, or modify criteria by which the proposals will be evaluated and to weigh the criteria according to the City's priorities.

Criteria for the evaluation of the proposals may include, but need not be limited to the following:

- Consultant's demonstrated understanding of the scope of work.
- Completeness of proposal.
- Firm's track records and key project team members' experiences and record in performing similar work.
- Timeliness in accomplishing work assignments for projects in the agreed work.
- The resources required to perform the requested services and fee proposal
- The consultant's comments on the professional services agreement or exceptions.
- References

Those contractors considered most responsive to this RFP may be requested to attend at least one interview with the City. The City may determine that a selection can be made without conducting interviews. The tentative time for the interview is the week of August 24-27, 2020, subject to scheduling.

III. RIGHT TO REJECT ALL PROPOSALS

The City reserves the right to reduce or revise elements of the scope of work prior to the award of any Contract. Furthermore, the City reserves the right to reject any or all proposals submitted and no representation is made hereby that any Contract will be awarded pursuant to this Request for Proposal, or otherwise. All costs incurred in the preparation of the proposal, in the submission of additional information and/or in any other aspect of a proposal prior to the award of a written contract will be borne by the proposer.

The City will provide only the staff assistance and documentation specifically referred to herein and will not be responsible for any other cost or obligation of any kind, which may be incurred by a proposer. All proposals submitted to the City in response to this Request for Proposal shall become the property of the City.

IV. SUBMITTAL OF PROPOSAL

Consultants interested in responding to this Request for Proposal shall submit a proposal by 3:30 p.m. on June 25, 2020. The proposal shall be organized as described in the "Proposal Format and Contents." Any proposals received after 3:30pm on June 25, 2020 will be returned unopened.

Five (5) sets of proposals and one (1) electronic copy in PDF format on a flash drive or CD within a sealed envelope. The proposal shall be presented in one (1) sealed envelope, and one (1) fee proposal shall be presented in one (1) separate sealed envelope. Envelopes bearing the name, address and telephone number of individual or entity submitting the proposal and shall be addressed to:

Mr. Steve Stanton  
Engineering Division Manager  
City of Montclair  
5111 Benito Street  
Montclair, CA 91763


Envelope for proposals and electronic copies shall be clearly marked with the notation: "DO NOT OPEN- PROPOSAL FOR REEDER RANCH PARK"

Envelope for fee proposal shall be clearly marked with the notation: "DO NOT OPEN-FEE PROPOSAL- REEDER RANCH PARK."

V. SELECTION PROCEDURES

For any questions regarding this Request for Proposal, please contact Steve Stanton, Engineering Division Manager at (909) 625-9444 or [sstanton@cityofmontclair.org](mailto:sstanton@cityofmontclair.org)

Sincerely,



Steve Stanton  
Engineering Division Manager

Enclosures: Exhibit "A" – Vicinity Map-Reeder Ranch Park  
Exhibit "B" - Consulting Services Agreement  
Exhibit "C"- Consultant Evaluation Form  
Exhibit "D"- Statewide Park Development Application- Reeder Ranch Park



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	SEPTEMBER 8, 2020	<b>FILE I.D.:</b>	TRN510
<b>SECTION:</b>	CONSENT - RESOLUTIONS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	N. CASTILLO
<b>SUBJECT:</b>	CONSIDER ADOPTION OF RESOLUTION NO. 20-3286 ADOPTING A FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS		
	CONSIDER ADOPTION OF RESOLUTION NO. 20-3287 ADOPTING A FIVE-YEAR LOCAL STREET CAPITAL IMPROVEMENT PROGRAM		

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**REASON FOR CONSIDERATION:** The San Bernardino County Transportation Authority (SBCTA) requires each local jurisdiction to annually update its Five-Year Capital Project Needs Analysis (CPNA) and Local Street Capital Improvement Program (CIP). The City Council is requested to consider adopting Resolution Nos. 20-3286 and 20-3287 adopting the documents pursuant to SBCTA requirements.

Copies of proposed Resolution Nos. 20-3286 and 20-3287 are attached for the City Council's review and consideration.

**BACKGROUND:** Measure I, the 2010-2040 countywide transportation sales tax program, requires that each local jurisdiction applying for funds from the Valley Major Street and Valley Freeway Interchange Program annually adopt and update Five-Year CPNAs and CIPs. The CPNA differs from the Measure I CIP in that the CPNA contains only projects that are included in SBCTA's Nexus Study Program. Projects in the CPNA typically include freeway interchange projects, arterial widening projects, and grade separation projects. Project funding also includes contributions from developers through the regional Development Impact Fee Program. The CPNA projects in the City of Montclair that make use of Valley Major Street and Freeway Interchange Program funds include the reconstruction of the Monte Vista Avenue/I-10 Freeway Interchange Project and the Monte Vista Avenue/Union Pacific Grade Separation Project. The CIP list identifies the projects which will be funded by the local pass-through program.

**FISCAL IMPACT:** There is no immediate fiscal impact to the City with the adoption of Resolution Nos. 20-3286 and 20-3287. The CPNA, as its name implies, is a needs analysis allowing SBCTA to prioritize transportation improvement needs throughout the County. Having projects listed in the CPNA is not a guarantee that funds would be made available when needed, but failure to have a project listed would further delay funding until the project is listed. The Measure I Local Pass-Through Program funds are received monthly and will fund the projects listed on the Local Street Program. The City has been successful in expediting the construction of major infrastructure and utilized the available loan program from SBCTA to accelerate construction of improvements needed along Monte Vista Avenue. Future revenues from the SBCTA program will be utilized to pay back the loan.

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

1. Adopt Resolution No. 20-3286 adopting a Five-Year CPNA; and
2. Adopt Resolution No. 20-3287 adopting a Five-Year Local CIP.



RESOLUTION NO. 20-3286

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECTS NEEDS ANALYSIS FOR FISCAL YEARS 2020/2021 THROUGH 2024/2025**

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

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

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

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby adopts the Measure I Five-Year Capital Project Needs Analysis for Fiscal Years 2020/2021 through 2024/2025, a copy of which is attached to this Resolution.

**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. 20-3286 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

## Capital Project Needs Analysis

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

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

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

Funding		Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
PA&ED	Nexus Total Project Cost (All phases):	5,850,000	212,940	0	0	0	0	0	212,940
	DEV FEE		670,652	0	0	0	0	0	670,652
	MI VFI		883,600	0	0	0	0	0	883,600
Total			1,795,192	0	0	0	0	0	1,795,192
PS&E	DEV FEE		76,976	0	0	0	0	0	76,976
	MI VFI		690,069	295,744	0	0	0	0	985,813
	Other		132,502	56,786	0	0	0	0	189,288
	Total		1,002,183	429,506	0	0	0	0	1,431,689
ROW	DEV FEE		565,902	141,726	0	0	0	0	707,628
	MI VFI		1,785,391	446,348	0	0	0	0	2,231,739
	Total		2,352,293	588,074	0	0	0	0	2,940,367
CONST	MI VFI		2,881,309	6,420,709	4,280,475	0	0	0	20,003,202
	DEV FEE		1,948,033	0	0	0	0	0	1,948,033
	DEV LOAN		2,888,694	910,353	8,183	80,436	0	0	3,897,666
	Total		7,728,036	7,331,062	6,428,892	4,360,911	0	0	25,849,701
Total			11,966,912	8,348,642	4,360,911	0	0	0	31,105,367

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses

Project Comments: SBCTA is Lead Agency  
 Last Update: 8/26/2020 8:08:45 AM

Reference: Measure I Policy 40006

RESOLUTION NO. 20-3287

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, STATE OF CALIFORNIA, ADOPTING THE MEASURE I FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM FOR FY 2020/21 THROUGH FY2024/2025 AND EXPENDITURE STRATEGY**

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

**WHEREAS**, revenue from the tax can only be used for transportation improvement and traffic management programs authorized in the Expenditure Plans set forth in Ordinance 04-01 of the Authority, and

**WHEREAS**, the SBCTA’s Measure I Strategic Plan requires each local jurisdiction applying for revenue from the Local Streets Program to annually adopt and update a Five-Year Capital Improvement Plan; and

**WHEREAS**, California Public Utilities Code 190300 and Ordinance No. 04-1 require each local jurisdiction to maintain General Fund expenditures for transportation-related construction and maintenance activities at the required Maintenance of Effort base year level in each fiscal year of the adopted Five-Year Capital Improvement Plan, which for the City of Montclair is \$894,728.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby adopts the Measure I Five-Year Capital Improvement Program and Expenditure Strategy, copies of which are attached to this resolution.

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

**ATTEST:**

\_\_\_\_\_  
Mayor

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 20-3287 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

CITY OF MONTCLAIR

**MEASURE I CAPITAL IMPROVEMENT PLAN**

**EXPENDITURE STRATEGY**

**Fiscal Year 2020/2021 to Fiscal Year 2024/2025**

The City of Montclair plans on using Measure I as matching funds for federal funds associated with the design and construction of Central Bridge at the Union Pacific Railroad tracks. The funds will also be utilized to service the I-10/Monte Vista Interchange Term Loan Agreements in place. The City also intends to expend Measure I funds on maintenance of City streets to the extent permissible under SBCTA policies. Finally, this year, the city will look to replace the existing pedestrian handrail along Monte Vista Avenue that is adjacent to the Police Station and extend along from Arrow Highway to Richton Street.

Resolution Number:  
 Resolution Agreement Date:  
 Contact Person/Title: Noel Canalis  
 Phone: 908-605-3441  
 Email: noelc@montclair.org

**Measure I Local Pass-through Program  
 FIVE YEAR CAPITAL IMPROVEMENT PLAN  
 Fiscal Years 2020/2021 thru 2024/2025**

**Montclair**

Project Description	Is Project in City's Non-indexed Transportation Plan? (Y/N)	Does Project have an ATP (Y/N)	Is the Project on the City's Nexus Study (Public/DP/State %)	Estimated Total Project Cost	FY2020/21 Est. Revenue		FY2021/22 Est. Revenue		FY2022/23 Est. Revenue		FY2023/24 Est. Revenue		FY2024/25 Est. Revenue		Total Est. Rev.
					Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	Carryover Funds	Current Estimate	
<b>Named Projects:</b>															
Central bridge consultant costs	No	No	0%	\$56,000.00	0.00	50,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$56,000.00
Central Bridge Local Match	No	No	0%	\$400,000.00	0.00	400,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$400,000.00
L-10/Ronnie Vista Interchange Term Loan Agreement	No	No	100%	\$33,144,000.00	0.00	74,620.00	0.00	1,343,196.00	0.00	843,707.00	0.00	0.00	0.00	0.00	\$2,966,483.00
Payment management system	No	No	0%	\$50,000.00	0.00	50,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$50,000.00
PD hardware	No	No	0%	\$150,000.00	0.00	150,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$150,000.00
traffic safety	No	No	0%	\$100,000.00	0.00	50,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$50,000.00
<b>Total Named Projects - Estimate:</b>				\$774,820.00	\$774,820.00	\$774,820.00	\$0.00	\$1,348,196.00	\$843,707.00	\$843,707.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,866,483.00
			(%) Named Projects to FY Est. Revenue:		134.18%			127.55%							0.00%

<b>Categorical Projects:</b>	
(%) Categorical Projects to FY Est. Revenue:	
Categorical Projects Total	\$0.00
Categorical Projects to FY Est. Revenue	\$2,866,483.00
<b>Total Categorical Programming:</b>	\$0.00
<b>Total Estimated Programming:</b>	\$2,866,483.00
<b>Total Programming:</b>	\$2,866,483.00

Total Programming is currently 80.62% (must not exceed 150%) of Carryover Balance + Total Est. Revenue.

**MINUTES OF THE REGULAR MEETING OF THE PUBLIC WORKS  
COMMITTEE HELD ON THURSDAY, JULY 16, 2020, AT 4:00 P.M. HELD  
VIA ZOOM TELECONFERENCE**

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**I. CALL TO ORDER**

Chair Raft called the meeting to order at 4:00 p.m.

**II. ROLL CALL**

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

Absent: City Manager Starr

**III. APPROVAL OF MINUTES**

The Committee approved the minutes of the May 21, 2020 & June 18, 2020 meetings.

**IV. PUBLIC COMMENT**

Mr. Bruce Culp, resident, asked when ticketing of illegally parked cars related to street sweeping will resume.

Chief Avels stated the date has not yet been determined but that ample notice will be given before the issuance of parking citations resume.

Mr. Culp asked about the protocol and general policy for staff wearing masks, including police officers.

Chief Avels advised that police officers are required to follow same guidance as every citizen, and that all City employees are required to wear a mask when they are at work. Employees do not need to wear a mask if they are alone in their vehicle or office. Chief Avels added that the one exception for police officers is in case of an emergency where they may not have the opportunity to put a mask on or it impedes the use of other necessary equipment.

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

**A. OPERATIONS**

**1. MAINTENANCE ACTIVITIES**

An Operations Activities Report for the past month was included with the agenda. No questions or concerns were raised.

**2. ADDITIONAL ITEMS — None**

## **B. FACILITIES**

### **1. MAINTENANCE ACTIVITIES**

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

### **2. ADDITIONAL ITEMS — None**

## **C. ENGINEERING DIVISION ITEMS**

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

Public Works Director/City Engineer Castillo stated the City intends to deed over the parkway area to the resident of 9015 Helena Avenue. Staff is continuing to work on the item.

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

Public Works Director/City Engineer Castillo stated that the City has looked into the General Plan parks accessibility process to determine whether any recommendations come forth concerning accessibility. There does not seem to be any concern with entertaining the resident's request to deed over the area. Staff will continue to negotiate the terms of deeding over the access, including who will bear the costs of the transfer of property. Staff will recommend that the resident pay for the costs of the transfer.

### **3. REQUEST FOR REMOVAL OF PARKING PERMIT PROGRAM ON PALO VERDE STREET & BROOKS STREET**

Public Works Director/City Engineer Castillo stated there is an ordinance that created a truck parking zone on Brooks Street and added Palo Verde Street to it. The intention was to address one resident's concern on Palo Verde Street. There are now multiple trucks and trailers that remain parked on Palo Verde Street for long periods of time, and it has recently become a nuisance and safety concern. Staff recommends the removal of the truck parking permit program. As development occurs in the area, trucks should be parking on-site. The parking occurring now is happening out of convenience after construction has completed.

Chief Avels echoed the concerns of the Public Works Director/City Engineer Castillo, adding that not only are tractors parking, but trailers as well, which is not allowed. He stated the parking program has become a problem and it is attracting trucks from outside the City. The number of trucks that are parking has grown to an amount beyond that which the streets were designed to support. If the parking permit program is removed, it will continue to be an enforcement issue. Staff would notify those who have been issued permits for Palo Verde Street, and would remove the signs from Brooks Street. The first 30 days of enforcement would be only to issue parking citations; after that, enforcement would move to include the impounding of vehicles.

After analyzing the issue and responding to questions from committee members Johnson and Raft, the committee recommended the item to move forward to City Council for consideration. The recommendation is to remove the parking permit program from the following locations: the north side of Palo Verde Street between Central Avenue and Carrillo Avenue; and Brooks Street between Ramona Avenue and a point 1,650 feet east of the centerline of Monte Vista Avenue.

**VI. POLICE DEPARTMENT UPDATE/ITEMS — None**

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

Director of Community Development Diaz mentioned that the Draft Environmental Impact Report for the Montclair Place District Specific Plan was release for public review on July 10, 2020, and the review period is 45 days. The item will be brought to City Council for acceptance. The document is available on the City website on the Planning Department page.

The sign program from the Cardenas shopping center was approved on Monday, July 13, 2020. The shopping center is located at the intersection of Central Avenue and Holt Boulevard. The sign for the Cardenas building should be installed in a couple of weeks. The interior improvements should be completed in August. There is no confirmation on other businesses coming into the center.

**VIII. CAPITAL PROJECT UPDATES**

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

**A. LOCAL PROJECTS**

**1. CENTRAL AVENUE UTILITY UNDERGROUND PROJECT**

It is anticipated that in a couple of months, the undergrounding of utilities for this project will finally be completed.

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

The project is in the final stages of completion. Paving will be completed the week of July 20, 2020.

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

This project is continuing to make progress and is in its final stages. Finance staff should be relocated back into their new office space in the next couple of weeks.

**4. HOLT BOULEVARD REHABILITATION PROJECT**

The project is currently advertising and the bid opening is scheduled for July 23, 2020. The project will move forward with construction in a couple of months.



## **5. STREET IMPROVEMENTS ON ARROW HIGHWAY AND FREMONT AVENUE**

The design plans are in the final stages of completion. Minor modifications are being made to the plans, and staff will then coordinate with San Bernardino Transportation Authority (SBCTA), which has a grant to implement some of the improvements.

## **B. REGIONAL PROJECTS**

### **1. I-10 CORRIDOR PROJECT**

Public Works Director/City Engineer Castillo stated that the project continues to move forward and we receive weekly updates from the project team via email. For more information on the project, anyone can sign up for updates on the City's Website.

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

The Chino Basin Program meetings have reconvened. Many of the cities have questions about the project and its financial value. Inland Empire Utilities Agency (IEUA) staff is planning bringing an item to their board in September to move the project forward. Staff needs more information to decide whether the City is still in line with the recommendation to move the program forward. Staff will be requesting value engineering to be performed. A Memorandum of Understanding (MOU) establishing the responsibilities, including financial, will be brought forth for City Council consideration soon.

### **3. CENTRAL AVENUE BRIDGE**

The design continues to move forward. Currently, staff is working on a feasibility study to submit to Caltrans requesting to replace the bridge rather than rehabilitate it. The design and property acquisition process should be a two-year process and the construction process should be able to begin once the design is complete.

### **4. FOOTHILL GOLD LINE EXTENSION**

Senior Management Analyst Fuentes noted that earlier this month, the Construction Authority announced there will be groundbreaking for construction of the four-station project from Glendora to Pomona. This portion of the project is expected to be completed in 2025. If additional funding is received by October 2021, it will include the Montclair station. City Manager Starr and Senior Management Analyst Fuentes met with Congresswoman Norma Torres to discuss the inclusion of an earmark in the new budget that the House is proposing. The earmark would be for the entire funding of the Gold Line. As part of the construction in the City of San Dimas, the at-grade crossing at Gladstone Street is now closed for a three-month period as the Kiewit-Parsons team rebuilds the entire crossing and the street intersection is realigned. The Construction Authority continues to meet with stakeholders to raise awareness in the community of the construction. Additionally, the Authority continues to work with the Public Utilities Commission to finalize approval of grade

crossings needed for the project, with 48 of the 49 grade crossings approved.

City Staff continues to work and meet with the Authority. A meeting was held last week to review options for the Montclair station and move forward with the final design of the station. The preferred station will have a center platform and patrons would access both Metrolink and Gold Line trains to the south or north of the tracks.

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

**X. ADJOURNMENT**

At 4:37 p.m., Chair Raft adjourned the meeting of the Public Works Committee. The next meeting of the Public Works Committee is scheduled to be held at 4:00 p.m. on August 20, 2020.

Submitted for Public Works Committee approval,

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Noel Castillo  
Transcribing Secretary