

## **NOTICE**

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

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

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

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

<https://zoom.us/j/95239872725>

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

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

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

**Meeting ID: 952 3987 2725**

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

## **VERBAL PARTICIPATION USING ZOOM**

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

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

## **VERBAL PARTICIPATION OVER THE PHONE**

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

## **ADA COMPLIANCE INFORMATION**

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

## **PUBLIC COMMENT PROCEDURES**

### **MAKING VERBAL COMMENTS**

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

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

### **SUBMITTING WRITTEN COMMENTS**

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

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



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

**AGENDA**

Tuesday, January 19, 2021  
7:00 p.m.

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

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

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

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

**II. INVOCATION**

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

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS**

- A. Community Activities Commission Military Banner Presentation
- B. COVID-19 Community Recognition Award

**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. Special Meeting — December 7, 2020 [CC]
  - 2. Regular Joint Meeting — December 7, 2020 [CC/SA/MHC/MHA/MCF]

**B. Administrative Reports**

- |  |    |
|--|----|
| 1. Consider Receiving and Filing of Treasurer's Reports [CC]                         | 5  |
| 2. Consider Approval of Warrant Registers & Payroll Documentation [CC]               | 6  |
| 3. Consider Receiving and Filing of Treasurer's Reports [SA]                         | 7  |
| 4. Consider Approval of Warrant Registers [SA]                                       | 8  |
| 5. Consider Receiving and Filing of Treasurer's Reports [MHC]                        | 9  |
| 6. Consider Approval of Warrant Registers [MHC]                                      | 10 |
| 7. Consider Receiving and Filing of Treasurer's Reports [MHA]                        | 11 |
| 8. Consider Approval of Warrant Registers [MHA]                                      | 12 |
| 9. Consider Authorizing the Purchase of a Pressure Washer from Geyser Equipment [CC] | 13 |

**C. Agreements**

- |   |    |
|---|----|
| 1. Consider Approval of Agreement No. 21-01 with the San Bernardino County Office of Homeless Services to Accept an Award for the Homeless Housing, Assistance and Prevention Program (HHAP) [CC] |    |
| Consider Authorizing the City Manager to Sign Agreement No. 21-01 and Any Other Documents to Effectuate Homeless Assistance Programs [CC]   | 14 |

**D. Resolutions**

- |   |    |
|---|----|
| 1. Consider Adoption of Resolution No. 21-3294 Rescinding and Superseding Resolution No. 15-3073 Identifying and Correcting Updated Terms and Conditions for a Fire Department Response Away from its Official Duty Station when Assigned to a State or Federal Declared Emergency Incident [CC]                          | 53 |
| 2. Consider Adoption of Resolution No. 21-3297 Authorizing Salaries and Classification Titles for City Employees on a Consolidated Salary Schedule [CC]   | 56 |
| 3. Consider Adoption of Resolution No. 21-3299 Continuing to Declare that a Local Public Health Emergency Exists in the City of Montclair, Updating Provisions of the Original Declaration In Relation to COVID-19 Sick Leave, and Continuing to Establish City Eligibility for Federal and State Funding Assistance [CC] | 65 |

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. BUSINESS ITEMS**

- |  |    |
|--|----|
| A. Consider Adoption of Resolution No. 21-3298 Making Certain Findings for an Exception to the 180-Day Wait Period Pursuant to Government Code Sections 7522.56 and 21221(h) Allowing Retired Deputy Fire Chief Jackson to be Hired for Temporary Part-Time Employment as Interim Deputy Fire Chief [CC] | 80 |
|--|----|

## **XI. COMMUNICATIONS**

A. Department Reports — None

B. City Attorney

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

*Torres v. Montclair*

C. City Manager/Executive Director

D. Mayor/Chairperson

1. Reorganization of City Council Committee/Liaison Assignments [CC]

E. Council Members/Directors

F. Committee Meeting Minutes (*for informational purposes only*) — None

## **XII. CLOSED SESSION**

## **XIII. CLOSED SESSION ANNOUNCEMENTS**

## **XIV. ADJOURNMENT**

*This meeting shall be adjourned in memory of Planning Commissioner Emeritus Donald Vodvarka.*

*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, February 1, 2021, 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, January 14, 2021.*



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN520
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	J. KULBECK
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORTS		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Reports for the months ending November 30, 2020 and December 31, 2020.

**BACKGROUND:** Included in your agenda packet are copies of the Treasurer's Reports for the periods ending November 30, 2020, and December 31, 2020.

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

**RECOMMENDATION:** Staff recommends the City Council receive and file the Treasurer's Reports for the months ending November 30, 2020 and December 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN540
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	L. LEW/V. FLORES
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTERS 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 Ruh has examined the Warrant Registers dated December 21, 2020, and January 19, 2021; and the Payroll Documentations dated November 22, 2020, December 6, 2020, and December 20, 2020, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated December 21, 2020, totals \$1,149,103.88.

The Warrant Register dated January 19, 2021, totals \$1,819,525.59.

The Payroll Documentation dated November 22, 2020, totals \$574,054.63 gross, with \$393,503.10 net being the total cash disbursement.

The Payroll Documentation dated December 6, 2020, totals \$704,676.50 gross, with \$478,008.24 net being the total cash disbursement.

The Payroll Documentation dated December 20, 2020, totals \$601,135.97 gross, with \$411,186.26 net being the total cash disbursement.

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



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN510
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	SA
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORTS		

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**REASON FOR CONSIDERATION:** City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Reports for the months ending November 30, 2020, and December 31, 2020, pursuant to state law.

**BACKGROUND:** Included in your agenda packet are copies of the Successor to the Redevelopment Agency Treasurer's Report for the periods ending November 30, 2020, and December 31, 2020.

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

**RECOMMENDATION:** Staff recommends the City Council acting as Successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Reports for the months ending November 30, 2020, and December 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN530
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	SA
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTERS		

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**REASON FOR CONSIDERATION:** The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Registers for the months ending November 30, 2020, and December 31, 2020 pursuant to state law.

**BACKGROUND:** Vice Chair Ruh has examined the Successor to the Redevelopment Agency Warrant Registers dated 11.01.20–11.30.20 in the amounts of \$11,576.17 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds; and 12.01.20–12.31.20 in the amounts of \$8,555.06 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds; and finds them to be in order.

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

**RECOMMENDATION:** Vice Chair Ruh recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Registers for the periods ending November 30, 2020, and December 31, 2020.





# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	5	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORTS		

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**REASON FOR CONSIDERATION:** Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Reports for the months ending November 30, 2020, and December 31, 2020, pursuant to state law.

**BACKGROUND:** Included in your agenda packet are copies of the Treasurer's Reports for the periods ending November 30, 2020, and December 31, 2020.

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

**RECOMMENDATION:** Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Reports for the months ending November 30, 2020, and December 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	6	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTERS		

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**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Registers for the months ending November 30, 2020, and December 31, 2020, pursuant to state law.

**BACKGROUND:** Vice Chair Ruh has examined the Warrant Registers for the Montclair Housing Corporation dated 11.01.20–11.30.20 in the amount of \$62,966.01, and 12.01.20–12.31.20 in the amount of \$40,714.03, and finds them to be in order.

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

**RECOMMENDATION:** Vice Chair Ruh recommends the Montclair Housing Corporation Board of Directors approve the Warrant Registers for the periods ending November 30, 2020, and December 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	7	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORTS		

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Reports for the months ending November 30, 2020, and December 31, 2020, pursuant to state law.

**BACKGROUND:** Included in your agenda packet are copies of the Treasurer's Reports for the periods ending November 30, 2020, and December 31, 2020.

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

**RECOMMENDATION:** Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Reports for the months ending November 30, 2020, and December 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	8	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTERS		

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Registers for the months ending November 30, 2020, and December 31, 2020, pursuant to state law.

**BACKGROUND:** Vice Chair Ruh has examined the Warrant Registers for the Montclair Housing Authority dated 11.01.20–11.30.20 in the amount of \$0.00, and 12.01.20–12.30.20 in the amount of \$0.00, and finds them to be in order.

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

**RECOMMENDATION:** Vice Chair Ruh recommends the Montclair Housing Authority Board of Directors approve the Warrant Registers for the periods ending November 30, 2020, and December 31, 2020.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	EQS230
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	9	<b>PREPARER:</b>	N. CASTILLO
<b>SUBJECT:</b>	CONSIDER AUTHORIZING THE PURCHASE OF A PRESSURE WASHER FROM GEYSER EQUIPMENT		

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**REASON FOR CONSIDERATION:** The City council is requested to consider authorizing the purchase of a pressure washer, which will be utilized for sanitation and graffiti removal. Any purchase over \$15,000 needs to be brought to council for approval.

**BACKGROUND:** The City of Montclair prides itself on being an attractive, well-maintained community. Safe and clean streets are a hallmark of the community. The City currently owns one pressure washer. The additional pressure washer will allow staff to perform more graffiti removals and sanitation to better serve the residents. Funding in the amount of \$16,000 was included for the pressure washer in the Fiscal Year 2020–2021 Operations Budget. Any purchase over \$15,000 needs to be brought to council for approval.

Staff obtained three quotes from manufactures. The selection committee consisted of the City’s mechanic and the Public Works Director. The table below shows the three quotes obtained from the equipment supply companies.

<i>Company</i>	<i>Quote</i>
Geyser Equipment	\$15,226.87
Total Clean Equipment	\$16,194.60
Hotzy Cleaning Systems	\$21,605.33

After inviting all three companies to provide the proposals, staff narrowed the selection to the Geyser Equipment quote. The committee determined the cost of Geyser Equipment quote along with the fact that the City already owns a unit that is of the same make and model to be the best value for the City. All three quotes provide a 3500 pounds per square inch (PSI) of force unit. This high temperature steam pressure washer will be utilized for the removal of graffiti off surfaces, which require a higher temperature to remove stains and help to disinfect and sterilize surfaces to prevent the spread of germs and viruses.

**FISCAL IMPACT:** Funding in the amount of \$16,000 for a new pressure washer was included in the Fiscal Year 2020–2021 Operations Budget, with funds coming from the CDBG Fund.

**RECOMMENDATION:** Staff recommends that the City Council authorize the purchase of a pressure washer from Geyser Equipment.



# CITY COUNCIL AGENDA REPORT

**DATE:** JANUARY 19, 2021

**FILE I.D.:** HSV046/GRT125

**SECTION:** CONSENT - AGREEMENTS

**DEPT.:** HUMAN SVCS.

**ITEM NO.:** 1

**PREPARER:** R. WALKER

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 21-01 WITH THE SAN BERNARDINO COUNTY OFFICE OF HOMELESS SERVICES TO ACCEPT AN AWARD FOR THE HOMELESS HOUSING, ASSISTANCE AND PREVENTION PROGRAM (HHAP)

CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN AGREEMENT NO. 21-01 AND ANY OTHER DOCUMENTS TO EFFECTUATE HOMELESS ASSISTANCE PROGRAMS

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 21-01 with the San Bernardino County Office of Homeless Services to accept an award for the Homeless Housing, Assistance and Prevention (HHAP).

A copy of proposed Agreement No. 21-01 is attached for the City Council's review and consideration.

**BACKGROUND:** The HHAP grant program is authorized by Assembly Bill 101, which was signed into law by Governor Newsom on July 31, 2019. HHAP is a \$650 million block grant designed to provide local jurisdictions with funds to support regional coordination and to address homelessness challenges focused on moving homeless individuals and families, or individuals and families at-risk of homelessness, into permanent housing and to support the efforts of those individuals and families to maintain their permanent housing. The San Bernardino County Office of Homeless Services is responsible for distributing \$2.8 million in HHAP funding designated for the County. The City of Montclair was successful in our application to receive HHAP funds.

The City's successful application for HHAP funding will be utilized to provide a comprehensive outreach program with the goal of providing rental assistance or rapid rehousing and will be implemented collaboratively by the Human Services Department and the Code Enforcement Division. HHAP funded activities include housing the individuals experiencing homelessness or those at risk of homelessness; and providing services needed to prevent them from returning to homelessness. The term of Agreement No. 21-01 is January 26, 2021 through June 30, 2025.

**FISCAL IMPACT:** Should the City Council approve proposed Agreement No. 21-01, San Bernardino County Office of Homeless Services will provide the City with funding in the amount of \$115,254 toward eligible expenses from January 26, 2021 to June 30, 2025 to implement HHAP through a comprehensive outreach program implemented by culturally competent staff and volunteers from the community.

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

1. Approve Agreement No. 21-01 with the San Bernardino County Office of Homeless Services to accept an award for the Homeless Housing, Assistance and Prevention Program; and
2. Authorize the City Manager to sign Agreement No. 21-01 and any other documents to effectuate homeless assistance programs.



**Contract Number**

Agreement No. 21-01

**SAP Number**

## Human Services

<b>Department Contract Representative</b>	Tom Hernandez Chief of Homeless Services
<b>Telephone Number</b>	909-501-0610
<b>Contractor</b>	City of Montclair
<b>Contractor Representative</b>	Edward C. Starr
<b>Telephone Number</b>	(909) 625-9459
<b>Contract Term</b>	February 9, 2021 – June 30, 2025
<b>Original Contract Amount</b>	N/A
<b>Amendment Amount</b>	N/A
<b>Total Contract Amount</b>	\$115,254.00
<b>Cost Center</b>	6210002505

### IT IS HEREBY AGREED AS FOLLOWS:

**WHEREAS**, the County of San Bernardino (COUNTY) has been allocated funds by the State of California, Homeless Coordinating and Financing Council in the Business, Consumer and Housing Agency, hereinafter called State, under the Homeless Housing, Assistance and Prevention (HHAP) Program authorized by Assembly Bill 101 (Committee on Budget, Chapter 159, Statutes of 2019), signed into law by Governor Gavin Newsom on July 31, 2019, to provide block grant funding designed to support regional coordination and to expand or develop local capacity to address immediate homelessness challenges throughout California; and,

**WHEREAS**, the COUNTY Office of Homeless Services, hereinafter referred to as OHS, is the Administrative Entity authorized to act on behalf of the COUNTY to administer HHAP as designated by the San Bernardino County Continuum of Care (SBC CoC), the eligible recipient of HHAP grant funding; and

**WHEREAS**, the COUNTY conducted a competitive process to find City of Montclair (CONTRACTOR) to provide these services, and

**WHEREAS**, CONTRACTOR has the required qualifications, experience and expertise to provide services and is willing to use State funds to serve individuals and families experiencing homelessness; 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:

## TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
A. DEFINITIONS .....	3
B. CONTRACTOR RESPONSIBILITIES.....	5
C. GENERAL CONTRACT REQUIREMENTS .....	14
D. TERM OF CONTRACT .....	23
E. COUNTY RESPONSIBILITIES .....	23
F. FISCAL PROVISIONS.....	23
G. INDEMNIFICATION AND INSURANCE REQUIREMENTS .....	24
H. RIGHT TO MONITOR AND AUDIT .....	27
I. CORRECTION OF PERFORMANCE DEFICIENCIES.....	27
J. NOTICES.....	28
K. ENTIRE AGREEMENT .....	28

### ATTACHMENTS

EXHIBIT 1 – HHAP AWARD BY CATEGORY

EXHIBIT 2 – SCOPE OF WORK

EXHIBIT 3 – HHAP REPORTING REQUIREMENTS

EXHIBIT 4 – HMIS CLIENT DATA REPORT SAMPLE

EXHIBIT 5 – HUD DATA QUALITY REPORT

EXHIBIT 6 – CALIFORNIA WELFARE AND INSTITUTIONS CODE SECTION 8255



## A. DEFINITIONS

- A.1 Administrative Entity:** A unit of general purpose local government (city, county or a city that is also a county) or a nonprofit organization that has (1) previously administered federal Department of Housing and Urban Development (HUD) Continuum of Care (CoC) funds as the collaborative applicant pursuant to Section 578.3 of Title 24 of the Code of Federal Regulations, and (2) been designated by the CoC to administer program funds.
- A.2 Bridge Housing:** Temporary housing resources offered while working with clients with Permanent Supportive Housing as the final goal. Case managers, housing locators and employment specialists work with each family to access their unique needs and create a customized plan for achieving long-term stability and independence. Once in permanent housing, families build on their success with aftercare support from program staff and a network of community partners.
- A.3 Case Management:** The coordination of community-based services by a professional team to provide people the quality health care that is customized accordingly to an individual's setbacks or persistent challenges and aid them to their recovery. In addition, it can be defined as a collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet the client's health and human service needs.
- A.4 Continuum of Care (CoC):** A group of representatives of organizations, including nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons to the extent these groups are represented within a geographic area to promote community wide commitment to the goal of ending homelessness; rehouse homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; promote access to and effect utilization of mainstream programs by homes individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.
- A.5 Continuum of Care (CoC) Housing Providers:** A network of Community Based Organizations partnered with the COUNTY to provide services to homeless individuals and families.
- A.6 Contractor:** Any individual, company, firm, corporation, partnership or other organization to whom a contract award is made by the COUNTY.
- A.7 Coordinated Entry System (CES):** The CES is used to identify, assess and prioritize homeless individuals and families for housing and services based on vulnerability and severity of need. Designed to ensure people experiencing homelessness receive the right housing intervention and prioritize people who need supportive housing the most to be able to access it as quickly as possible.
- A.8 County of San Bernardino (COUNTY):** A political subdivision of the State of California.
- A.9 Emergency Aid:** Any urgent and immediate services, which include housing that will be provided to homeless individuals. Broad categories of uses include, but are not limited to, shelters, shelter beds, public toilets, shower facilities, tiny shed homes, etc.
- A.10 Emergency Shelter:** Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
- A.11 General Service Area:** The geographically defined area where a service entity provides outreach and direct services to homeless people.
- A.12 Homeless:** The same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that Section read on January 10, 2019.
- A.13 Homeless Management Information System (HMIS):** A web-enabled database used by homeless service providers to capture information about the San Bernardino County persons they serve. The database tracks services provided to homeless individuals and families by the

collaborative agencies. Services tracked include: emergency, transitional, and permanent housing bed usage, employment, veteran's status, as well as referrals to health and human service providers, or other relevant supportive service agencies. As required by the U.S. Department of Housing and Urban Development, the Continuum of Care utilizes the captured information to make informed decisions in planning, homeless advocacy, and policy development that result in targeted services. HMIS also includes the use of a comparable database by a victim services provider or legal services provider that is permitted under Part 576 of Title 24 of the Code of Federal Regulations.

- A.14 Homeless Youth:** An unaccompanied youth between 12 and 24 years of age, inclusive, who is experiencing homelessness, as defined in subsection (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act [42 U.S.C. Sec. 11434a(2)]; includes unaccompanied youth who are pregnant or parenting.
- A.15 Housing First:** An approach to quickly and successfully connect individuals and families experiencing homelessness to permanent housing without preconditions and barriers to entry, such as sobriety, treatment or service participation requirements. Supportive services are offered to maximize housing stability and prevent returns to homelessness as opposed to addressing predetermined treatment goals prior to permanent housing entry
- A.16 Housing Search and Placement:** Services to assist clients to locate, secure, and navigate the rental market. Housing Search and Placement activities may include, but are not limited to, unit identification, unit inspection, determining rent reasonableness, contracts, advocating for households, landlord/tenant mediation, and any other housing requirements.
- A.17 Interagency Council on Homelessness (ICH):** The policy making body for the San Bernardino County Homeless Partnership. ICH works to ensure that the recommendations listed in the County's 10-Year Strategy to End Homelessness are realized. ICH Membership is composed of elected officials, state and local representatives, community and faith-based organizations, and corporate advocates.
- A.18 Instance of Service:** Each encounter with a member of the target population where services are provided for each of the eligible grant activities. For example, one individual checks into a warming center operated by Provider X on Tuesday. The same individual checks into the same warming center the next night. This counts as two instances of service for this activity.
- A.19 Navigation Center:** A Housing First, low barrier, service service-enriched shelter focused on moving homeless individuals and families into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.
- A.20 Office of Homeless Services (OHS):** The lead agency for the San Bernardino County Continuum of Care (SBC CoC). The SBC CoC coordinates services with the San Bernardino County Homeless Partnership consisting of community and faith-based organizations, educational institutions, non-profit organizations, private industry, and Federal, State and local governments.
- A.21 Permanent Supportive Housing (PSH):** Low-barrier permanent housing with services. The type of services depends on the needs of the residents. Services may be short-term, sporadic, or ongoing indefinitely. PSH units are for individuals and families who are homeless or chronically homeless. PSH is housing combined with services, which may include mental health and health services, drug and alcohol treatment, education and job training.
- A.22 Point-In-Time-Count (PITC):** An unduplicated one-night estimates of both sheltered and unsheltered homeless populations conducted by Continuums of Care nationwide on a pre-determined date within the last 10 days of each January pursuant to Section 578.3 of Title 24 of the Code of Federal Regulations.
- A.23 Program:** The Homeless Housing, Assistance and Prevention (HHAP) Program established pursuant to Chapter 6 of Part 1 of Division 31 of the Health and Safety Code. Program and HHAP are used interchangeably throughout this document.
- A.24 Rapid Re-Housing (RRH):** An intervention designed to help individuals and families quickly exit homelessness and return to permanent housing. Using the Housing First model, move families and individuals into permanent affordable housing as quickly as possible with minimal barriers, assist with move-in costs such as security and utility deposits and short-medium term declining

rental subsidies, and provide intensive social services while families or individuals are in their home. Supportive services are designed to enhance each family or individual's stability and equip them with skills and resources they need to sustain and thrive in housing and avoid future homelessness.

- A.25 San Bernardino County Continuum of Care (SBC CoC):** Provides leadership in creating a comprehensive countywide network of service delivery to homeless individuals and families and those at-risk of becoming homeless.
- A.26 State of California, Homeless Coordinating and Financing Council (State):** Created pursuant to Section 8257 of the Welfare and Institutions Code to, among other things, identify mainstream resources, benefits, and services that can be accessed to prevent and end homelessness in California.
- A.27 Subcontractor:** An individual, company, firm, corporation, partnership or other organization, not in the employment of or owned by CONTRACTOR who is performing services on behalf of CONTRACTOR under a separate contract with or on behalf of CONTRACTOR.
- A.28 Target Population:** Any person who is homeless as defined for this grant (see A.12 above).
- A.29 Transitional Housing (TH):** Designed to provide homeless individuals and families with the interim stability and support to successfully move to and maintain permanent housing. TH may be used to cover the costs of up to 24 months of housing with accompanying supportive services.
- A.30 United States Department of Housing and Urban Development (HUD):** A Federal agency established in 1965, HUD's mission is to increase homeownership, support community development, and increase access to affordable housing free from discrimination. To fulfill this mission, HUD will embrace high standards of ethics, management and accountability and forge new partnerships, particularly with faith-based and community organizations, that leverage resources and improve HUD's ability to be effective on the community level.

## **B. CONTRACTOR RESPONSIBILITIES**

The following shall be required by CONTRACTOR:

### **B.1 General Requirements**

- B.1.1** CONTRACTOR shall be in compliance with all applicable Federal, State, and local laws, required to perform this Contract. CONTRACTOR shall be required to repay the COUNTY in the event of non-compliance with any applicable law if the COUNTY is required to repay any amount of funds to the State as a result of CONTRACTOR's non-compliance.
- B.1.2** CONTRACTOR and its Subcontractors shall perform the work in accordance with Federal, State and local housing and building codes, as applicable.
- B.1.3** CONTRACTOR shall be responsible to accomplish the levels of performance as set forth in Exhibit 1 – HHAP AWARD BY CATEGORY and report such measures quarterly to the COUNTY with each quarterly expenditure report. The COUNTY will review CONTRACTOR performance to assess expenditure and performance progress. If CONTRACTOR is not meeting expenditure and performance measures, the COUNTY will work with CONTRACTOR to identify strategies and remediate performance issues.
- B.1.4** CONTRACTOR's obligation to the COUNTY shall not end until all closeout requirements are completed. Activities during closeout period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent funds, and accounts receivable to the COUNTY), and determining the custodianship of records.

### **B.2 Scope of Work**

The project description for services to be provided by CONTRACTOR under this Contract are identified in Exhibit 2 - SCOPE OF WORK.

### **B.3 Administrative Requirements**

CONTRACTOR shall adhere to the following:

#### **B.3.1 Coordinated Entry System (CES)**

- a. The CES is a referral process that currently coordinates with the SBC CoC. All those participating with CES will need to apply to participate with the Homeless Management Information System (HMIS).
- b. CONTRACTOR must work in collaboration with CES and SBC CoC to ensure the screening, assessment, and referral of HHAP participants are consistent with the eligible uses under HHAP.
- c. CONTRACTOR agrees to receive referrals from CES prior to providing services with the exception of individuals receiving emergency assistance. In such cases, immediate services can be provided, but individuals and/or families must be referred by CONTRACTOR to CES for assessment and prioritization within seventy-two (72) hours. CONTRACTOR understands that individuals and/or families may not be referred to CONTRACTOR and may be referred to another service provider based upon the CES assessment.

**B.3.2 Data Reporting**

- a. CONTRACTOR will submit to OHS detailed reports containing information listed in Exhibit 3 – HHAP REPORTING REQUIREMENTS.
- b. A report will be due forty-five (45) days after the date of expiration of this Contract or upon completion of Contract services.
- c. CONTRACTOR shall submit additional reports as required by the State or COUNTY.

**B.3.3 Equipment and Other Property**

All equipment, materials, supplies or property of any kind (including vehicles, publications, copyrights, etc.) purchased with HHAP funds received under the terms of this Contract which has a life expectancy of one (1) year or more shall be the property of the COUNTY and shall be subject to the provisions of this paragraph. The disposition of equipment or property of any kind shall be determined by the COUNTY when the Contract is terminated. Additional terms are as follows:

- a. The purchase of any furniture or equipment which was not included in CONTRACTOR's approved budget, shall require the prior written approval of the COUNTY, and shall fulfill the provisions of this Contract which are appropriate and directly related to CONTRACTOR's services or activities under the terms of the Contract. The COUNTY may refuse approval for any cost resulting from such items purchased, which are incurred by CONTRACTOR, if prior written approval has not been obtained from the COUNTY.
- b. Before equipment purchases made by CONTRACTOR are approved by the COUNTY, CONTRACTOR must submit paid vendor receipts identifying the purchase price, description of the item, serial numbers, model number and location where equipment will be used during the term of this Contract.
- c. CONTRACTOR shall submit an inventory of equipment purchased under the terms of this Contract as part of the expenditures report for the month in which the equipment is purchased. CONTRACTOR must also maintain an inventory of equipment purchased that, at a minimum, includes the description of the property, serial number or other identification number, title holder, acquisition date, cost of the equipment, location, use and condition of the property, and ultimate disposition data. A physical inventory of the property must be reconciled annually. Equipment should be adequately maintained and a control system in place to prevent loss, damage, or theft. Equipment with cost exceeding COUNTY's capitalization threshold of \$5,000 must be depreciated.
- d. No costs incurred prior to the Contract commencement date shall be eligible for reimbursement with HHAP funds.
- e. Upon termination of this Contract, CONTRACTOR will provide a final inventory to the COUNTY and shall at that time query the COUNTY as to requirements,

including the manner and method in returning equipment to the COUNTY. Final disposition of such equipment shall be in accordance with instructions from the COUNTY.

#### **B.3.4 Financial Management**

- a. Review, understanding, and certification that quarterly expenditure reports submitted to the COUNTY meet eligible expenses under HHAP and State requirements. The COUNTY shall have no obligation to advance or pay CONTRACTOR with any funds other than HHAP funds the COUNTY receives from the State.
- b. CONTRACTOR attests that by submitting a quarterly expenditures report to OHS, it has completed all due diligence necessary and verified eligibility for HHAP funding. CONTRACTOR shall be required to repay COUNTY for non-eligible expenditures that may inadvertently be processed by the COUNTY.
- c. Budget Changes – CONTRACTOR agrees that no changes shall be made to CONTRACTOR's HHAP budget without first obtaining approval. No more than the amounts specified in Exhibit 1 – HHAP AWARD BY CATEGORY may be spent for the separate cost categories specified in the budget summary. Any changes to this Contract must be requested by CONTRACTOR in writing through OHS. Changes must be approved by the County and/or the State.
- d. Documentation of Costs and Other Financial Reporting

CONTRACTOR will be required to maintain books, records, documents, and other evidence directly related to the performance of work in accordance with Generally Acceptable Accounting Procedures. Costs shall be supported by properly executed payrolls, time records, invoices, receipts, vouchers or other official documentation, as evidence of the nature and propriety of the charges.

All accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible, and upon reasonable notice, the COUNTY shall have the right to audit the records of the CONTRACTOR as they relate to the Contract and the activities and services described herein.

CONTRACTOR shall also:

- 1) Maintain an effective system of internal fiscal control and accountability for all HHAP funds and property acquired or improved with HHAP funds, and make sure the same are used solely for authorized purposes.
- 2) Keep a continuing record of all disbursements by date, payment method, amount, vendor, description of items purchased and line item from which the money was expended, as reflected in the CONTRACTOR's accounting records.
- 3) Maintain payroll, financial, and expense reimbursement records for a minimum period of five (5) years after the termination of this Contract.
- 4) Permit inspection and audit of its records with respect to all matters authorized by this Contract by representatives of the COUNTY at any time during normal business hours and as often as necessary.
- 5) Inform the COUNTY concerning any funds allocated to CONTRACTOR, that the CONTRACTOR anticipates will not be expended during the term of this Contract.
- 6) Repay the COUNTY any funds in its possession at the time of the termination of this Contract that may be due to the COUNTY; e.g. ineligible costs, unexpended funds, etc.

#### **B.3.5 Funding**

- a. This Contract is valid and enforceable only if sufficient funds are made available to COUNTY by legislative appropriation. In addition, this Contract is subject to any additional restrictions, limitations or conditions, or statutes, regulations or any other laws, whether Federal or those of the State, or of any agency, department, or any political subdivision of Federal or the State governments, which may affect the provisions, terms or funding of this Contract in any manner.
- b. CONTRACTOR must establish and maintain effective internal controls over all funding awarded to CONTRACTOR by the COUNTY to provide reasonable assurance that CONTRACTOR complies with Federal, State, and County statutes, regulations, and terms and conditions of the Contract.
- c. COUNTY may base funding for CONTRACTOR upon positive performance outcomes, which OHS will monitor throughout the year.
- d. CONTRACTOR must be able to demonstrate that HHAP funds were expended for eligible uses to benefit members of the Target Population.
- e. Funds allocated pursuant to this Contract shall be used exclusively for costs included in CONTRACTOR's Program budget. Contract funds shall not be used as security or to guarantee payments for any non-program obligations nor as loans for non-program activities.
- f. CONTRACTOR certifies and agrees that it will not use funds provided through this Contract to pay for entertainment, gifts, or fundraising activities.
- g. Ineligible Costs – HHAP funds shall not be used for costs associated with activities in violation of any law or for any activities not consistent with the intent of HHAP and the eligible uses identified in California Health and Safety Code Sections 50218 and 50219.

The COUNTY or the State reserves the right to request additional information and clarification to determine the reasonableness and eligibility of all costs to be paid with funds made available by this Contract. If CONTRACTOR or its Subcontractors use HHAP funds to pay for ineligible activities, CONTRACTOR shall be required to reimburse these funds to the COUNTY within thirty (30) days of the request.

- 1) An expenditure which is not authorized by this Contract, or which cannot be adequately documented, shall be disallowed and must be reimbursed to the COUNTY by CONTRACTOR.
- 2) The State, at its sole and reasonable discretion, shall make the final determination regarding the allowability of expenditures of HHAP funds.
- 3) Program funds shall not be used to supplant existing local funds for homeless housing, assistance, or prevention. HHAP funds cannot replace local funds that are committed to an existing or developing homeless assistance program. However, if funds previously supporting a service or project end or are reduced for reasons beyond the control of CONTRACTOR and services or housing capacity will be lost as a result of these funds ending, HHAP funds may be used to maintain the service or program and are not considered supplanting [examples include, but are not limited to, a time-limited city and/or county tax or one-time block grant, such as Homeless Emergency Aid Program (HEAP) grant].
- h. CONTRACTOR must ensure that:
  - 1) No less than 50 percent (50%) of HHAP funds shall be expended by May 31, 2023;
  - 2) One hundred percent (100%) of HHAP funds shall be expended by May 31, 2025; and
  - 3) Any funds not expended by May 31, 2025 shall be returned to COUNTY.

“Expended” means all HHAP funds obligated under the Contract or subcontracts have been fully paid and receipted, and no invoices remain outstanding.”

Reports submitted by the CONTRACTOR will be utilized to ensure that CONTRACTOR is on track to expend 100 percent of HHAP funds by May 31, 2025.

- i. HHAP funds may not be obligated and expended prior to the effective date of this Contract. “Obligate” means that CONTRACTOR has placed orders, entered into sub-contracts, received services, or entered into similar transactions that require payment from the Contract award.
- j. All proceeds from any interest-bearing account established by the CONTRACTOR for the deposit of HHAP funds must be used for HHAP-eligible activities. Documentation of all expenditures and accrued interest shall be reported on the forms provided by OHS (i.e., HHAP Expenditure Report).
- k. Any housing-related activities funded with HHAP funds, including but not limited to, emergency shelter, rapid-rehousing, rental assistance, transitional housing and permanent supportive housing must be in compliance or otherwise aligned with the Core Components of Housing First, pursuant to Welfare and Institution Code Section 8255(b).
- l. CONTRACTOR confirms that rental assistance will be issued directly to a property owner or an agent authorized to act on behalf of a property owner.
- m. Joint Funding – For all programs and services for which there are sources of funds in addition to COUNTY funds as provided under this Contract, CONTRACTOR shall provide proof of such funding. Contractor must be able to account for the receipt, obligation and expenditure of funds.

The COUNTY shall NOT pay for any services provided by CONTRACTOR which are funded by other sources. All restrictions and/or requirements provided in this Contract relative to accounting, budgeting, and reporting apply to the total program regardless of funding sources.

- n. The COUNTY reserves the right to reduce the Contract award when the COUNTY’s fiscal monitoring indicates that CONTRACTOR’s rate of expenditure will result in unspent funds at the end of the Contract term or if it is determined that costs incurred are not in conformance with eligible costs as defined in Health and Safety Code Section 50214. Changes in the Contract award will be done after consultation with CONTRACTOR. Such changes shall be incorporated into this Contract by written amendment(s).

#### **B.3.6 Fiscal Award Monitoring**

- a. The COUNTY has the right to monitor the Contract during the Contract period to ensure accuracy of expenditure reports and compliance with applicable laws and regulations.
- b. CONTRACTOR agrees to furnish duly authorized representatives from the COUNTY and the State access to all financial records necessary to review or audit Contract services and to evaluate the cost, quality, and appropriateness of services.
- c. If the State or the COUNTY determines that all, or any part of, the payments made by the COUNTY to CONTRACTOR pursuant hereto are not eligible expenses in accordance with this Contract, said funds will be repaid by CONTRACTOR to the COUNTY. In the event such payment is not made on demand, the COUNTY may withhold future disbursements to CONTRACTOR until such disallowances are paid by CONTRACTOR. If disallowable expenses are not reimbursed within thirty (30) days of demand, the Contract will terminate without consultation at the COUNTY’s sole and absolute discretion.
- d. If there is a conflict between a State audit of this Contract and a COUNTY audit of this Contract, the State audit shall take precedence.

### **B.3.7 Closeout**

CONTRACTOR shall submit a closeout report including a narrative of the project outcomes, an inventory of all equipment and property acquired or improved by HHAP funds, and a final financial report, upon termination or completion of the services specified in this Contract.

CONTRACTOR agrees to adhere to and comply with all of the closeout procedures detailed below; including, but not limited to the following:

- a. Disposition of Program assets shall be determined by the COUNTY when the Contract is terminated.
- b. CONTRACTOR shall submit within forty-five (45) days after the date of expiration of this Contract, all financial, performance, and other reports required by this Contract; and in addition, will cooperate in a Program audit by the COUNTY.
- c. Any unobligated/unexpended funds disbursed in advance to CONTRACTOR shall be returned to the COUNTY within thirty (30) days after the expiration of the Contract term.
- d. CONTRACTOR must account for any real and personal property acquired with HHAP funds.
- e. Closeout will remain pending until all requirements are met and all outstanding issues with the CONTRACTOR have been resolved to the satisfaction of the COUNTY.

### **B.3.8 Homeless Management Information System**

The HMIS is a local database application used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness in the COUNTY. CONTRACTOR must ensure that data on all persons served are entered into the COUNTY-wide HMIS. HMIS is managed and operated by OHS. HMIS technical and data standards are set forth in the Final 2017 HMIS Data Standards, on file with OHS.

- a. CONTRACTOR shall enter into a Memorandum of Understanding (MOU) with the HMIS Lead Agency where the CONTRACTOR agrees to share HMIS data with other HHAP funded agencies, unless prohibited by law.
- b. CONTRACTOR is required to work with OHS staff to ensure the timely and accurate set-up of their HMIS program profile and to ensure the HMIS program profile is setup in a manner that accurately captures the data pertinent to CONTRACTOR's program. CONTRACTOR's program profile must be setup prior to CONTRACTOR submitting their first HHAP Disbursement Request form.
- c. CONTRACTOR shall submit a copy of HMIS reports (see Exhibit 4 – HMIS CLIENT DATA REPORT SAMPLE) with the quarterly expenditure reports. In the case of Domestic Violence service providers or other agencies prohibited from entering data into HMIS, documentation from the HMIS lead agency certifying that the CONTRACTOR is using a comparable database shall be delivered to the COUNTY. The contact information for the "HMIS Lead Agency" is:

Mike Bell, HMIS Lead  
County of San Bernardino  
Office of Homeless Services  
215 North "D" Street, Suite 301  
San Bernardino CA 92415-0044  
[Michael.Bell@hss.sbcounty.gov](mailto:Michael.Bell@hss.sbcounty.gov)  
Phone: 909-501-0613

- d. CONTRACTOR must ensure all required data elements, as listed below, are entered into the HMIS system for HHAP participants, in a timely manner, and is inputted no later than two (2) working days after program entry. Services rendered to clients must be entered into HMIS no later than two (2) working days from date



of service(s). All clients who exit the program must have an updated status in HMIS within two (2) working days from actual exit date. Failure to meet the above data inputting requirements will constitute a violation of the terms and conditions of this Contract. CONTRACTOR will be notified by OHS, and if not rectified, the Contract may be terminated at the COUNTY's sole and absolute discretion.

- e.** In addition to the timely entry of HMIS data, CONTRACTOR is required to enter accurate and complete data. The COUNTY will ensure CONTRACTOR adheres to Data Quality Standards, as established by HUD, and data entry requirements, as set forth in the HMIS MOU and the OHS Policy Handbook. The Data Quality Standards assess the data quality and completeness of the following Data Elements entered:

- 1)** Client Demographic Data
  - a)** Name
  - b)** Social Security Number
  - c)** Date of Birth
  - d)** Race
  - e)** Ethnicity
  - f)** Gender
  - g)** Veteran Status
- 2)** Universal Data
  - a)** Disabling Condition
  - b)** Project Start Date
  - c)** Project Exit Date
  - d)** Destination
  - e)** Relationship to Head of Household
  - f)** Client Location
  - g)** Housing Move-in Date
  - h)** Living Situation
- 3)** Common Program Specific Data Elements
  - a)** Income and Sources
  - b)** Non-Cash Benefits
  - c)** Health Insurance
  - d)** Disability Elements
  - e)** Physical Disability
  - f)** Developmental Disability
  - g)** Chronic Health Condition
  - h)** HIV/AIDS
  - i)** Mental Health Problem
  - j)** Substance Abuse
  - k)** Domestic Violence
  - l)** Contact
  - m)** Date of Engagement
  - n)** Bed-Night Date

- o) Housing Assessment Disposition
- 4) Data Timeliness
  - a) Entry Timeliness
  - b) Exit Timeliness
- f. According to Data Quality Standards, CONTRACTOR is required to have a five-percent (5%) or less error rate to ensure data accuracy and less than a five-day lapse in timeliness for entry of data at time of client entry, services are rendered, and client exit. Any performance benchmarks not meeting these standards will be captured on CONTRACTOR's HUD Data Quality Report, see Exhibit 5. The report will be generated by CONTRACTOR and submitted quarterly with expenditure reports. OHS will review reports and data deficiencies, if any, will be identified and discussed with CONTRACTOR to determine methods to remediate and/or improve data quality scores.
- g. If CONTRACTOR continues to not meet data entry and data quality benchmarks, as established by HUD and set forth in the HMIS MOU and the OHS Policy Handbook, COUNTY may terminate Contract as set forth in CORRECTION OF PERFORMANCE DEFICIENCIES Section.
- h. CONTRACTOR agrees to provide the COUNTY and/or the State access to HMIS data collected and entered into HMIS, upon request, and to participate in any statewide data initiative as directed by the State including, but not limited to, a statewide data integration environment.

#### **B.3.9 Housing First**

The methodology of providing services will follow the Housing First policy. This is an approach that offers permanent, affordable housing as quickly as possible for individuals and families experiencing homelessness, and then provides the supportive services and connections to the community-based supports people need to avoid returning to homelessness. HHAP projects must align and comply with the core components of Housing First as defined in California Welfare and Institutions Code Section 8255(b) (see Exhibit 6).

#### **B.3.10 Program Participant Eligibility**

CONTRACTOR shall ensure that:

- a. HHAP participants meet the Homeless definition as defined in Section 578.3 of Title 24 of the Code of Federal Regulations:
  - 1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
    - a) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
    - b) An individual or family living in a supervised publicly or privately-operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by Federal, State and local government programs for low-income individuals); or
    - c) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
  - 2) An individual or family who will imminently lose their primary nighttime residence, provided that:

- a) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - b) No subsequent residence has been identified; and
  - c) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- 3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
  - a) Are defined as homeless under Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), Section 637 of the Head Start Act (42 U.S.C. 9832), Section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), Section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - b) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - c) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - d) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- 4) Any individual or family who:
  - a) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
  - b) Has no other residence; and
  - c) Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.
- b. HHAP participants are referred by CES to CONTRACTOR.
- c. CONTRACTOR coordinates Program enrollment and services in collaboration with CES.

**B.3.11 Job Training and Employment**

CONTRACTOR agrees to refer HHAP clients that are eligible for job training and employment services to the County of San Bernardino Workforce Development Department (WDD). Contractor also agrees to refer eligible "work ready" clients to the COUNTY's Community Employment Pathways (CEP) program for job placement services. Number of participants who have been referred to WDD and CEP will be reported on a quarterly basis by CONTRACTOR.

**B.3.12 Staffing Requirements**

CONTRACTOR shall provide the necessary professional staff to meet the needs of the homeless population following the Housing First model (ex. Case managers, Clinicians, medical staff, peer advocates, employment specialists, and eligibility specialists). CONTRACTOR must have the readiness capacity to immediately perform and administer homeless efforts through HHAP funding.

**C. GENERAL CONTRACT REQUIREMENTS**

**C.1 Air, Water Pollution Control, Safety and Health**

CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

**C.2 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.

**C.3 Background Checks for Contractor Personnel**

CONTRACTOR shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the COUNTY; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the COUNTY and not in violation of applicable law, CONTRACTOR shall conduct a background check, at CONTRACTOR's sole expense, on all its personnel providing Services. If requested by the COUNTY, CONTRACTOR shall provide the results of the background check of each individual to the COUNTY. Such background check shall be in the form generally used by CONTRACTOR in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. CONTRACTOR personnel who do not meet the COUNTY's hiring criteria, in COUNTY's sole discretion, shall not be assigned to work on COUNTY property or Services, and COUNTY shall have the right, at its sole option, to refuse access to any Contract personnel to any COUNTY facility.

**C.4 Change of Address**

CONTRACTOR shall notify the COUNTY in writing, of any change in mailing address within ten (10) business days of the change.

**C.5 Child Support Compliance Act**

For any Contract in excess of \$100,000, CONTRACTOR acknowledges in accordance with Public Contract Code 7110, that:

**C.5.1** CONTRACTOR recognizes the importance of child and family support obligations and shall fully comply with all applicable State and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family code; and

**C.5.2** CONTRACTOR, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**C.6 Choice of Law**

This Contract shall be governed by and construed according to the laws of the State of California.

**C.7 Compliance with County Policy**

In performing the Services and while at COUNTY facilities, CONTRACTOR personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the COUNTY regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the COUNTY; and (d) abide by all laws applicable to the COUNTY facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to CONTRACTOR or CONTRACTOR personnel or may be made available to CONTRACTOR or CONTRACTOR personnel by conspicuous posting at a COUNTY facility, electronic posting, or other means generally used by COUNTY to disseminate such information to its employees or contractors. CONTRACTOR shall be responsible for the promulgation and distribution of County Policies to CONTRACTOR personnel to the extent necessary and appropriate.

COUNTY shall have the right to require CONTRACTOR's employees, agents, representatives and subcontractors to exhibit identification credentials issued by the COUNTY in order to exercise any right of access under this Contract.

**C.8 Compliance with State and Federal Laws, Rules, and Regulations**

CONTRACTOR agrees to comply with all State and Federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, environmental protection, equal opportunity, fair housing, and all other matters applicable and/or related to the HHAP program, CONTRACTOR, its subcontractors, and all eligible activities.

**C.9 Confidentiality**

CONTRACTOR shall ensure that all staff, volunteers and/or Subcontractors performing Services under this Contract comply with the terms and conditions as set forth in the Human Services Information Privacy and Security Requirements specified at <http://hss.sbcounty.gov/Privacy> prior to providing any Services. CONTRACTOR shall immediately notify the COUNTY of any suspected or actual breach of confidential information as further detailed in the requirements. These requirements specified at <http://hss.sbcounty.gov/Privacy> are hereby incorporated by this reference.

**C.10 Conflict of Interest**

CONTRACTOR shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the COUNTY. CONTRACTOR shall make a reasonable effort to prevent employees, CONTRACTOR, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and State law. In the event the COUNTY determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the COUNTY and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom CONTRACTOR's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

**C.11 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.

**C.12 Contract Assignability**

Without the prior written consent of the COUNTY, the Contract is not assignable by CONTRACTOR either in whole or in part.

**C.13 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.

**C.14 Copyright**

The COUNTY shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under this Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of this Contract shall acknowledge the COUNTY of San Bernardino as the funding agency and CONTRACTOR as the creator of the publication. No such materials, or properties produced in whole or in part under this Contract shall be subject to private use, copyright or patent right by CONTRACTOR in the United States or in any other country without the express written consent of the COUNTY. Copies of all educational and training materials, curricula, audio/visual aids, printer material, and periodicals, assembled pursuant to this Contract must be filed with the COUNTY prior to publication.

**C.15 County Internship Initiative**

CONTRACTOR agrees to be contacted by the COUNTY to solicit its participation in an internship initiative known as GenerationGo! Career Pathways, involving the potential placement and hiring of interns by CONTRACTOR'S business. CONTRACTOR is encouraged, and agrees to make good faith efforts, to utilize the COUNTY'S program to aid the ***County's Vision for a skilled workforce and jobs that create countywide prosperity***, and its ***goal to Create, Maintain and Grow Jobs and Economic Value in the County***. The COUNTY'S objective with its internship initiative is to focus on training, education, employment and support services to develop a more highly-educated and trained workforce. When participating in the COUNTY'S internship initiative, the CONTRACTOR remains an independent contractor and shall not be construed as agents, officers, or employees of the COUNTY. More information about the COUNTY'S GenerationGo! Career Pathways Program can be located at <https://wp.sbcounty.gov/workforce/career-pathways/>.

**C.16 County Representative**

The Chief of Homeless Services, 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, except for budget category modifications and non-substantive changes, which may be approved by the Assistant Executive Officer of Human Services or the Chief of Homeless Services.

**C.17 Damage to County Property**

CONTRACTOR shall repair, or cause to be repaired, at its own cost, all damages to COUNTY vehicles, facilities, buildings or grounds 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 the COUNTY may deduct such costs from any amounts due to the CONTRACTOR from the COUNTY, as determined at the COUNTY'S sole discretion.

**C.18 Debarment and Suspension**

CONTRACTOR certifies that neither it nor its principals or subcontractors is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). CONTRACTOR further certifies that if it or any of its Subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

**C.19 Disclosure of Criminal and Civil Procedures**

The COUNTY reserves the right to request the information described herein from the CONTRACTOR. Failure to provide the information may result in a termination of the Contract. The COUNTY also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The CONTRACTOR also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

CONTRACTOR is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the CONTRACTOR will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the CONTRACTOR is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the CONTRACTOR will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

CONTRACTOR shall notify the COUNTY immediately of any claim or action undertaken by or against it, which affects or may affect this Contract or the COUNTY, and shall take such action with respect to the claim or action as is consistent with the terms of this Contract and the interests of the COUNTY.

For purposes of this provision "key employees" includes any individuals providing direct service to the COUNTY. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

**C.20 Drug-Free Workplace Certification**

Certification of Compliance: By signing this Contract, CONTRACTOR, and its subcontractors, hereby certify, under penalty of perjury under the laws of the State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

**C.20.1** Publish a statement notifying employees and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code Section 8355(a)(1).

**C.20.2** Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(a)(2) to inform employees, contractors, or subcontractors about all of the following:

- a. The dangers of drug abuse in the workplace;
- b. CONTRACTOR's policy of maintaining a drug-free workplace;

- c. Any available counseling, rehabilitation, and employee assistance programs; and,
- d. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.

**C.20.3** Provide as required by Government Code Section 8355(a)(3), that every employee and/or subcontractor who works under this Agreement:

- a. Will receive a copy of CONTRACTOR's drug-free policy statement; and
- b. Will agree to abide by the terms of CONTRACTOR's condition of employment or subcontract.

**C.21 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, CONTRACTOR agrees that CONTRACTOR and CONTRACTOR's employees, while performing service for the COUNTY, on COUNTY property, or while using COUNTY equipment:

**C.21.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.

**C.21.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.

**C.21.3** 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.

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.

**C.22 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.

**C.23 Employment Discrimination**

During the term of the Contract, CONTRACTOR shall not unlawfully 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.

During the term of this Contract, CONTRACTOR and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identify, gender expression, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), genetic information, marital status, military and veteran status, and denial of medical and family care leave or pregnancy disability leave. CONTRACTOR and subcontractors shall ensure that the evaluation and treatment of their employees and applicants



for employment are free from such discrimination and harassment. CONTRACTOR and its subcontractors shall comply with the provisions of California's laws against discriminatory practices relating to specific groups: the California Fair Employment and Housing Act (Government Code Section 12900 et seq.); the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.); and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Section 11135-11139.5). CONTRACTOR and its Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

**C.24 Environmental Requirements**

In accordance with County Policy 11-08, the COUNTY prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The COUNTY requires CONTRACTOR to use recycled paper for any printed or photocopied material created as a result of this Contract. CONTRACTOR is also required to use both sides of paper sheets for reports submitted to the COUNTY whenever practicable.

To assist the COUNTY in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), CONTRACTOR must be able to annually report the COUNTY'S environmentally preferable purchases. CONTRACTOR must also be able to report on environmentally preferable goods and materials used in the provision of their service to the COUNTY, utilizing a COUNTY approved form.

**C.25 Former County Administrative Officials**

CONTRACTOR agrees to provide, or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent CONTRACTOR. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of CONTRACTOR. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

**C.26 Improper Consideration**

CONTRACTOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the COUNTY in an attempt to secure favorable treatment regarding this Contract.

The COUNTY, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the COUNTY with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

CONTRACTOR shall immediately report any attempt by a COUNTY officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from CONTRACTOR. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the COUNTY is entitled to pursue any available legal remedies.

**C.27 Improper Influence**

CONTRACTOR shall make all reasonable efforts to ensure that no COUNTY officer or employee, whose position in the COUNTY enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the CONTRACTOR or officer or employee of the CONTRACTOR.

**C.28 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.

**C.29 Inspections**

**C.29.1** The COUNTY and the State reserve the right to inspect any work performed hereunder to ensure that the work is being and has been performed in accordance with the applicable Federal, State and/or local requirements, and this Contract.

**C.29.2** CONTRACTOR agrees to correct all work that is determined based on such inspections not to conform to the applicable requirements; and the COUNTY reserves the right to withhold payments to CONTRACTOR until it is corrected.

**C.30 Iran Contracting Act**

IRAN CONTRACTING ACT OF 2010, Public Contract Code Sections 2200 et seq. (Applicable for all contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code Section 2204(a), the CONTRACTOR certifies that at the time the Contract is signed, the CONTRACTOR signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person (as defined in Public Contract Code Section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the CONTRACTOR to civil penalties, termination of existing Contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code Section 2205.

**C.31 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.

**C.32 Licenses, Permits and/or Certifications**

CONTRACTOR shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The CONTRACTOR shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. CONTRACTOR will notify the COUNTY immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

CONTRACTOR shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any activities under this Contract, including those necessary to perform design, construction, or operation and maintenance of the activities. CONTRACTOR shall be responsible for observing and complying with any applicable Federal, State, County, and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental protection, procurement, and safety laws, rules, regulations, and ordinances. CONTRACTOR shall provide copies of permits and approvals to the COUNTY and/or State upon request.

**C.33 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.

**C.34 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”.

**C.35 Nondisclosure**

CONTRACTOR shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the COUNTY to CONTRACTOR or an agent of CONTRACTOR or otherwise made available to CONTRACTOR or CONTRACTOR’s agent in connection with this Contract; or, (2) acquired, obtained, or learned by CONTRACTOR or an agent of CONTRACTOR in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

**C.36 Notice of Delays**

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

**C.37 Ownership of Documents**

All documents, data, products, graphics, computer programs and reports prepared by CONTRACTOR pursuant to the Contract shall be considered property of the COUNTY upon payment for services (and products, if applicable). All such items shall be delivered to COUNTY at the completion of work under the Contract. Unless otherwise directed by COUNTY, CONTRACTOR may retain copies of such items.

**C.38 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.

**C.39 Recitals**

The recitals set forth above are true and correct and incorporated herein by this reference.

**C.40 Records and Retention**

CONTRACTOR shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for Contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the CONTRACTOR’s personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

CONTRACTOR shall retain all records described above for a minimum period of five (5) years after the termination of this Contract. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been commenced before the expiration of the required record retention period, all records must be retained until completion of the action and resolution of all issues which arise from it.

**C.41 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.

**C.42 Release of Information**

No news releases, advertisements, public announcements or photographs arising out of the Contract or CONTRACTOR's relationship with the COUNTY may be made or used without prior written approval of the COUNTY.

**C.43 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.

**C.44 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.

**C.45 Subcontracting**

CONTRACTOR shall obtain COUNTY's written consent, which COUNTY may withhold in its sole discretion, before entering into contracts with or otherwise engaging any subcontractors who may supply any part of the Services to COUNTY. At COUNTY's request, CONTRACTOR shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the COUNTY, resumes of proposed subcontractor personnel. CONTRACTOR shall remain directly responsible to COUNTY for its subcontractors and shall indemnify COUNTY for the actions or omissions of its subcontractors under the terms and conditions specified in INDEMNIFICATION AND INSURANCE REQUIREMENTS Section. All approved subcontractors shall be subject to the provisions of this Contract applicable to CONTRACTOR Personnel.

**C.45.1** For any Subcontractor, CONTRACTOR shall:

- a. Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- b. Ensure that the Subcontractor follows the COUNTY's reporting formats and procedures as specified by the COUNTY; and
- c. Include in the subcontractor's subcontract substantially similar terms as are provided in CONTRACTOR RESPONSIBILITIES and GENERAL CONTRACT REQUIREMENTS Sections.

**C.45.2** The COUNTY will not reimburse subcontractor directly for any services rendered.

**C.45.3** Upon expiration or termination of this Contract for any reason, the COUNTY will have the right to enter into direct contracts with any of the Subcontractors. CONTRACTOR agrees that its arrangements with subcontractors will not prohibit or restrict such subcontractors from entering into direct contracts with the COUNTY.

**C.46 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.

**C.47 Termination for Convenience**

The COUNTY and the CONTRACTOR each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the CONTRACTOR for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice CONTRACTOR shall promptly discontinue services unless the notice directs otherwise. CONTRACTOR shall deliver promptly to the COUNTY and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

Upon termination of this Contract, unless otherwise approved in writing by the COUNTY, any unexpended funds received by CONTRACTOR shall be returned to the COUNTY within thirty (30) days of the Notice of Termination.

**C.48 Time of the Essence**

Time is of the essence in performance of this Contract and of each of its provisions.

**C.49 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.

**D. TERM OF CONTRACT**

This Contract is effective as of February 9, 2021 and expires June 30, 2025, but may be terminated earlier in accordance with provisions of this Contract.

**E. COUNTY RESPONSIBILITIES**

**E.1** OHS shall provide technical assistance to CONTRACTOR.

**E.2** OHS shall participate in evaluating the progress of the overall program.

**E.3** OHS shall monitor CONTRACTOR on a regular basis in regard to compliance with Contractual requirements.

**F. FISCAL PROVISIONS**

**F.1** The maximum amount of payment under this Contract shall not exceed the total award/allocation amount referenced in Exhibit 1 – HHAP AWARD BY CATEGORY. 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.

**F.2** Quarterly disbursements will be made to CONTRACTOR based upon satisfactory performance under the terms of the Contract.

**F.3** CONTRACTOR shall submit expenditure reports on forms provided by OHS quarterly for HHAP services performed under this Contract. All expenditure reports submitted shall clearly reflect all required information specified regarding the services provided for which the claims are made. Expenditure reports shall be completed and forwarded to OHS within thirty (30) days after the last day of the months of March, June, September and December.

**F.4** OHS will review supporting documentation and confirm satisfactory performance prior to processing quarterly disbursements. OHS may request additional supporting documentation and disallow portions of an expenditure report pending satisfactory documentation as determined by OHS. CONTRACTOR attests that by submitting an expenditure report to the COUNTY it has completed all due diligence necessary and verified eligibility of HHAP funding.

- F.5** Should CONTRACTOR fail to meet performance requirements; including, but not limited to, failure to submit timely reports as contractually required, failure to correct issues, inappropriate expenditure reporting, timely and accurate HMIS data entry, and meeting performance outcomes expectations, the COUNTY may discontinue quarterly disbursements to CONTRACTOR and change to a cost reimbursement methodology.

If CONTRACTOR continues to fail to meet performance requirements, the COUNTY may, at its sole and absolute discretion, invoke Section I.2 CORRECTION OF PERFORMANCE DEFICIENCIES of the Contract.

- F.6** CONTRACTOR shall accept all payments from the 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 the COUNTY required to process EFT payments.
- F.7** 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.8** Funds made available under this Contract shall not supplant any Federal, State or any governmental funds intended for services of the same nature as this Contract. CONTRACTOR shall not claim reimbursement or payment from COUNTY for, or apply sums received from COUNTY with respect to that portion of its obligations that have been paid by another source of revenue. CONTRACTOR agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the COUNTY.
- F.9** CONTRACTOR shall adhere to the COUNTY's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the COUNTY. In addition, CONTRACTOR is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

**G. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

**G.1 Indemnification**

The CONTRACTOR agrees to defend, indemnify (with Counsel reasonably approved by COUNTY) and hold harmless the COUNTY and its authorized officers, employees, agents and volunteers from any and all claims, losses, actions, damages and/or liability arising out of CONTRACTOR's performance or non-performance of its obligations under this Agreement, including any costs or expenses incurred by the COUNTY arising out of such claim(s). This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The CONTRACTOR's indemnification obligation applies to the COUNTY's "active" as well as "passive" negligence but does not apply to the COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil code section 2782.

**G.2 Insurance**

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.

**G.3 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.

**G.4 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.

**G.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.

**G.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.

**G.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.

**G.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".

**G.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.

**G.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.

**G.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.

## **G.12 Insurance Specifications**

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:

**G.11.1 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.

**G.11.2 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.

**G.11.3 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.



**G.11.4 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.

## **H. RIGHT TO MONITOR AND AUDIT**

- H.1** The COUNTY, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of CONTRACTOR in the delivery of services provided under this Contract. CONTRACTOR shall give full cooperation, in any auditing or monitoring conducted. CONTRACTOR shall cooperate with the COUNTY in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the COUNTY.
- H.2** The COUNTY or the State reserves the right to perform or cause to be performed a financial audit. At the request of the COUNTY or the State, CONTRACTOR shall provide, at its own expense, a financial audit prepared by a certified public accountant. If there are audit findings, CONTRACTOR must submit a detailed response acceptable to the COUNTY and/or the State for each audit finding within ninety (90) days from the date of the audit finding report.
- H.3** If audit findings reveal ineligible/disallowed expenditures, CONTRACTOR will be required to repay disbursed funds to the COUNTY.
- H.4** All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by COUNTY representatives for a minimum period of five (5) years after termination of this Contract or until all pending COUNTY, State and Federal audits are completed, whichever is later.

## **I. CORRECTION OF PERFORMANCE DEFICIENCIES**

- I.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. The following shall each constitute a breach of this Contract:
  - I.1.1** CONTRACTOR's failure to comply with the terms and conditions of this Contract;
  - I.1.2** Use of, or permitting the use of, HHAP funds provided under this Contract for any ineligible activities; or
  - I.1.3** Any failure to comply with the deadlines set forth in this Contract.
- I.2** In the event of a non-cured breach, the COUNTY may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
  - I.2.1** Afford CONTRACTOR thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of the COUNTY.
  - I.2.2** Notwithstanding any other provision of this Contract, the COUNTY may withhold payments to CONTRACTOR, if CONTRACTOR has been given notice of any deficiency(ies) and has failed to correct such deficiency(ies). Such deficiency(ies) may include, but are not limited to: failure to provide services described in this Contract; Federal, State, and COUNTY audit exceptions resulting from noncompliance; violations of pertinent Federal and State laws and regulations; and significant performance problems as determined by the COUNTY or State from monitoring visits.
  - I.2.3** The COUNTY has the sole and absolute discretion to revoke full or partial provisions of the Contract, delegated activities or obligations, or application of other remedies permitted by State or Federal law when the COUNTY or State determines CONTRACTOR has not performed satisfactorily.
  - I.2.4** 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 or disbursed to the CONTRACTOR under this Contract and the balance, if any, shall be paid by the CONTRACTOR upon demand.

**I.3** In addition to any other remedies that may be available to the COUNTY in law or equity for breach of this Contract, the COUNTY may:

**I.3.1** Bar the CONTRACTOR from applying for future HHAP funds;

**I.3.2** Revoke any other existing HHAP award(s) to the CONTRACTOR;

**I.3.3** Require the return of any unexpended HHAP funds disbursed under this Contract;

**I.3.4** Require repayment of HHAP funds expended under this Agreement; and

**I.3.5** Seek such other remedies as may be available under this Contract or any law.

**I.4** All remedies available to the COUNTY are cumulative and not exclusive.

**J. 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  
Office of Homeless Services  
Attn: Tom Hernandez, Chief of Homeless Services  
215 North D. Street, Suite 301  
San Bernardino, CA 92415-0044

City of Montclair  
Attn: Edward C. Starr  
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.

**K. 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.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

**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.

COUNTY OF SAN BERNARDINO

►

Curt Hagman, Chairman, Board of Supervisors

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

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

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

By \_\_\_\_\_  
Deputy

City of Montclair

\_\_\_\_\_  
(Print or type name of corporation, company, contractor, etc.)

By ►

\_\_\_\_\_  
(Authorized signature - sign in blue ink)

Name \_\_\_\_\_

\_\_\_\_\_  
(Print or type name of person signing contract)

Title \_\_\_\_\_

\_\_\_\_\_  
(Print or Type)

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

Address 5111 Benito Street

Montclair, CA 91763

**FOR COUNTY USE ONLY**

Approved as to Legal Form

►  
Suzanne Bryant, Deputy County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance

►

Date \_\_\_\_\_

Reviewed/Approved by Department

►  
CaSonya Thomas, Assistant Executive Officer

Date \_\_\_\_\_

<b>HHAP Award by Category</b> <b>City of Montclair</b> <b>February 9, 2021 through June 30, 2025</b>			
Eligible Use Category	Award/Allocation	Service Unit	Number Expected to be Served
<b>Rental Assistance (RA)/Rapid Rehousing:</b>			
Central Valley Region			
Desert Region - RA			
East Valley Region - All Populations			
East Valley Region - Senior Set Aside			
Mountain Region			
West Valley Region	\$115,254.00	Individuals	15 (Unduplicated) 60 (Duplicated)
<b>Operating Subsidies and Reserves:</b>			
East Valley Region			
Mountain Region			
<b>Landlord Incentives:</b>			
Mountain Region			
West Valley Region			
<b>Outreach and Coordination (including employment):</b>			
Desert Region - Transportation			
East Valley Region			
Mountain Region			
<b>Systems Support to Create Regional Partnerships:</b>			
Mountain Region			
West Valley Region			
<b>Delivery of Permanent Housing:</b>			
Central Valley Region			
Desert Region - Family Housing			
Mountain Region			
<b>Prevention/Shelter Diversion-Permanent Housing:</b>			
Central Valley Region			
East Valley Region - Transitional Housing Units			
Mountain Region			
West Valley Region			
<b>New Navigation Centers/Emergency Shelters (ES):</b>			
Central Valley Region			
Desert Region - Wellness/Recuperative Care Center			
Desert Region - ES Barstow Area			
East Valley Region			
Mountain Region			
West Valley Region			
<b>Innovative Solutions:</b>			
Mountain Region			
West Valley Region - Innovative Housing Solutions			
<b>Infrastructure Development CES:</b>			
Central Valley Region			
East Valley Region			
West Valley Region			
Desert Region			
<b>Homeless Youth Set-Aside (County-wide):</b>			
<b>Total Award</b>	<b>\$115,254.00</b>		

**SCOPE OF WORK**CITY OF MONTCLAIR

Name of Project: City of Montclair Homeless Outreach

**Scope of Work:**

CONTRACTOR will provide Rental Assistance and Rapid Rehousing services. The Project will provide a comprehensive outreach program implemented by culturally competent staff and volunteers from the community with the goal of providing rental assistance or rapid rehousing. The primary goal of the Project will be to house the individuals experiencing homelessness or those at risk of homelessness and to provide the services needed to prevent them from returning to homelessness.

The Project's team will consist of a code enforcement officer with experience working with individuals who are homeless and volunteers from the community who are relatable to the population served. The Project's team operates on the core value of treating every person they come in contact with dignity and respect, while engaging the individuals in services that will promote a positive transformation. The Project's team will meet the individuals where they are, in the community, and will customize services offer based on the needs of the individuals.

**Measurable Outcomes:**

Project success will be based on the following indicators and measurements:

- The number of individuals encountered and referred to resources
  - Measured by tracking completed on-site
- The number of individuals housed
  - Measured by tracking completed on-site and through progressive engagement

The Project will serve at least 15 individuals per year.

## HHAP REPORTING REQUIREMENTS

- A.** Detailed reports containing, at minimum, the following information:
1. Amount awarded to Contractor with activity(ies) identified;
  2. Contract expenditures;
  3. Unduplicated number of homeless persons and households served by HHAP funds;
  4. Unduplicated number of persons and households at imminent risk of homelessness served by HHAP funds;
  5. Number of instances of service;
  6. Increases in capacity for new and existing programs;
  7. Number of unsheltered homeless persons and homeless households becoming sheltered; and
  8. Number of homeless persons and homeless households entering permanent housing.
  9. Number of homeless persons and households successfully exited from HHAP (i.e., in permanent housing) that remain in permanent housing 12 months post-exit from HHAP.
  10. Number of persons and households at imminent risk of homelessness successfully exited from HHAP (i.e., in permanent housing) that remain in permanent housing 12 months post-exit from HHAP.
- B.** Breakdowns will be expected for each activity (i.e. services, capital improvements, rental assistance, etc.) and program type (i.e. emergency shelter, rapid re-housing, outreach, etc.) for the supplemental reporting requirements listed above, when applicable. The same information will also be requested specifically for the following subpopulations, based on priorities defined by the U.S. Department of Housing and Urban Development:
1. Chronically homeless
  2. Homeless veterans
  3. Unaccompanied homeless youth
  4. Homeless persons in families with children
- C.** Counts by subpopulation will not be required in cases where that information is unavailable, but is expected in cases where client information is entered in the Homeless Management Information System (HMIS).

Clients in Programs  
8/1/2020 to 8/31/2020

# HMIS Client Data Report SAMPLE



**Report Criteria:**

Organizations: Your Agency's Information

Programs: Your Agency's Program Name

Agency Name Project Name			Enrolled	Exited	Total	Clients		
			39	3	42	42		
Name	SSN Last 4	Race	Gender	Age	Enroll Date	Exit Date	Days	Enrollment Length
Alvarado, Love	XXX-XX-2600	White	Male	3	4/20/2020		31	134
Anderson, Christmas	XXX-XX-2926	Black or African American	Male	40	4/9/2020	9/24/2020	31	145
Baity, Clay	XXX-XX-7606	Black or African American	Male	58	12/3/2019	9/1/2020	31	273
Baylous, Hay	XXX-XX-6279	White	Male	14	7/23/2019		31	406
Cain, Chan	XXX-XX-7125	White	Male	65	6/26/2020		31	67
Ditmars, Mich	XXX-XX-4141	White	Male	43	7/23/2019		31	406
Dixon, Al	XXX-XX-8359	Black or African American	Male	72	4/27/2020	9/15/2020	31	127
Dodd, Dia	XXX-XX-7791	Black or African American	Female	57	2/18/2020	11/5/2020	31	196
Fowler, Jay	XXX-XX-4423	Black or African American	Female	55	12/3/2019	9/1/2020	31	273
Grajkowski, Bria	XXX-XX-3173	White	Male	55	11/1/2019	8/20/2020	20	294
Hanson, Fan	XXX-XX-5231	White	Male	53	11/20/2019		31	286
Hernandez, Amor	XXX-XX-8493	White	Female	0	10/22/2019	9/1/2020	31	315
Hernandez, Isa	XXX-XX-6309	White	Female	1	10/22/2019	9/1/2020	31	315
Hernandez, Vic	XXX-XX-8263	White	Male	37	10/22/2019	9/1/2020	31	315
Hubbard, Ron	XXX-XX-6890	Black or African American	Female	77	2/18/2020	11/5/2020	31	196
Jackson, Tiny	XXX-XX-9255	Black or African American	Male	50	3/6/2020	9/15/2020	31	179
Jackson, Web	XXX-XX-1915	Black or African American	Male	68	2/13/2020		31	201
Jaimez, Al	XXX-XX-2421	White	Male	66	4/15/2020	8/21/2020	21	129

ClientTrack™ Reports

Creator's Name  
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**SAMPLE**

HUD Data Quality Report

12/2/2019 to 12/2/2020

Report Criteria

Organizations: Agency Name

Programs: Name of HHAP Project

**Q1. Report Validation Table**

Total Number of Persons Served	141
Number of Adults (age 18 or over)	119
Number of Children (under age 18)	22
Number of Persons with Unknown Age	0
Number of leavers	96
Number of adult leavers	84
Number of adult and head of household leavers	84
Total Number of Stayers	45
Number of Adult Stayers	35
Number of Veterans	59
Number of Chronically Homeless Persons	50
Number of youth under age 25	2
Number of parenting youth under age 25 with children	1
Number of Adult Heads of Household	100
Number of child and unknown-age heads of household	0
Heads of households and adult stayers in the project 365 days or more	4

**Q2. Personally Identifiable Information (PII)**

Data Element	Client Doesn't Know / Refused	Information Missing	Data Issues	% of Error Rate
Name (3.1)	0	0	0	0.00%
Social Security Number (3.2)	1	0	0	0.71%
Date of Birth (3.3)	0	0	0	0.00%
Race (3.4)	0	1		0.71%
Ethnicity (3.5)	0	0		0.00%
Gender (3.6)	0	0		0.00%
Overall Score				1.42%

ClientTrack™ Reports

Page 1 of 3

 Staff Member  
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## HUD Data Quality Report

12/2/2019 to 12/2/2020



## Q3. Universal Data Elements

Data Element	Error Count	% of Error Rate
Veteran Status (3.7)	0	0.00%
Project Entry Date (3.10)	0	0.00%
Relationship to Head of Household (3.15)	0	0.00%
Client Location (3.16)	2	2.00%
Disabling Condition (3.8)	11	7.80%

## Q4. Income and Housing Data Quality

Data Element	Error Count	% of Error Rate
Destination (3.12)	0	0.00%
Income and Sources (4.2) at Start	7	5.88%
Income and Sources (4.2) at Annual Assessment	4	100.00%
Income and Sources (4.2) at Exit	0	0.00%

## Q5. Chronic Homelessness

Entering into project type	Count of total records	Missing time in institution (3.917.2)	Missing time in housing (3.917.2)	Approximate Date started (3.917.3) DK/R/missing	Number of times (3.917.4) DK/R/missing	Number of months (3.917.5) DK/R/missing	% of records unable to calculate
ES, SH, Street Outreach	30			2	10	5	36.67%
TH	0	0	0	0	0	0	0.00%
PH (all)	89	0	2	0	0	1	3.37%
Total	119						11.76%

## Q6. Timeliness

Time for Record Entry	Number of Project Start Records	Number of Project Exit Records
0 days	16	12
1-3 Days	9	25
4-6 days	12	7
7-10 days	16	6
11+ days	39	46

## Q7. Inactive Records: Street Outreach &amp; Emergency Shelter

ClientTrack™ Reports

Page 2 of 3

 Staff Member  
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## HUD Data Quality Report

12/2/2019 to 12/2/2020



Data Element	# of Records	# of Inactive Records	% of Inactive Records
Contact (Adults and Heads of Household in Street Outreach or ES - NBN)	0	0	0.00%
Bed Night (All clients in ES - NBN)	0	0	0.00%

**State of California**  
**WELFARE AND INSTITUTIONS CODE**  
**Section 8255**

8255. For purposes of this chapter:

(a) "Coordinating council" means the Homeless Coordinating and Financing Council established pursuant to Section 8257.

(b) "Core components of Housing First" means all of the following:

- (1) Tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.
- (2) Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of "housing readiness."
- (3) Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness.
- (4) Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.
- (5) Participation in services or program compliance is not a condition of permanent housing tenancy.
- (6) Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in California's Civil, Health and Safety, and Government codes.
- (7) The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction.
- (8) In communities with coordinated assessment and entry systems, incentives for funding promote tenant selection plans for supportive housing that prioritize eligible tenants based on criteria other than "first-come-first-serve," including, but not limited to, the duration or chronicity of homelessness, vulnerability to early mortality, or high utilization of crisis services. Prioritization may include triage tools, developed through local data, to identify high-cost, high-need homeless residents.
- (9) Case managers and service coordinators who are trained in and actively employ evidence-based practices for client engagement, including, but not limited to, motivational interviewing and client-centered counseling.
- (10) Services are informed by a harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants' lives, where tenants are engaged in nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices, as well as connected to evidence-based treatment if the tenant so chooses.
- (11) The project and specific apartment may include special physical features that accommodate disabilities, reduce harm, and promote health and community and independence among tenants.

(c) "Homeless" has the same definition as that term is defined in Section 91.5 of Title 24 of the Code of Federal Regulations.

(d) (1) "Housing First" means the evidence-based model that uses housing as a tool, rather than a reward, for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible. Housing First providers offer services as needed and requested on a voluntary basis and that do not make housing contingent on participation in services.

(2) (A) "Housing First" includes time-limited rental or services assistance, so long as the housing and service provider assists the recipient in accessing permanent housing and in securing longer-term rental assistance, income assistance, or employment.

(B) For time-limited, supportive services programs serving homeless youth, programs should use a positive youth development model and be culturally competent to serve unaccompanied youth under 25 years of age. Providers should work with the youth to engage in family reunification efforts, where

appropriate and when in the best interest of the youth. In the event of an eviction, programs shall make every effort, which shall be documented, to link tenants to other stable, safe, decent housing options. Exit to homelessness should be extremely rare, and only after a tenant refuses assistance with housing search, location, and move-in assistance.

(e) "State programs" means any programs a California state agency or department funds, implements, or administers for the purpose of providing housing or housing-based services to people experiencing homelessness or at risk of homelessness, with the exception of Federally funded programs with requirements inconsistent with this chapter or programs that fund emergency shelters.

(Added by Stats. 2016, Ch. 847, Sec. 2. (SB 1380) Effective January 1, 2017.)



# CITY COUNCIL AGENDA REPORT

**DATE:** JANUARY 19, 2021

**FILE I.D.:** FRD040

**SECTION:** CONSENT - RESOLUTIONS

**DEPT.:** FIRE

**ITEM NO.:** 1

**PREPARER:** R. PIPERSKY

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 21-3294 RESCINDING AND SUPERSEDING RESOLUTION NO. 15-3073 IDENTIFYING AND CORRECTING UPDATED TERMS AND CONDITIONS FOR A FIRE DEPARTMENT RESPONSE AWAY FROM ITS OFFICIAL DUTY STATION WHEN ASSIGNED TO A STATE OR FEDERAL DECLARED EMERGENCY INCIDENT

**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 21-3294 rescinding and superseding Resolution No. 15-3073 correcting and identifying updated terms and conditions for a Fire Department response away from their official duty station and assigned to State or Federal declared emergency incident.

**BACKGROUND:** The Montclair Fire Department responds to all-hazard events under the terms and conditions of the Agreement for Local Government Fire and Emergency Assistance, hereafter referred to as the "California Fire Assistant Agreement" or "CFAA." The signatory agencies to the CFAA are United States Department of the Interior agencies (Bureau of Land Management, National Park Service, and Fish and Wildlife); State of California, Department of Forestry and Fire Protection (CAL FIRE); State of California Governor's Office of Emergency Services (Cal OES); and United States Forest Service.

At times of severe wildfire conditions and other emergencies, there is often a need for emergency apparatus and/or personnel to provide fire protection or perform other tasks to control the situation. Through the California Fire and Rescue Mutual Aid System, Cal OES has such emergency apparatus and personnel, which may be available from local jurisdictions for dispatch and use. Cal OES, CAL FIRE, and the Federal Fire Agencies will generally use the CFAA for engines, water tenders, and overhead to address an incident once local government resources are exhausted or where a local agreement is not in place.

The signatories to the CFAA intend to compensate California Fire and Rescue Mutual Aid System agencies for the cost of assisting the State of California and the Federal Fire Agencies. The rates, methodologies, and formulas in the CFAA are intended to provide such costs. The compensation shall be consistent with the assisting agency's normal business practices and any existing governing body resolution supporting those business practices.

Adoption of proposed Resolution No. 21-3294 would accomplish the following:

1. Acknowledge that personnel are compensated (portal-to-portal) beginning at the time of dispatch to the return to jurisdiction when equipment and personnel are in service and available for agency response;
2. Establish the rates at which the classifications of Deputy Fire Chief, Fire Battalion Chief, Fire Captain, Fire Engineer/Paramedic, Fire Engineer, Firefighter/Paramedic, and Firefighter will be compensated for overtime while in the course

of their employment and away from their official duty station and while assigned to a State or Federal emergency incident, in support of a State or Federal emergency incident, or pre-positioned for a State or Federal emergency response;

3. Satisfy the requirements outlined in Exhibit A, Section A-8.2 of the 2020 CFAA, to submit a governing body resolution to Cal OES Fire and Rescue Divisions that demonstrates the City's normal internal business practices for compensating its employees while in the course of their employment and away from their official duty station and while assigned to a State or Federal emergency incident, in support of a State or Federal emergency incident, or pre-position for a State or Federal emergency response; and
4. Reaffirm the City's commitment, in the spirit of cooperation, to fairly compensate its employees that may be called upon to work for indefinite periods during emergency situations.

Upon adoption of proposed Resolution No. 21-3294, the Fire Department will forward proof of the adoption to Cal OES with its 2020 Salary Survey. A Salary Survey is completed by Fire Department staff annually and submitted to Cal OES. This survey documents the average actual rate for each classification that may be assigned to a State or Federal emergency incident. Cal OES uses the information provided on the survey to generate reimbursements for those incidents that our agency responded to under the terms and conditions of the CFAA.

**FISCAL IMPACT:** Should the City Council adopt proposed Resolution No. 21-3294, the costs associated with compensating employees portal-to-portal while in the course of their employment and away from their official duty station and while assigned to a State or Federal emergency incident, in support of a State or Federal emergency incident, or pre-position for a State or Federal emergency response, will be funded by the Fire Department's Emergency Services Budget Program.

Depending on the severity of fire conditions throughout the State, the funds allocated towards this budget program may be sufficient or require adjustment. Historically, strike team responses have generated a considerable expenditure to the Emergency Services Budget Program; however, Fire Department staff has employed a strategy to reduce these expenditures by submitting reimbursement requests to FEMA and Cal OES for expenses incurred by the City during strike team deployments.

Cal OES, CAL FIRE, and the Federal Fire Agencies use the CFAA as the fiscal authority for reimbursing local government agencies for the use of their resources when they are dispatched to incidents through the California Fire and Rescue Mutual Aid System. The reimbursement process has recently changed, and the City is now responsible for submitting reimbursements through the FEMA Grants Portal. Reimbursement requests to FEMA shall include all expenditures, including all labor costs, benefits, and vehicle costs. The City will receive reimbursement from FEMA Schedule B at 75 percent, and Cal OES will reimburse the remaining 25 percent for a combined reimbursement total of 100 percent.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 21-3294 rescinding and superseding Resolution No. 15-3073 identifying and correcting updated terms and conditions for a Fire Department response away from its official duty station when assigned to a State or Federal declared emergency incident.

RESOLUTION NO. 21-3294

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR RESCINDING AND SUPERSEDING RESOLUTION NO. 15-3073 CORRECTING AND IDENTIFYING UPDATED TERMS AND CONDITIONS FOR A FIRE DEPARTMENT RESPONSE AWAY FROM THE DEPARTMENT'S OFFICIAL DUTY STATION WHEN ASSIGNED TO A STATE OR FEDERAL DECLARED EMERGENCY INCIDENT**

**WHEREAS**, the Montclair Fire Department is a public agency located in the County of San Bernardino, State of California; and

**WHEREAS**, it is the City of Montclair's desire to provide fair and legal payment to all its employees for time and overtime worked; and

**WHEREAS**, the City of Montclair has in its employ Fire Department response personnel including Deputy Fire Chief, Fire Battalion Chief, Fire Captain, Fire Engineer/Paramedic, Firefighter/ Paramedic, and Firefighter; and

**WHEREAS**, The City of Montclair will compensate its employees portal-to-portal while in the course of their employment and away from their official duty station and while assigned to a State or Federal declared emergency incident, in support of a State or Federal emergency incident, or pre-positioned for a State or Federal emergency response; and

**WHEREAS**, the City of Montclair will compensate its employees overtime in accordance with the rates stated below while in the course of their employment and away from their official duty station and while assigned to a State or Federal emergency incident, in support of a State or Federal emergency incident, or pre-positioned for a State or Federal emergency response:

1. The rank of Deputy Fire Chief is considered an exempt employee and would not normally receive overtime compensation for hours worked in excess of 40 hours per week; however, when this rank is assigned to an emergency incident that is away from its official duty station, compensatory time shall be accrued at time and one-half for any hours worked beyond the normal 40-hour shift schedule.
2. The rank of Fire Battalion Chief shall be paid at time and one-half rate.
3. The ranks of Fire Captain, Fire Engineer/Paramedic, Firefighter/ Paramedic, and Firefighter shall be paid at time and one-half rate.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does hereby find and determine that the conditions set forth in this resolution, as stated above, take effect immediately upon adoption.

**APPROVED AND ADOPTED** this XX day of XX, 2021.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 21-3294 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, 2021, 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 COUNCIL AGENDA REPORT

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<b>DATE:</b>	JANUARY 19, 2021	<b>FILE I.D.:</b>	PER710
<b>SECTION:</b>	CONSENT - RESOLUTIONS	<b>DEPT.:</b>	ADMIN. SVCS.
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	J. HAMILTON
<b>SUBJECT:</b>	CONSIDER ADOPTION OF RESOLUTION NO. 21-3297 AUTHORIZING SALARIES AND CLASSIFICATION TITLES FOR CITY EMPLOYEES ON A CONSOLIDATED SALARY SCHEDULE		

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**REASON FOR CONSIDERATION:** For the purpose of ongoing transparency, the City Council is requested to annually review and authorize the wage provisions and classification titles for all employees of the City of Montclair.

A copy of proposed Resolution No. 21-3297 is attached for the City Council's review and consideration.

**BACKGROUND:** Proposed Resolution No. 21-3297 reflects salary adjustments for all salary increases as described below. The Fiscal Year 2020-2021 salary adjustments for these employees are shown in Schedule "A" of Resolution No. 21-3297.

- On December 3, 2018, the City Council approved and adopted Agreement No. 18-95 regarding the negotiated salary increases with the City Manager.
- On August 19, 2019, the City Council adopted Agreement No. 19-72 regarding the negotiated salary increases with the Montclair City Confidential Employees' Association (MCCEA).
- On September 3, 2019, the City Council adopted Agreement No. 19-73 regarding the negotiated salary increases with the Montclair General Employees' Association (MGEA), Agreement No. 19-80 regarding the negotiated salary increases with the Executive Management Employees, and Agreement No. 19-81 regarding the negotiated salary increases with the Management (Nonsafety and Safety) Employees.
- On November 18, 2019, the City Council adopted Agreement No. 19-94 regarding the negotiated salary increases with the Montclair Police Officers' Association (MPOA).
- On January 21, 2020, the City Council adopted Agreement No. 19-100 regarding the negotiated salary increases with the Montclair Firefighters' Association (MFFA).
- On November 16, 2020, the Personnel Committee/City Manager approved wage increases for all part-time benefited and selected part-time employees.

The City of Montclair employee salaries are also available for public access on the State Controller's website at [http://sco.ca.gov/compensation\\_search.html](http://sco.ca.gov/compensation_search.html) and through the City of Montclair's website at [www.cityofmontclair.org](http://www.cityofmontclair.org).

**FISCAL IMPACT:** The City Council's adoption of proposed Resolution No. 21-3297 would create no financial impact to the City General Fund.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 21-3297 authorizing the salaries and classification titles for City employees on a consolidated salary schedule.



RESOLUTION NO. 21-3297

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MONTCLAIR AUTHORIZING THE SALARIES AND  
CLASSIFICATION TITLES FOR CITY EMPLOYEES ON A  
CONSOLIDATED SALARY SCHEDULE**

**WHEREAS**, pursuant to Government Code Section 3500, *et seq.*, City of Montclair representatives met and conferred with the appropriate representatives of each employee association; and

**WHEREAS**, on December 3, 2018, the City Council approved and adopted Agreement No. 18-95 regarding the increase in salary for the City Manager for the term of four years; and

**WHEREAS**, on August 19, 2019, the City Council adopted Agreement No. 19-72 regarding the negotiated salary increases with the Montclair City Confidential Employees' Association (MCCEA); and

**WHEREAS**, on September 3, 2019, the City Council adopted Agreement No. 19-73 regarding the negotiated salary increases with Montclair General Employees' Association (MGEA); and

**WHEREAS**, September 3, 2019, the City Council adopted Agreement No. 19-80 regarding the negotiated salary increases with the Executive Management Employees; and

**WHEREAS**, on September 3, 2019, the City Council adopted Agreement No. 19-81 regarding the negotiated salary increases with the Management (Nonsafety and Safety) Employees; and

**WHEREAS**, on November 18, 2019, the City Council adopted Agreement No. 19-94 regarding the negotiated salary increases with the Montclair Police Officers' Association (MPOA); and

**WHEREAS**, on January 21, 2020, the City Council adopted Agreement No. 19-100 regarding the negotiated salary increases with the Montclair Firefighters' Association (MFFA); and

**WHEREAS**, on November 16, 2020, the Personnel Committee/City Manager approved wage increases for all part-time benefited employees and selected part-time employees; and

**WHEREAS**, for the purpose of ongoing transparency, the City Council has asked to annually review and authorize the wage provisions and classification titles for all employees of the City of Montclair.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does hereby find and determine that the salaries and classification titles of the City employees be as listed in Schedule "A" attached to this Resolution.

**BE IT FURTHER RESOLVED** that such salaries and classification titles shown in Schedule "A" shall remain in effect, and

That the City Clerk shall certify to the passage of this Resolution and the Mayor shall sign the same.

**APPROVED AND ADOPTED** this XX day of XX, 2021.

**ATTEST:**

\_\_\_\_\_  
Mayor

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 21-3297 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, 2021, and that it was adopted by the following vote, to-wit:

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

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Andrea M. Phillips  
City Clerk



**City of Montclair  
Consolidated Salary  
Schedule “A”**

**2021**

CITY OF MONTCLAIR  
CONSOLIDATED SALARY  
SCHEDULE "A"

Adopted Pursuant to Resolution No. 21-3297

# CITY OF MONTCLAIR SALARY SCHEDULE

## ALPHA RANGE LISTING

Classification	A	B	C	D	E
<b>PART-TIME/HOURLY</b>					
Accounting Specialist	21.29	22.36	23.48	24.65	25.89
Administrative Aide	24.24	25.45	26.72	28.06	29.46
Administrative Secretary (Relief)	21.51	22.59	23.72	24.90	26.15
Administrative Technician (PTB)	21.51	22.59	23.72	24.90	26.15
City Attorney	6400	--	--	--	--
Code Enforcement Officer (Relief)	25.84	27.13	28.49	29.91	31.41
Community Building Supervisor	14.00	14.70	15.43	16.21	17.02
Community Development Consultant	--	--	--	--	93.21
Council Member	742	1150	--	--	--
Custodial Technician (PTB)	18.01	18.91	19.86	20.85	21.89
Custodian	18.01	18.91	19.86	20.85	21.89
Data Entry Clerk	14.90	15.65	16.43	17.25	18.11
Economic Development Coordinator	30.46	31.98	33.58	35.26	37.02
Engineering Aide (PTB)	14.29	15.00	15.76	16.54	17.37
Equipment Maintenance Technician (PTB)	21.95	23.05	24.20	25.41	26.68
Facility Coordinator	14.00	14.70	15.43	16.21	17.02
Fire Technician	14.52	15.24	16.00	16.80	17.65
Graffiti Abatement Aide	14.00	--	--	--	--
Graffiti Abatement Worker	19.38	20.35	21.36	22.44	23.56
Health Education Intern	14.79				
Health Education Specialist [Grant]	17.24	--	--	--	--
Human Services Technician (PTB)	19.18	20.14	21.15	22.21	23.32
Information Technology Systems Technician (PTB)	25.50	26.78	28.12	29.53	31.01
Instructor	14.00	14.70	15.43	16.21	17.02
Junior Intern	14.00	14.70	15.43	16.21	17.02
Kitchen Assistant	14.00	14.70	15.43	16.21	17.02
Lead Mechanic	21.38	22.45	23.57	24.75	25.99
Leadworker, Maintenance	22.36	23.48	24.65	25.89	27.18
Learning Leader [Grant]	14.98	15.73	16.52	17.35	18.21
Maintenance Technician (PTB)	19.38	20.35	21.36	22.44	23.56
Mayor	1042	1650	--	--	--
Mechanic Aide	18.68	19.61	20.59	21.62	22.71
Medical Clinic Coordinator	25.00	26.00	27.00	--	--
Medical Clinic Specialist (Part-Time)	20.98	22.03	23.13	24.29	25.50
Mini-School Coordinator	14.43	15.15	15.91	16.71	17.54
NPDES/Environmental Compliance Technician (PTB)	24.93	26.19	27.50	28.87	30.31
Nutrition Site Manager	14.00	14.70	15.44	16.21	17.02
Office Specialist	18.33	19.25	20.21	21.22	22.28
Office Technician (PTB)	18.33	19.25	20.21	21.22	22.28
Park Leader	14.00	14.70	15.43	16.21	17.02
Park Maintenance Specialist	19.38	20.35	21.36	22.44	23.56
Personnel Services Technician (PTB)	25.38	26.65	27.98	29.38	30.85
Planning Commissioner	250	--	--	--	--
Police Background Investigator	29.36	30.83	32.37	33.99	35.69
Police Cadet	14.52	15.24	16.00	16.80	17.65
Police Dispatcher (Relief)	23.99	25.19	26.45	27.77	29.16
Police Services Specialist (Relief)	18.99	19.94	20.94	21.99	23.09
Program Aide	14.23	--	--	--	--
Property Custody Technician (PTB)	17.22	18.08	18.98	19.93	20.93
Public Works Director/City Engineer	60.95	64.00	67.20	70.56	74.09
Receptionist/Office Specialist	17.90	18.80	19.74	20.72	21.76
Receptionist/Office Technician (PTB)	17.90	18.80	19.74	20.72	21.76

<b>Classification</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Recreation Intern	14.79	--	--	--	--
Recreation Leader	14.00	14.70	15.43	16.21	17.02
Recreation Specialist	14.14	14.85	15.59	16.37	17.19
Reserve Code Enforcement Officer	300	--	--	--	--
Reserve Police Captain	600	--	--	--	--
Reserve Police Lieutenant	125	--	--	--	--
Reserve Police Officer	300				
Reserve Police Sergeant	400				
Senior Intern	14.71	15.45	16.22	17.03	17.88
Senior Learning Leader	18.67	19.60	20.58	21.61	22.69
Senior Police Cadet	18.09	19.00	19.95	20.94	21.99
Senior Recreation Leader	15.34	16.10	16.91	17.75	18.64
Senior Recreation Specialist	17.65	18.53	19.46	20.43	21.45
Sewer Maintenance Specialist	19.38	20.35	21.36	22.44	23.56
Sports Coordinator	17.78	18.67	19.60	20.58	21.61
Street Maintenance Specialist	19.38	20.35	21.36	22.44	23.56
Substitute Learning Leader	14.58	15.31	16.08	16.88	17.72
Systems Specialist (PTB)	18.57	19.50	20.48	21.50	22.57
Technical Services Specialist	29.36	30.83	32.37	33.99	35.69
Transportation Coordinator	17.78	18.67	19.60	20.58	21.61
Volunteer Services Coordinator (Modified Duty)	30.54	32.07	33.67	35.35	37.12
<b>FULL-TIME</b>					
Accountant	4332	4549	4776	5015	5266
Accounting Specialist	3691	3876	4070	4273	4487
Administrative Aide	4202	4412	4632	4864	5107
Administrative Analyst	5099	5354	5622	5903	6198
Administrative Secretary	3728	3915	4111	4316	4532
Administrative Specialist	3728	3915	4111	4316	4532
Assistant Director of Housing/Planning Manager	8192	8602	9032	9484	9958
Assistant Senior Learning Coordinator	3490	3664	3848	4040	4242
Assistant Planner	4753	4990	5240	5502	5777
Assistant Public Works Superintendent	5821	6112	6417	6738	7075
Associate Planner	5506	5782	6071	6374	6693
Benefits Coordinator	4399	4619	4850	5092	5347
Building Inspector	4764	5002	5253	5515	5791
Building Maintenance Supervisor	5821	6112	6417	6738	7075
Building Maintenance Technician	3827	4019	4220	4430	4652
Building Official/Code Enforcement Manager	8192	8602	9032	9484	9958
Check Processor/Court Liaison Officer (Modified Duty)	5293	5558	5836	6128	6434
City Clerk	6771	7109	7465	7838	8230
City Manager	--	--	19506	20481	21505
City Planner/Planning Manager	8192	8602	9032	9484	9958
Code Enforcement Officer	4479	4703	4938	5185	5444
Code Enforcement Supervisor	5641	5923	6220	6530	6857
Community Development Director	11662	12245	12857	13500	14175
Community Health Education Coordinator [Grant]	4289	4503	4728	4965	5213
Custodian	3122	3278	3442	3614	3795
Customer Service Representative/Office Specialist	3177	3336	3503	3678	3862
Deputy City Clerk	4589	4818	5059	5312	5578
Deputy City Mgr/Exec Dir of Econ and Community Dev	13292	13956	14654	15387	16156
Deputy Dir. of Community & Economic Development	9422	9893	10387	10907	11452
Deputy Fire Chief	10750	11288	11852	12445	13067
Deputy Fire Marshal	6240	6552	6880	7224	7585
Diagnostic Specialist	4212	4423	4644	4876	5120
Director of Admin. Svcs. And Human Resources	11662	12245	12857	13500	14175
Director of Human Services	--	11455	12028	12630	13261

<b>Classification</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Econ. Dev. Coord./Housing Associate	5713	5998	6298	6613	6944
Engineering Division Manager	6544	6871	7215	7575	7954
Environmental Compliance Coordinator	4938	5185	5444	5716	6002
Environmental Control Specialist	4374	4593	4823	5064	5317
Equipment Maintenance Supervisor	5812	6103	6408	6729	7065
Equipment Mechanic	3805	3995	4195	4405	4625
Executive Director Office of Public Safety	13965	14663	15396	16166	16974
Facilities Specialist	4671	4905	5150	5408	5678
Finance Director	11662	12245	12857	13500	14175
Finance Manager	8192	8602	9032	9484	9958
Finance Supervisor	6560	6888	7233	7594	7974
Fire Battalion Chief	8886	9330	9797	10287	10801
Fire Captain	7012	7362	7731	8117	8523
Fire Engineer	5753	6041	6343	6660	6993
Firefighter	4959	5207	5468	5741	6028
GIS Specialist	5103	5358	5626	5908	6203
Graffiti Abatement Worker	3359	3527	3703	3889	4083
Health Education Specialist [Grant]	3203	3363	3531	3708	3893
Housing Associate	5241	5504	5779	6068	6371
Information Relations Officer	5101	5356	5624	5905	6200
Information Technology Manager	8192	8602	9032	9484	9958
Information Technology Specialist	5103	5358	5626	5908	6203
Junior Accountant	4127	4333	4550	4777	5016
Law Enforcement Systems Supervisor	6011	6311	6627	6958	7306
Leadworker, Facilities	3876	4070	4273	4487	4711
Leadworker, Maintenance	3876	4070	4273	4487	4711
Maintenance Worker	3359	3527	3703	3889	4083
Medical Clinic Specialist	3636	3818	4009	4210	4420
Motor Sweeper Operator	3645	3828	4019	4220	4431
National Pollutant Discharge Elimination Sys. (NPDES) Coord.	4938	5185	5444	5716	6002
NPDES/Environmental Compliance Inspector	4322	4539	4766	5004	5254
Office Specialist	3177	3336	3503	3678	3862
Personnel Services Coordinator	4399	4619	4850	5092	5347
Plans Examiner	5812	6103	6408	6729	7065
Police Captain	11245	11576	12397	13017	13668
Police Chief	13965	14663	15396	16166	16974
Police Dispatch Supervisor	4927	5174	5432	5704	5989
Police Dispatcher	4159	4367	4585	4814	5055
Police Lieutenant	9832	10324	10840	11382	11951
Police Officer	6369	6687	7021	7372	7741
Police Officer Trainee	5623	--	--	--	
Police Records/Desk Officer (Modified Duty)	5478	5752	6040	6342	6659
Police Sergeant	8466	8889	9333	9800	10290
Police Services Specialist	3292	3457	3630	3811	4002
Police Services Supervisor	5306	5571	5849	6142	6449
Project Manager	5401	5671	5955	6252	6565
Property Custody Clerk	3135	3292	3457	3630	3811
Public Safety Admin. Svcs. Supervisor	7767	8156	8563	8991	9441
Public Works Director/City Engineer	12246	12858	13501	14176	14885
Public Works Inspector	4671	4905	5150	5408	5678
Public Works Superintendent	8192	8602	9032	9484	9958
Receptionist/Office Specialist	3103	3258	3421	3592	3772
Recreation Supervisor	4028	4229	4441	4663	4896
Secretary	3348	3515	3691	3875	4069
Secretary to the Exec. Dir. Office of Public Safety	4431	4653	4885	5130	5386
Senior Accountant	5266	5529	5806	6096	6401

<b>Classification</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Senior Building Inspector	5536	5813	6103	6409	6729
Senior Citizens Supervisor	3949	4146	4354	4571	4800
Senior Code Enforcement Officer	5015	5266	5529	5806	6096
Senior Human Services Supervisor	4753	4990	5240	5502	5777
Senior Information Technology Specialist	5724	6011	6311	6627	6958
Senior Learning Coordinator	4028	4229	4441	4663	4896
Senior Management Analyst	6771	7109	7465	7838	8230
Senior Recreation Supervisor	4753	4990	5240	5502	5777
Support Coordinator (Modified Duty)	5293	5558	5836	6128	6434





# CITY COUNCIL AGENDA REPORT

**DATE:** JANUARY 19, 2021

**FILE I.D.:** CYC243/CMR650

**SECTION:** CONSENT - RESOLUTIONS

**DEPT.:** ADMIN. SVCS.

**ITEM NO.:** 3

**PREPARER:** J. HAMILTON

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 21-3299 CONTINUING TO DECLARE THAT A LOCAL PUBLIC HEALTH EMERGENCY EXISTS IN THE CITY OF MONTCLAIR, UPDATING PROVISIONS OF THE ORIGINAL DECLARATION IN RELATION TO COVID-19 SICK LEAVE, AND CONTINUING TO ESTABLISH CITY ELIGIBILITY FOR FEDERAL AND STATE FUNDING ASSISTANCE

**REASON FOR CONSIDERATION:** On December 31, 2020, the Family First Coronavirus Response Act (FFCRA), an Act of the United States Congress, expired, which eliminated, *inter alia*, certain leave provisions for employees infected with the coronavirus. On March 16, 2020, the City Council adopted Resolution No. 20-3263, which declared a local public health emergency and established the City's eligibility for federal and state funding assistance. Included as part of Resolution No. 20-3263 was Paragraph 24, which provided some additional protections for employees infected with the coronavirus.

The City Council is requested to consider adoption of Resolution No. 21-3299, which continues to declare that a local public health emergency exists in the City of Montclair and continues to establish the City's eligibility for federal and state funding, but modifies Paragraph 24 to provide updated leave policies for employees infected with the coronavirus.

A copy of Resolution No. 21-3299 is attached for the City Council's review and consideration.

**BACKGROUND:** On March 16, 2020, the City Council adopted Resolution No. 20-3263, which declared that a local public health emergency exists in the City of Montclair, and that by proclaiming the local public health emergency established that the City of Montclair was eligible for federal and state funding assistance. As part of Resolution No. 20-3263, the City Council directed the City Manager, as Director of Emergency Services, to consider and act on 37 separate items of interest regarding the coronavirus pandemic. Specifically, the item identified in Paragraph 24 provided:

24. In compliance with state and federal law, provide sick leave or administrative leave, with pay, for all full- and part-time employees contracting COVID-19, or as required to provide in-home health care for an employee's COVID-19 diagnosed child, as follows:
  - a. Full-time employees shall use earned vacation or sick leave (or other available earned leave) first, for both quarantine and verified COVID-19 infection periods, and thereafter may be provided up to 120 hours of paid administrative leave, paid at the employee's hourly rate of pay, not to include overtime or other premium pays, subject to review and adjustment by the City Manager and Personnel Committee; provided, however, if the employee's absence is required by the City during the quarantine period, the employee will be given up to 80 hours of paid administrative leave in lieu of using accrued personal leave time such as vacation or sick leave;

- b. Part-time employees shall be provided up to 120 hours of paid administrative leave, in total, for both quarantine and verified COVID-19 infection periods, paid at the employee's hourly rate of pay, up to 35 hours per week or the employee's regular hourly work-week schedule, whichever is less, subject to review and adjustment by the City Manager and Personnel Committee.
- c. Consider leave policies related to childcare-related verified COVID-19 cases.

Two days after the City of Montclair adopted Resolution No. 20-3263, on March 18, 2020, President Donald Trump signed into law the Family First Coronavirus Response Act (FFCRA), which became effective on April 2, 2020. The FFCRA required an employer with fewer than 500 employees to provide up to 80 hours of Emergency Paid Sick Leave for full-time employees, and part-time employees may take up to the amount of hours they work in an average two-week period. These provisions applied when such employees have verified COVID-19 infections, have been ordered to quarantine, or were advised by their doctor to self-quarantine. In the FFCRA, Congress established December 31, 2020 as the date the law expires.

The FFCRA and Paragraph 24 of Resolution No. 20-3263 conflicted in that the Resolution required full-time employees to first exhaust all of their accrued personal leaves, whereas FFCRA mandated that the City provide the first two weeks as Emergency Paid Sick Leave. Conversely, Resolution No. 20-3263 did not require part-time employees to exhaust any personal accrued leave and provided more than two-weeks of paid leave by offering up to 120-hours of leave (e.g. a 20-hour/week part-time employee may be eligible for up to 6 weeks of paid leave). The intent behind Resolution No. 20-3263's Paragraph 24 was to provide all employees up to, but not more than, three weeks off to quarantine and recover in the event they were infected with the coronavirus.

On December 21, 2020, Congress passed the Consolidated Appropriations Act, 2021, which included Coronavirus Stimulus & Relief, and on December 27, 2020, President Trump signed this legislation into law. The law did not mandate the extension of FFCRA, but permitted participating employers to extend the provisions voluntarily and, in doing so, participating employers would receive federal tax credits for that extension through March 31, 2021. Because the City of Montclair does not pay federal tax, the extension of FFCRA does not provide the City any benefit. Instead of voluntarily extending the FFCRA benefits through March 31, 2021, updating the City's administrative leave policies as set forth in Paragraph 24 of Resolution No. 20-3263 is preferred because the City Council can establish the criteria required for an employee to qualify for such leave, provide more leave to infected or quarantined employees than required under the now-expired FFCRA, and have such benefits endure beyond March 31, 2021.

Currently, the United States is in the midst of a massive surge in coronavirus cases, reporting more than 22,800,000 confirmed cases and nearly 380,000 deaths since the beginning of the pandemic eleven months ago. California is reporting approximately 2,786,000 confirmed cases and 31,000 deaths. In San Bernardino County, confirmed cases total 236,000 and there have been 1,551 deaths. With each passing day, the infection rate and death toll resulting from COVID-19 climbs exponentially, which recently is primarily attributed to the Thanksgiving Day and Christmas/New Year Holiday celebrations and gatherings. Cases within the City of Montclair organization are following a similar trend, albeit and thankfully there are no deaths.

With the expiration of the FFCRA, the spike in the coronavirus cases, and the inconsistent language providing for paid administrative leave in Resolution No. 20-3263, it is necessary to update and modify Paragraph 24 as follows:

24. Effective January 1, 2021 and in compliance with state and federal law, the Director of Emergency Services, at his/her sole discretion, may provide sick leave or administrative leave, with pay, for all full- and part-time employees contracting COVID-19 as follows:
  - a. Leave as provided in this section shall be available for verified COVID-19 cases and, in the event the employee tests negative for COVID-19 or is unable to produce a verification of a positive COVID-19 test result, the employee shall use accrued leave (e.g., sick, compensatory, holiday, management, and vacation leave);
  - b. Full-time employees may be provided up to three weeks of administrative leave, paid at the employee's hourly rate of pay, not to include overtime or other premium pays, and subject to review and adjustment by the City Manager and/or Personnel Committee. For most employees, three-weeks of administrative leave will equal 120 hours of administrative leave based upon a 40-hour workweek; however, fire suppression shift personnel, pursuant to the Fair Labor and Standards Act (FLSA), would be entitled to 168 hours of administrative leave based upon a 56-hour workweek so long as their workweek is calculated under this provision of the FLSA;
  - c. Part-time and part-time benefited employees may be provided up to three weeks of paid administrative leave, in total, for verified COVID-19 infection periods, paid at the employee's hourly rate of pay, up to 35 hours per week or the employee's regular hourly workweek schedule averaged over the previous six-month period, whichever is less, subject to review and adjustment by the City Manager and/or Personnel Committee;
  - d. In extraordinary circumstances, such as hospitalization or a medically verified incapacitation extending beyond the three weeks provided in subsection (b) or (c) above, the City Manager may approve up to an additional two weeks of paid administrative leave, which shall be calculated in the same manner as in subsections (b) or (c) above;
  - e. The City Manager may, at his/her sole determination, deny or limit the amount of paid administrative leave available to an employee who violates the City's COVID-19 policies, negligently exposes him- or herself to the virus causing the COVID-19 infection, and/or fails to take necessary steps scientifically proven to mitigate a person's chances or ability to become infected;
  - f. In the event an employee has exhausted all available earned accrued leave and/or administrative leave as authorized under this section, an employee may be required to either (1) have his/her sick leave balance enter into a deficit for up to but not more than 40 hours, and/or (2) request he/she be placed on unpaid administrative leave. The determination to grant such a request is at the sole discretion and determination of the City Manager, whose decision shall be final;
  - g. This benefit is cumulative and does not reset per occurrence. Administrative leave provided under this section shall not exceed the number of hours to which the employee may be entitled under subsections

(b) or (c) and, in extraordinary circumstances, subsection (d). Any administrative leave hours previously provided to an employee, whether pursuant to the Family First Coronavirus Response Act (FFCRA) or paid administrative leave granted pursuant to Resolution No. 20-3263, since March 16, 2020 shall be included in this calculation;

- h. The City Manager may suspend this program and reinstate this program at his sole discretion; however, this program terminates when City Council declares the current public Health Emergency concluded as originally declared in Resolution No. 20-3263 and updated in this Resolution, or decides to terminate this program in a separate action; and
- i. All requests and actions taken pursuant to this section must be submitted as a Personnel Authorization to the City Manager, endorsed by the employee's department head, process through the City's Administrative Services Department, and approved by the City Manager.

The proposed updated Paragraph 24 continues to provide paid administrative leave to employees but makes, in part, the following significant changes:

- No longer requires full-time employees to first exhaust all accrued personal leave before being eligible for the paid administrative leave;
- Clarifies for both full-time, part-time benefited, and part-time employees that the amount of leave available to him/her is the number of hours he/she would ordinarily work over a three-week period;
- Authorizes the City Manager to provide at his/her discretion an additional two-weeks of paid administrative leave for extraordinary cases, such as when the employee has been hospitalized or is suffering from a medically verified incapacitation;
- Authorizes the City Manager, at his/her discretion, to deny or limit the amount of paid administrative leave available to employees who fail to follow the City's policies regarding COVID-19 mitigation procedures/protocols, who negligently expose themselves to the COVID-19 virus, and/or who fail to take steps scientifically proven to mitigate a person's chances or ability to contract the COVID-19 virus.

**FISCAL IMPACT:** The social and organizational cost of dealing with the emergence and resiliency of the COVID-19 virus in the Montclair community has been impactful on the health and welfare of Montclair businesses, citizens, and City employees. The future impacts remain undetermined and uncertain, including the infection rate of the coronavirus within the Montclair organizational ranks and the need for the updated administrative leave; however, if Resolution No. 21-3299 is adopted, and if subsequently authorized by the City Council, additional funds would be available for transfer from the General Fund Reserve Fund to the Contingency Account to assist with administering and providing for the services, actions and assistance as provided for in Resolution No. 21-3299. In the event such funds are necessary, staff will bring a separate action to the City Council for consideration. The City will continue to find alternative means to recoup any money expended in combating the COVID-19 pandemic through federal or state grant programs.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 21-3299 continuing to declare that a local public health emergency exists in the City of Montclair, and continues to establish City eligibility for federal and state funding assistance.

## RESOLUTION NO. 21-3299

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR CONTINUING TO DECLARE THAT A LOCAL PUBLIC HEALTH EMERGENCY EXISTS IN THE CITY OF MONTCLAIR, AND THAT BY THIS PROCLAMATION HEREBY CONTINUES TO ESTABLISH CITY ELIGIBILITY FOR FEDERAL AND STATE FUNDING ASSISTANCE

**WHEREAS**, on March 4, 2020, California Governor Gavin Newsom issued a [proclamation declaring a State of Emergency](#) to prepare for, contain, and respond to mitigating the effects of, and recovery from, the spread of the COVID-19 virus (novel coronavirus 2019) in the state of California. The proclamation was introduced as the number of deaths and positive COVID-19 cases in California increased; and

**WHEREAS**, according to the State of Emergency declaration, the State of California is deploying every level of government to help identify cases and slow the spread of the COVID-19 virus, and the emergency proclamation will help the state further prepare California's communities and the state's health care system in the event the virus spreads more broadly; and

**WHEREAS**, the Governor's emergency proclamation includes provisions that protect consumers against price gouging, allow for health care workers to come from out of state to assist at health care facilities, and give health care facilities the flexibility to plan and adapt to accommodate incoming patients; and

**WHEREAS**, other provisions in the proclamation include the following:

- The 30-day time period in Health and Safety Code section 101080, with which a local governing authority must renew a local health emergency, is waived for the duration of the statewide emergency, and will remain in effect until each local governing authority terminates its respective local health emergency;
- The 60-day time period in Government Code Section 8630, within which local government authorities must renew a local emergency, is waived for the duration of the state emergency, and will remain in effect until each local governing authority terminates its respective local emergency;
- To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care;

The notification requirement of Civil Code section 1798.24, subdivision (i), is suspended;

- Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority; and

Health and Safety Code sections 1797.52 and 1797.218 are suspended until the termination of this state of emergency; and

**WHEREAS**, on March 12, 2020, California Governor Gavin Newsom issued [Executive Order No. N-25-20 enhancing-state and local governments ability to respond to the COVID-19 pandemic](#); and

**WHEREAS**, significant provisions in the Executive Order include the following:

- State and local public health officials may, as they deem necessary in the interest of public health, issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences, or other mass events, which could cause the cancellation of such gatherings

through no fault or responsibility of the parties involved, thereby constituting a *force majeure* (unforeseeable circumstances that prevent fulfillment of a contract);

- All California residents are to heed any orders and guidance of state and local public health officials, including but not limited to the imposition of "social distancing" measures, to control the spread of COVID-19;
- The Governor's Office of Emergency Services shall ensure adequate state staffing during this emergency;
- The California Health and Human Services Agency and the Office of Emergency Services shall identify, and shall otherwise be prepared to make available — including through the execution of any necessary contracts or other agreements and, if necessary, through the exercise of the State's power to commandeer property — hotels and other places of temporary residence, medical facilities, and other facilities that are suitable for use as places of temporary residence or medical facilities as necessary for quarantining, isolating, or treating individuals who test positive for COVID-19 or who have had a high-risk exposure and are thought to be in the incubation period;
- Notwithstanding any other provision of state or local law, including the Bagley-Keene Act or the Brown Act, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body or state body, during the period in which state or local public officials impose or recommend measures to promote social distancing, including but not limited to limitations on public events;
- All requirements in both the Bagley-Keene Act and the Brown Act expressly or implicitly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in a quorum for a public meeting are hereby waived;
- Any otherwise-applicable requirements under the Bagley-Keene and the Brown Act, including the following:
  1. state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
  2. each teleconference location be accessible to the public;
  3. members of the public may address the body at each teleconference location;
  4. state and local bodies post agendas at all teleconference locations;
  5. at least one member of the state body be physically present at the location specified in the notice of the meeting; and
  6. during teleconference meetings, [at] least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction;

are hereby suspended, on the conditions that:

1. each state or local body must give advance notice of each public meeting, according to the timeframe otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable;
2. consistent with the notice requirement in paragraph "1" [immediately above], each state or local body must notice at least one publicly accessible location from which members of the public shall have the right to observe and offer public comment at the public meeting, consistent with the public's right of access and public comment otherwise provided for by the Bagley-Keene Act and the Brown Act, as

applicable (including, but not limited to, the requirement that such rights of access and public comment be made available in a manner consistent with the Americans with Disabilities Act);

In addition to the mandatory conditions set forth above, all state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings; and

**WHEREAS**, on March 11, 2020, the California Department of Public Health issued Gathering Guidance to protect public health and slow the rate of transmission of COVID-19; and

**WHEREAS**, gatherings, as described below, should be postponed or canceled across the state of California for at least the remainder of the month of March 2020 (extended to May 10, 2020 by the Center for Disease Control), or until further notice, and this Gathering Guidance remains in place until the end of March 2020 (May 10, 2020 pursuant to the CDC), or until further notice, and will likely be extended:

- Large gatherings that include 250 people or more (changed to 50 by the CDC) should be postponed or canceled;
  - 1. This includes gatherings such as concerts, conferences, and professional, college, and school sporting events; and
- Smaller gatherings held in venues that do not allow "social distancing" of six feet per person should be postponed or canceled;
  - 1. This includes gatherings in crowded auditoriums, rooms or other venues, and the venue space does not matter;
  - 2. Achieving space between individuals of approximately six feet is advisable;
  - 3. Additionally, there is a particular focus on creating space between individuals who have come together on a one-time or rare basis and who have very different travel patterns, such as those coming from multiple countries, states or counties;
  - 4. "Social distancing" is a practice recommended by public health officials to stop or slow down the spread of contagious diseases; and its effective implementation requires the creation of physical space between individuals who may spread certain infectious diseases; and the key is to minimize the number of gatherings as much as possible and to achieve space between individuals when events or activities cannot be modified, postponed, or canceled;
- Gatherings of individuals who are at higher risk [60-years of age or older and those with underlying health conditions] for severe illness from COVID-19 should be limited to no more than 10 people;
  - 1. This includes gatherings such as those at retirement facilities, assisted living facilities, developmental homes, and support groups for people with health conditions;
- A "gathering" is any event or convening that brings together people in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, cafeteria, or any other indoor or outdoor space;

The above Gathering Guidance applies to all non-essential professional, social, and community gatherings regardless of their sponsor; and gatherings that do not meet the aforementioned criteria should only be conducted when they are essential—that is, if the activity is essential and could not be postponed or achieved without gathering, meaning that some other means of communication could not be used to conduct the essential function;

The above Gathering Guidance shall not apply to activities such as attendance at regular school classes, work, or essential services; and

**WHEREAS**, on March 12, 2020, the [San Bernardino County Public Health Department ordered cancellation of gatherings](#) in compliance with the [Gathering Guidance](#) issued on Wednesday, March 11, 2020, by the California Department of Public Health; and

**WHEREAS**, on March 13, 2020, the Chaffey Joint Union High School District (CJUHS) announced the temporary suspension of in-class instruction and all school activities, effective Monday, March 16, 2020, and the suspension includes the temporary shutdown of Montclair High School, with regularly scheduled school instruction to begin on Monday, April 6, 2020 — a date that may change as new information related to the COVID-19 virus is evaluated; and

**WHEREAS**, on March 13, 2020, the Ontario-Montclair School District (OMSD) announced the temporary suspension of in-class instruction and all school activities, effective Monday, March 16, 2020, and OMSD will resume its regularly scheduled instruction at all schools beginning Monday, April 6, 2020 — a date that may change as new information related to the COVID-19 virus is evaluated; and

**WHEREAS**, on March 13, 2020 the U.S. House of Representatives sent to the Senate a large-scale COVID-19 relief package that includes the following:

- Free COVID-19 testing: Federal health providers such as Medicare and Medicaid, and private health insurers, are required to provide free COVID-19 testing;
- Expanded funding for food security programs: The Special Supplemental Nutrition Program for Women, Infants and Children, the Emergency Food Assistance Program, and the Senior Nutrition Program will receive supplemental funding to assist Americans affected by the virus, and the package also provides funding for state waivers to pay for meals for children who normally receive meal services at school;
- Emergency family and sick leave:
  1. Employees of companies with fewer than 500 employees may take up to 12 weeks of protected family and medical leave, including two weeks at full pay, with any additional weeks taken with no less than two-thirds of the employee's usual pay, to either quarantine or seek preventative care;
  2. Small- and mid-size businesses would receive tax credits to pay for medical and family leave of up to 100% of the wages they pay out;
  3. Employers with fewer than 500 employees are required to provide two weeks of sick leave at full pay for employees who are seeking treatment for the virus;
  4. Self-employed individuals would receive tax credits to receive paid leave;
  5. Employees would be eligible for paid sick leave if they have a child whose school or childcare facility is closed due to the COVID-19 virus, paid at not less than two-thirds of regular pay;
- Unemployment insurance: States will receive additional funding to provide unemployment insurance should there be an increase in uninsured people;
- Medicaid funding: The bill strips employment requirements for Medicaid, and increases Medicaid funding through 2021;
- All provisions of [HR 6201, the Families First Coronavirus Response Act or COVID-19 Health Care Worker Protection Act of 2020](#) is subject to change and final approval by the U.S. Senate and by Conference Committee; and

**WHEREAS**, on March 13, 2020, President Trump declared a national emergency to offset lagging coronavirus testing and unlock \$50 billion in Federal Emergency Management Agency (FEMA) funds; and



**WHEREAS**, President Trump said the declaration would address the testing shortcomings that health experts say hindered the country's ability to contain the virus when it first appeared on American shores; and

**WHEREAS**, the emergency declaration outlines a series of agreements with private companies including Google, Target and Walmart to facilitate swifter COVID-19 testing for Americans, with Target and Walmart agreeing to set aside parking lot space for testing sites, while Google pledged to set up a website to determine whether a person needs a test, and where one is available; and

**WHEREAS**, the emergency declaration will authorize the U.S. Department of Health and Human Services to waive certain Medicare, Medicaid, and Children's Health Insurance program requirements in an effort to bypass certain regulatory requirements; and

**WHEREAS**, the Trump Administration says 1.4 million COVID-19 test kits will be available during the week of March 16-22, and five million would be available within 30 days; and

**WHEREAS**, federal health officials have warned Americans to expect developments related to the COVID-19 pandemic to worsen, spurring much of the country's public spaces to shutter; and

**WHEREAS**, as of January 12, 2021, the United States is in the midst of a massive surge in coronavirus cases, reporting more than 22,800,000 confirmed cases and nearly 380,000 deaths since the beginning of the pandemic, California is reporting approximately 2,786,000 confirmed cases and 31,000 deaths, and San Bernardino County is reporting 236,000 confirmed cases and 1,551 deaths; and

**WHEREAS**, the number of confirmed cases continues to increase following the Thanksgiving Day and Christmas-New Year Holiday celebrations: with each passing day, the infection rate and death toll are climbing exponentially; and

**WHEREAS**, pursuant to Section 6.080.060.A.1. of Chapter 6.08 of Title 6 of the Montclair Municipal Code, the City Manager, as Director of Emergency Services, is empowered to request the City Council to proclaim the existence or threatened existence of a local emergency if the City Council is in session, or to issue such proclamation if the City Council is not in session; provided, however, whenever a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect; and

**WHEREAS**, by proclamation of an emergency, the Director shall control and direct the effort of the emergency organization for Montclair for the accomplishment of the purposes of Chapter 6.08 of Title 6 of the Montclair Municipal Code; and

**WHEREAS**, in the event of a proclamation of a state of emergency by the Governor of California, the Director is empowered as follows:

1. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations shall be confirmed at the earliest practicable time by the City Council;
2. Obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof, and if required immediately, to commandeer the same for public use;
3. Require emergency services of any City office or employee, and to command the aid of as many citizens of this community as the Director deems necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by State law for duly registered disaster workers;
4. Requisition necessary personnel or material of any City department or agency;
5. Execute all ordinary power as City Manager, all of the special powers conferred upon the City Manager by Chapter 6.08 of Title 6 of the Montclair

Municipal Code or by other action of the City Council, including power conferred in the City of Montclair Emergency Plan, as prepared by the Montclair Disaster Preparedness Council, which plan shall provide for the effective mobilization of all of the resources of the City, both public and private, to meet any condition constituting a local emergency or state of emergency, provided such plan is adopted by resolution of the City Council; and

**WHEREAS**, any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City; and

**WHEREAS**, during an emergency, it shall be unlawful to do any of the following:

1. Willfully obstruct, hinder or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to Chapter 6.08 of Title 6 of the Montclair Municipal Code;
2. Commit any act forbidden by any lawful rule or regulation issued pursuant to Chapter 6.08 of Title 6 of the Montclair Municipal Code, if such act is of such a nature as to imperil the lives or property of inhabitants of Montclair, or to prevent, hinder or delay the defense or protection thereof;
3. Wear, carry or display, without authority, any means of identification specified by the emergency agency of the State or the Montclair Disaster Preparedness Council; and

**WHEREAS**, on March 16, 2020, the City Council adopted Resolution No. 20-3263, A Resolution Of The City Council Of The City Of Montclair Declaring That A Local Public Health Emergency Exists In The City Of Montclair, And That By This Proclamation Hereby Establishes City Eligibility For Federal And State Funding Assistance; and

**WHEREAS**, the City Council rescinds Resolution No. 20-3263 and replaces it with Resolution No. 21-3299 to update provisions for paid administrative leave, as outlined in Paragraph 24 below, in certain circumstances wherein an employee was quarantined or infected with the COVID-19 coronavirus.

**NOW, THEREFORE, BE IT PROCLAIMED** that the City Council of the City of Montclair declared on March 16, 2020 in Resolution No. 20-3263, and does hereby continue to declare, that a local public health emergency exists in the City of Montclair, and established, and hereby continues to establish, the City of Montclair's eligibility for any federal and state funding assistance related to this public health emergency and the COVID-19 pandemic.

**BE IT FURTHER PROCLAIMED** that the City Council of the City of Montclair authorized on March 16, 2020 in Resolution No. 20-3263, and does hereby continue to authorize, the City Manager, as Director of Emergency Services, to execute the purpose and intent of this Proclamation, and to carry out the powers and duties so authorized pursuant to this Proclamation and Section 6.08.060 of Chapter 6.08 of Title 6 of the Montclair Municipal Code, and to report, as necessary, to the Disaster Preparedness Council as that Council is defined and empowered pursuant to Sections 6.08.030 and 6.08.040 of Chapter 6.08 of Title 6 of the Montclair Municipal Code.

**BE IT FURTHER PROCLAIMED** that the City Council of the City of Montclair authorized and directed on March 16, 2020 in Resolution No. 20-3263, and does hereby continue to authorize and direct, with the modifications as contained in Paragraph 24 below, that the City Manager, as Director of Emergency Services, shall consider and act on the following:

1. Maintain a local COVID-19 information page on the City's Homepage at <https://cityofmontclair.org/residents/the-novel-coronavirus-covid-19> to regularly update the City Council and residents of Montclair on the latest local events related to the COVID-19 virus;
2. Work with the City's partners in the health care system to ensure Montclair residents have access to a robust plan to monitor for, detect and, if needed, isolate any cases of the COVID-19 virus;
3. Monitor local hospitals for potential cases of the COVID-19 virus in the local area;

4. Work with the [San Bernardino County Department of Public Health](#) to ensure services are available to Montclair residents who may have contracted COVID-19, and ensure access to regional health care services provided through [Arrowhead Regional Medical Center](#);
5. Ensure that Montclair's emergency service providers, including Police, Fire, Paramedics, Code Enforcement, Public Works, and others have the proper equipment and capacity to respond to calls for service, and direct patients with COVID-19 to the proper medical health agencies;
6. Offer available specialized training to public safety personnel to ensure proper response to COVID-19-related service calls;
7. Work with mutual aid partners to ensure extended coverage throughout the mutual aid region to ensure available public safety staffing;
8. Work with federal, state and local health agencies to ensure Montclair residents have access to COVID-19 test kits as available, and provide support, as required, related to traffic control around testing centers;
9. Train personnel at the Montclair Medical Clinic to recognize symptoms related to the COVID-19 virus;
10. Work with federal, state and county partners to properly plan and train for responses to any emergency or outbreak related to the COVID-19 virus;
11. Regularly meet with hospitals, City paramedics and local public health centers to obtain the latest information related to the COVID-19 virus and its spread in the community and region;
12. Regularly meet with the Ontario-Montclair Schools District (OMSD) and Chaffey Joint Union High School District (Montclair High School) officials to ensure the health and safety of the community's youth, and to discuss any need or requirement to close or extend the closure of schools and suspension of classes;
13. Comply with the Guidance Gathering issued by the California Department of Public Health and the CDC, and any extensions thereof;
14. Comply with social distancing requirements issued by the California Department of Public Health and the CDC, and any extensions thereof;
15. Suspend extra-curricular and co-curricular activities for all OMSD schools and CJUHSD in cooperation with the Superintendents of OMSD and CJUHSD;
16. Suspend non-essential City-sponsored activities in compliance with the Guidance Gathering and social distancing requirements issued by the Centers for Disease Control (CDC) and the California Department of Public Health to dates to be determined, but at least through May 10, 2020, such non-essential City-sponsored activities to include the following (additional activities may be added while others may be removed from the list based on program/activity requirements, extension of the Gathering Guidance, and other exigent circumstances):
  - a. After-School Program (ASP) activities (provide for the re-tasking of ASP employees, as required and permitted pursuant to employment agreements);
  - b. City-sponsored academic and athletic competitions;
  - c. Recognition/Awards Events (e.g., Montclair to College graduation, Public Safety Recognition Luncheon, Community Activities Commission ceremonies);
  - d. Open House events (e.g., Public Safety Open House);
  - e. Scheduled large- and medium-size public gatherings that would fail to comply with social distancing requirements, including private large- and medium-size gatherings, scheduled at City facilities including, but not limited to:

- Country Fair Jamboree
  - Summer Recreation Program Kickoff
  - Camp Montclair
  - Community Health Fair
  - Easter Eggstravaganza
  - Senior Citizen Program activities including, but not limited to, Nutrition Program (transition to box lunches), monthly Senior Citizen birthday party, and trips
  - Community Prayer Luncheon
  - Memorial Day Event
  - Peace Officers Memorial Ceremony
  - Youth Center activities
  - Mini-school Program — unless the necessity for child care services becomes an overriding consideration; provided, however, the City may operate child care services for employees of the City to ensure the maintenance of essential services
  - Human Services-sponsored recreation activities including, but not limited to, scheduled classes, youth and adult sports leagues, and other qualifying events
  - Suspend yard sale program
  - Private events using City-rented facilities including, but not limited to weddings, social gatherings, and other events
  - Public restrooms that cannot be maintained in a sanitary condition
  - Alma Hofman Splash Pad
  - And other City-sponsored activities as determined necessary, through June 30, 2020, unless otherwise altered by direction of the City Council
- f. Scheduled small public gatherings, including private gatherings, scheduled at City facilities, that fail to achieve the ability to comply with social distancing requirements, or as otherwise represent a danger to individuals who are at higher risk [60-years of age or older and those with underlying health conditions] for severe illness from the COVID-19 virus (e.g., activities at the Senior Center; also, allow no more than ten senior citizens on the Golden Express transportation service at any one time);
- g. Both large and small private gatherings at private facilities, including, but not limited to, concert halls, churches, sports stadiums, restaurants, bars, breweries, entertainment zones, private residences, hotels, and other private facilities shall be required to self-regulate; provided, however, in the event self-regulation fails, the City may adopt rules and regulations to require compliance with applicable Gathering Guidance provisions;
- h. On March 15, 2020, the U.S. Center for Disease Control (CDC) changed the Gathering Guidance to eight weeks from Sunday, March 15, 2020, thereby extending the Gathering Guidance to May 10, 2020. Furthermore, the CDC redefined a "large" or "mass" gathering to be 50 or more people. In anticipation of further extensions, the City proposes extending the local Gathering Guidance date restriction to June 30, 2020, to effectuate proper planning and execution of programs and activities. The June 30, 2020, Gathering Guidance date will be subject to revision by the City Council.

17. Meet with businesses, such as Costco, Target and Montclair Place, to determine means to control panic shopping and address the undisciplined assembling of shoppers prior to and after store openings;
18. Suspend operation of City-operated weight/exercise rooms at all City facilities;
19. Suspend rental of City facilities for large and small events in compliance with California Department of Public Health and CDC Gathering Guidance;
20. Implement restrictions on employee travel to conferences and seminars:
  - a. Allow employees to cancel travel to scheduled conferences and seminars with no fiscal penalty to employees; provided, however, employees shall seek to recover refunds for related travel;
  - b. The City Manager shall approve all City-related travel during the local public health emergency;
21. Implement tele-working protocols for City employees;
22. Revisit facial hair grooming standards, particularly for public safety personnel required to wear facemasks and gas masks;
23. In compliance with the Americans with Disabilities Act, Meyers-Milias-Brown Act, and other applicable state and/or federal laws, implement labor procedures to address employees contracting COVID-19;
24. Effective January 1, 2021 and in compliance with state and federal law, the Director of Emergency Services, at his/her sole discretion, may provide sick leave or administrative leave, with pay, for all full- and part-time employees contracting COVID-19 as follows:
  - a. Leave as provided in this section shall be available for verified COVID-19 cases and, in the event the employee tests negative for COVID-19 or is unable to produce a verification of a positive COVID-19 test result, the employee shall use accrued leave (e.g., sick, compensatory, holiday, management, and vacation leave);
  - b. Full-time employees may be provided up to three weeks of administrative leave, paid at the employee's hourly rate of pay, not to include overtime or other premium pays, and subject to review and adjustment by the City Manager and/or Personnel Committee. For most employees, three weeks of administrative leave will equal 120 hours of administrative leave based upon a 40-hour workweek; however, fire suppression shift personnel, pursuant to the Fair Labor and Standards Act (FLSA), would be entitled to 168 hours of administrative leave based upon a 56-hour workweek so long as their workweek is calculated under this provision of the FLSA;
  - c. Part-time and part-time benefited employees may be provided up to three weeks of paid administrative leave, in total, for verified COVID-19 infection periods, paid at the employee's hourly rate of pay, up to 35 hours per week or the employee's regular hourly workweek schedule averaged over the previous six-month period, whichever is less, subject to review and adjustment by the City Manager and/or Personnel Committee;
  - d. In extraordinary circumstances, such as hospitalization or a medically verified incapacitation extending beyond three weeks provided in subsection (b) or (c) above, the City Manager may approve up to an additional two weeks of paid administrative leave, which shall be calculated in the same manner as in subsections (b) or (c) above;
  - e. The City Manager may, at his/her sole determination, deny or limit the amount of paid administrative leave available to an employee who violates the City's COVID-19 policies, negligently exposes him- or herself to the virus causing the COVID-19 infection, and/or fails to take necessary steps scientifically proven to mitigate a person's chances or ability to become infected;

- f. In the event an employee has exhausted all available earned accrued leave and/or administrative leave as authorized under this section, an employee may require to either (1) have his/her sick leave balance enter into a deficit for up to but not more than 40 hours, and/or (2) request he/she be placed on unpaid administrative leave. The determination to grant such a request is at the sole discretion and determination of the City Manager, whose decision shall be final;
  - g. This benefit is cumulative and does not reset per occurrence. Administrative leave provided under this section shall not exceed the number of hours to which the employee may be entitled under subsections (b) or (c) and, in extraordinary circumstances, subsection (d). Any administrative leave hours previously provided to an employee, whether pursuant to the Family First Coronavirus Response Act (FFCRA) or paid administrative leave granted pursuant to Resolution No. 20-3263, since March 16, 2020 shall be included in this calculation;
  - h. The City Manager may suspend this program and reinstate this program at his sole discretion; however, this program terminates when City Council declares the current public Health Emergency concluded as originally declared in Resolution No. 20-3263 and updated in this Resolution, or decides to terminate this program in a separate action; and
  - i. All requests and actions taken pursuant to this section must be submitted as a Personnel Authorization to the City Manager, endorsed by the employee's department head, processed through the City's Administrative Services Department, and approved by the City Manager.
- 25. Direct the Finance Department to disinfect all U.S. coinage and paper currency processed by the City;
  - 26. Train City personnel in proper procedures for dealing with citizen concerns related to the COVID-19 virus;
  - 27. Under City Council direction, implement provisions of the Bagley-Keene Act, Brown Act, and other applicable state and/or local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to meetings;
  - 28. Re-task available City employees to assist with canvassing the City's homeless population to disseminate information and offer resources and assistance to prevent an outbreak of COVID-19 within the homeless population and provide testing and public health assistance for those members of the homeless population determined to be affected with the COVID-19 virus;
  - 29. Re-task available City employees to assist with contacting the City's elderly population to disseminate information and offer resources and assistance to prevent an outbreak of COVID-19 and provide testing and public health assistance to members of the elderly population determined to be affected with the COVID-19 virus;
  - 30. Re-task available City employees to assist the Police Department with operation of required prophylactic operations, including Point of Distribution operations and public testing areas for COVID-19, and designate potential testing sites, which may include the Montclair Police Department, Montclair Place, Target, Costco, Tiki Drive-in Theater, and other locations as may be recommended for easy public access;
  - 31. To the extent applicable, and to protect homeless individuals, follow the [Guidance for Homeless Assistance Providers on Novel Coronavirus \(COVID-19\)](#);
  - 32. Work with telecommunication providers to open free Wi-Fi access, communitywide, for students displaced from school;

33. To the extent practicable, close City buildings to non-essential public access; however, provide pre-scheduled by appointment access, as necessary;
34. Provide alternatives means for utility payments;
35. Suspend restrictions related to on-street parking on scheduled street sweeping days;
36. Except for essential government services, prepare the Montclair community and organization for a potential "shelter-in-place" order from the municipal, San Bernardino County, State, and/or Federal governments;
37. Implement other rules and regulations, as required, on matters reasonably related to the protection of life and property as affected by the local public health emergency; provided, however, such rules and regulations shall be confirmed at the earliest practicable time by the City Council.

**BE IT FURTHER PROCLAIMED** that the City Council of the City of Montclair, on March 16, 2020 in Resolution No. 20-3263, authorized and directed the transfer of up to \$200,000 from the General Fund Reserve Fund to the Contingency Account to assist the City Manager/Director of Emergency Services with administering and providing for the services, actions and assistance as provided for in this Proclamation; however, this Resolution does not authorize an additional \$200,000 from the General Fund Reserve Fund to the Contingency Account.

**BE IT FINALLY PROCLAIMED**, that, pursuant to California Governor Gavin Newsom issuing a [proclamation declaring a State of Emergency](#) that waives the following:

1. The 30-day time period in Health and Safety Code section 101080, with which a local governing authority must renew a local health emergency; and
2. The 60-day time period in Government Code Section 8630, within which local government authorities must renew a local emergency;

the Montclair City Council hereby proclaims that Resolution No. 20-3263 be rescinded and replaced with Resolution No. 21-3299, which shall remain in force and effect until the City Council of the City of Montclair terminates the local health emergency.

**APPROVED AND ADOPTED** this XX day of XX, 2021.

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Mayor

**ATTEST:**

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City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 21-3299 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, 2021, and that it was adopted by the following vote, to-wit:

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

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Andrea M. Phillips  
City Clerk



# CITY COUNCIL AGENDA REPORT

**DATE:** JANUARY 19, 2021

**FILE I.D.:** PER597

**SECTION:** BUSINESS ITEMS

**DEPT.:** ADMIN. SVCS.

**ITEM NO.:** A

**PREPARER:** J. HAMILTON

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 21-3298 MAKING CERTAIN FINDINGS FOR AN EXCEPTION TO THE 180-DAY WAIT PERIOD PURSUANT TO GOVERNMENT CODE SECTIONS 7522.56 AND 21221(H) ALLOWING RETIRED DEPUTY FIRE CHIEF JACKSON TO BE HIRED FOR TEMPORARY PART-TIME EMPLOYMENT AS INTERIM DEPUTY FIRE CHIEF

**REASON FOR CONSIDERATION:** The Pension Reform Act of 2012 prohibits employers from hiring retired annuitants within 180 days of their retirement. However, subsequent legislation provides for an exception to the 180-day wait period under specific conditions; *i.e.*, the California Public Employees' Retirement System (CalPERS) requires the City Council adopt a resolution to allow for an exception to the 180-day wait period to hire a retired employee for temporary, part-time employment during the wait period.

The City Council is requested to consider adoption of Resolution No. 21-3298 making certain findings allowing former Deputy Fire Chief Steven Jackson to be hired for temporary, part-time employment commencing within the 180-day wait period from his retirement from the City of Montclair.

A copy of proposed Resolution No. 21-3298 is attached for the City Council's review and consideration.

**BACKGROUND:** On December 1, 2020, Deputy Fire Chief Steven Jackson announced his retirement effective December 30, 2020, after a 30-year career with the City of Montclair.

Mr. Jackson was initially hired by the City on August 18, 1990 as a Firefighter and worked his way up the ranks being promoted to Deputy Fire Chief on July 28, 2014. Because the Fire Department and the Police Department collectively make up the Public Safety Department, which is headed by the Executive Director of Public Safety/Chief of Police, the Deputy Fire Chief is the highest-ranking position in the City's Fire Department.

Mr. Jackson successfully led the City's Fire Department for over 6 years and, as a result of his retirement, the City has begun the recruitment process to appoint his replacement. Until Mr. Jackson's replacement can be recruited and hired, the crucial position of Deputy Fire Chief will remain vacant.

Pursuant to California Government Code Section 7522.56(b), "[a] retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree received the benefit without reinstatement from retirement, except as permitted by this section." California Government Code Section 7522.56(c), then provides the following exception: "A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by [CalPERS] upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because a retired person has specialized skills needed in performing work of a limited duration." California Government Code Section 7522.56(f)(1) provides: "A retired person shall not



be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless... [t]he employer certifies the nature of the employment and the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.”

At this point, the recruitment for the position of Deputy Fire Chief has begun. Following the close of the recruitment period, successful candidates will go through a further selection process, which may include testing, practical examinations, and several interviews. Depending on the number of applications and the quality of the applicants, this process could take a month or longer. Once the successful candidate has been selected, he/she will have to go through a comprehensive police background check before a hire date can be established. If the first applicant is not successful in this background process, another successful candidate will be selected but also must go through the rigorous background process. Thus, it is anticipated that the recruitment, selection, background and hiring process for the City’s next Deputy Fire Chief will not be completed until May or June 2021.

California Government Code Section 21221(h) provides: “A retired person may serve without reinstatement from retirement or loss of interruption of benefits provided by [CalPERS], as follows:

“(h) Upon interim appointment by the governing body of a contracting agency to a vacant position during recruitment for a permanent appointment and deemed by the governing body to require specialized skills or during an emergency to prevent stoppage of public business. A retired person shall only be appointed once to this vacant position. These appointments, including any made concurrently pursuant to Section 21224 or 21229, shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the interim appointment shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the interim appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule for the vacant position divided by 173.333 to equal an hourly rate. A retired person appointed to a vacant position pursuant to this subdivision shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate. A retired annuitant appointed pursuant to this subdivision shall not work more than 960 hours each fiscal year regardless of whether he or she works for one or more employers.”

Mr. Jackson’s appointment to the Interim Deputy Fire Chief position will be on a temporary, part-time basis and will remain at or below the 960 permitted hours per fiscal year a retired annuitant may work pursuant to Section 7522.56(d) and Section 21221(h). As the recruitment process proceeds to find Mr. Jackson’s permanent replacement, it is necessary to hire Mr. Jackson into the Interim Deputy Fire Chief Position due to his unique skills, talent, and knowledge of the City of Montclair’s Fire Department to ensure there is no work stoppage especially during this COVID-19 declared state of public health emergency. Mr. Jackson will be able to assist in training his replacement and ensuring a smooth transition. Mr. Jackson has not accepted a retirement incentive upon his retirement, which would make him ineligible for this consideration as outlined in California Government Code Section 7522.56(g).

Mr. Jackson's temporary, part-time employment will commence on February 1, 2021 and continue until no later than June 30, 2021, and he shall be appointed to this vacant position only once. As outlined above, Mr. Jackson's pay may not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule equal to an hourly rate. When Mr. Jackson retired, he was paid at Step E of the Deputy Fire Chief pay schedule, which was \$13,067/month. Dividing that number by 173.333 would equate that to an hourly rate of \$75.39/hour. Accordingly, Mr. Jackson's rate of pay while serving at the City's Interim Deputy Fire Chief shall be set at \$75.39/hour.

**FISCAL IMPACT:** The fiscal impact associated with adopting proposed Resolution No. 21-3298 is estimate to be \$66,343 for the remainder of Fiscal Year 2020-2021 if Mr. Jackson works 40 hours/week from February 1, 2021 to June 30, 2021, which is approximately 880 hours and less than the 960 hours authorized by California Government Code Sections 7522.56(d) and 21221(h). Salary and benefits for Mr. Jackson's former position of Deputy Fire Chief are fully budgeted in the Fiscal Year 2020-2021 Budget. These additional monies will be used to fund Mr. Jackson's part-time employment pursuant to California Government Code Sections 7522.56(d) and 21221(h).

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 21-3298 making certain findings for an exception to the 180-day wait period pursuant to California Government Code Sections 7522.56 and 21221(h) allowing retired Deputy Fire Chief Jackson to be hired for temporary part-time employment as Interim Deputy Fire Chief.

**RESOLUTION NO. 21-3298**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MONTCLAIR MAKING CERTAIN FINDINGS FOR AN  
EXCEPTION TO THE 180-DAY WAIT PERIOD PURSUANT  
TO GOVERNMENT CODE SECTIONS 7522.56 AND 21221**

**WHEREAS**, in compliance with Government Code Section 7255.565, the City of Montclair must provide the California Public Employees Retirement System (CalPERS) this certification resolution when hiring a retiree before 180 days have passed since his or her retirement; and

**WHEREAS**, Steven Jackson, CalPERS ID No. 7071217002, retired from the City of Montclair in the position of Deputy Fire Chief effective December 30, 2020; and

**WHEREAS**, Government Code Section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is June 30, 2021, without this certification; and

**WHEREAS**, Section 7522.56 provides that this exception to the 180-day wait period shall not apply if the retiree accepts any retirement-related incentive; and

**WHEREAS**, the City Council of the City of Montclair hereby appoints Steven Jackson as a Retired Annuitant – Interim Deputy Fire Chief to perform the duties of the Deputy Fire Chief while the City conducts a recruitment for a new, permanent Deputy Fire Chief for the City of Montclair under Government Code Sections 7522 & 21221 effective February 1, 2021; and

**WHEREAS**, the entire employment agreement, contract, or appointment document between Steve Jackson and the City of Montclair has been reviewed by the body and is attached herein as “Exhibit A”; and

**WHEREAS**, no matters, issues, terms, or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

**WHEREAS**, the employment shall be limited to 960 hours per fiscal year; and

**WHEREAS**, the appointment of Mr. Jackson to the Interim Deputy Fire Chief position shall terminate no later than June 30, 2021; and

**WHEREAS**, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

**WHEREAS**, the maximum monthly base salary for the Deputy Fire Chief Position is \$13,067 and the hourly equivalent is \$75.39, and the minimum monthly base salary for the position is \$10,750 and the hourly equivalent is \$62.02; and

**WHEREAS**, the hourly rate to be paid to Steven Jackson will be \$75.39; and

**WHEREAS**, Steven Jackson has not and will not receive any other benefit, incentive, compensation in lieu of benefit, or other form of compensation in addition to this hourly rate.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby certifies the nature of the appointment of Steven Jackson as described herein and detailed in the attached employment agreement/contract/appointment document and that this appointment is necessary to fill the critically needed position of Interim Deputy Fire Chief until such time that the recruitment for the City of Montclair’s new, permanent Deputy Fire Chief is completed.

**APPROVED AND ADOPTED** this XX day of XX, 2021.

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Mayor

**ATTEST:**

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City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 21-3298 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, 2021, and that it was adopted by the following vote, to-wit:

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

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Andrea M. Phillips  
City Clerk



# MEMORANDUM

**DATE:** January 11, 2021

**TO:** Edward C. Starr, City Manager

**FROM:** Jon F. Hamilton, Director of Admin. Services & Human Resources

**SUBJECT:** **PERSONNEL AUTHORIZATION: REQUEST TO HIRE STEVEN JACKSON INTO THE PART-TIME, TEMPORARY RETIRED ANNUITANT POSITION OF INTERIM DEPUTY FIRE CHIEF**

On December 1, 2020, Deputy Fire Chief Steven Jackson announced his retirement from the City of Montclair effective December 30, 2020, after a 30-year career. Mr. Jackson developed a deep level of experience, knowledge and professionalism to lead the Fire Department since July 28, 2014, when he was promoted from Fire Battalion Chief to Deputy Fire Chief. Mr. Jackson's loss of leadership is having a dramatic impact on the ability for the Fire Department to continue its mission and will continue to have an impact until such time that the City is effectively able to recruit a successful candidate to fill his now-vacant position.

Mr. Jackson's 30-years of experience are vital and essential to the continued success of the City's Fire Department during this recruitment and transitional period. Hiring Mr. Jackson into the part-time, temporary retired annuitant position of Interim Deputy Fire Chief will provide a sufficient amount of time for the City to seek applicants for the vacated position of Deputy Fire Chief, test and interview successful applicants, to select a candidate to then begin the rigorous police background check, and provide a short period of time for Mr. Jackson to train the individual ultimately selected to be the City's next Deputy Fire Chief. This process is expected to be completed on or before June 30, 2021. Although state law permits a CalPERS retired annuitant to work up to 960-hours per fiscal year, it is anticipated that Mr. Jackson will work less than 900-hours for the remaining part of this current fiscal year.

Rehiring Mr. Jackson into the position of part-time, temporary retired annuitant Interim Deputy Fire Chief is authorized by California Government Code §§ 7522.56 and 21221(h) because:

- The vacant Deputy Fire Chief position is the department/division head of the City's Fire Department, a division of the City's Public Safety Department;
- The City has in place an active recruitment for Mr. Jackson's permanent replacement for the vacant Deputy Fire Chief Position;



- Mr. Jackson's appointment as the City's Interim Deputy Fire Chief will be for a limited and specific period of time commencing on February 1, 2021 and ending on or before June 30, 2021;
- Mr. Jackson has not been previously appointed to the part-time, temporary retired annuitant position of Interim Deputy Fire Chief and, at the expiration of the specific period of time listed above, will not be re-appointed in the event the City has not found a suitable permanent replacement for the now-vacant Deputy Fire Chief position;
- Mr. Jackson's hourly rate of pay will not be less than the minimum or exceed the maximum for the vacant Deputy Fire Chief Position (\$10,705 to \$13,067 per month), which, when divided by 173.333, provides the hourly equivalent salary range of \$62.02 to \$75.39; and
- Mr. Jackson will not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to his hourly rate of pay connected to this part-time, temporary Interim Deputy Fire Chief appointment.

California Government Code § 7522.56 provides that a retired person shall not be eligible to be employed for a period of 180 days following the date of his/her retirement unless City Council certifies the nature of Mr. Jackson's employment and appointment as the Interim Deputy Fire Chief. The City Council must deem Mr. Jackson's appointment as the Interim Deputy Fire Chief is necessary to fill a critically needed position before the 180 days have passed and must approve such appointment in a public meeting. On January 19, 2021, the City Council will consider a Resolution certifying the need to rehire Mr. Jackson in this part-time, temporary Interim Fire Chief position and, therefore, this request for authorization to hire Mr. Jackson is conditioned on City Council's consideration, determination and certification of proposed Resolution No. 21-3298. If City Council adopts Resolution No. 21-3298, Mr. Jackson will be hired into the part-time, temporary retired annuitant Interim Fire Chief position effective February 1, 2021. This Personnel Authorization shall serve as the appointment document between Mr. Jackson and the City of Montclair, which shall be attached as Exhibit A for City Council's consideration of Resolution No. 21-3298.

Therefore, on consideration that City Council adopts Resolution No. 21-3298 on January 19, 2021, authorization is being requested to hire Mr. Jackson as a retired annuitant into a temporary, part-time position of Interim Deputy Fire Chief effective February 1, 2021, at the rate of \$75.39/hour, which shall be added as Step "E" to a newly created part-time Interim Deputy Fire Chief position on the City's salary schedule. There will be no amount designated as Step "A," "B," "C," or "D."

c: Personnel File

OK, [Signature]  
01/07/2021

"EXHIBIT A"

MONTCLAIR CITY COUNCIL MEETING - 01/19/2021

Resolution No. 21-3298