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

AGENDA

Monday, March 1, 2021
7:00 p.m.

Zoom Link: https://zoom.us/j/93717150550
Dial Number: 1-(669)-900-6833
Meeting ID: 937-1715-0550

*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. 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. Additional instructions for participating in this meeting are provided at the end of the agenda.*

Audio recordings of the CC/SA/MHC/MHA/MCF meetings are available on the City's website at 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. 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. Regular Joint Meeting — February 16, 2021 [CC/SA/MHC/MHA/MCF]

C. City Manager/Executive Director

D. Mayor/Chairperson

E. Council Members/Directors

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

XIII. CLOSED SESSION

XIV. CLOSED SESSION ANNOUNCEMENTS

XV. ADJOURNMENT

The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, March 15, 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 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 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. 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, February 25, 2021.

NOTICE

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

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

LISTEN TO THE MEETING LIVE VIA ZOOM

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

https://zoom.us/j/93717150550

LISTEN TO THE MEETING LIVE VIA TELEPHONE

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

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

Meeting ID: **937 1715 0550**

ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING.
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 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 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 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), via e-mail (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.

CITY COUNCIL
AGENDA REPORT

DATE:	MARCH 1, 2021	**FILE I.D.:**	EQS225
SECTION:	CONSENT - ADMIN. REPORTS	**DEPT.:**	POLICE
ITEM NO.:	1	**PREPARER:**	B. KUMANSKI

SUBJECT: CONSIDER AUTHORIZING A $51,716.12 APPROPRIATION FROM THE COVID-19 FUND TO PURCHASE A REPLACEMENT HARDWIRED UNINTERRUPTIBLE POWER SUPPLY FOR THE POLICE DEPARTMENT SERVER ROOM, DISPATCH, RADIO, AND 9-1-1 SYSTEM

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing a $51,716.12 appropriation from the COVID-19 Fund for the purchase of a replacement hardwired uninterruptible power supply (UPS) that protects the Police Department's server room, Dispatch Center, radio communications, and 9-1-1 system. The current power supply failed during a recent power outage on February 2, 2021, at approximately 7:00 p.m. and is obsolete and beyond repair.

BACKGROUND: On February 2, 2021, at approximately 7:00 p.m., the Police Department, and several surrounding blocks, experienced a power outage that lasted for several hours. At the onset of the outage, all systems powered down, including those protected by the backup UPS system. The Police Department is protected by a built-in, hardwired 40kVA UPS in which all power for the server room (which houses all of the internal systems such as phones, door controls, and computer connectivity for all of the Department's computers), the Dispatch Center, hardwired radio communication systems to include the "doomsday" backup, and the incoming 9-1-1 systems flow. This UPS is designed to provide uninterrupted power in the event of an outage and maintain those systems until the Department's backup generators take over. The system is integral to the electrical system of the building and is an essential component of the Department's backup power system. Once a power outage is detected, the generators take approximately 30-60 seconds to start and synchronize their speed before the automatic transfer switch begins producing power. The UPS provides uninterrupted power during this start-up process, and without it, all major systems would shut down during an outage. In the event of a generator failure, the UPS is capable of operating these critical functions for approximately 90 minutes before their internal power storage is exhausted.

It is unknown if a power surge accompanied the outage, but for an unknown reason two control boards within the UPS were damaged, causing it to not function, and all of the servers, phones, radios within Dispatch, and the 9-1-1 system turned off and failed to reboot properly once the generators came online. This was due to the systems shutting down in an abrupt manner instead of a controlled process. These systems suffered driver issues, firmware issues, and some were physically damaged including the fire suppression system in Dispatch.

Communication with the patrol units was also compromised when the outage occurred. Officers were on a high-risk traffic stop and were unable to communicate with Dispatch for several minutes while they determined what happened and retrieved backup handheld radios. Dispatch continued to use handheld radios as their console radios were still not functional even after the generator came online. Power was restored a short time after the initial outage, but went down a few moments later causing any systems that were brought back online to shut down again. It took Information

Technology Services, Public Works, and AT&T staff several hours to bring everything back online, during which time, all 9-1-1 calls were forwarded to the Chino Police Department and all other calls went unanswered.

Due to the exigent nature of the failure, Public Works in conjunction with Information Technology Services staff reached out to our regular contracted UPS vendor, UPSCO, to troubleshoot the unit. It was this examination that revealed the internal damage to the control boards, which incidentally have been replaced once before following a prior failure. The UPS was originally purchased and installed during construction of the Police Station and is nearly 12 years old. It is no longer produced and has been discontinued. Due to the age of the unit, parts are not readily available, and the parts that are available are significantly more costly to acquire than their value. In addition, repair of the 12-year-old UPS would not be guaranteed as the manufacturer has stopped supporting it. Although similar in specifications, a new UPS would be of a different design, which is more modular and upgrades and repairs can be made in segments. This allows for damaged or obsolete parts to be upgraded more easily without removing the entire unit due to obsolescence. This has the potential to increase the overall value of the unit through potential overall service life and decreased major repair costs.

UPSCO provided a quote of $45,591.12 for a 40kVA Liebert EXM UPS that matches the existing UPS specifications. UPSCO requires a licensed electrical contractor to connect the unit to the existing building wiring once the physical unit is installed. Public Works contacted Rymax Electric, Inc., which is a regular electrical contractor for the City, and was quoted $6,125 for the connection cost.

This electrical interruption event illustrated both how integral and important the UPS is to our overall backup solution, and how not having a working system in place significantly cripples our ability to function. This power event affected only the Police Department, and our ability to perform routine first responder duties was hampered. In the event of a disaster affecting a broader area, the Department would be strained to inefficacy. Without a functioning UPS, any future power failure, even a minor surge lasting a few seconds, would take down all of these systems again, potentially causing additional damage to system components and hindering the Department's ability to provide first-responder services, including the handling of 9-1-1 calls for police, fire, and EMS services.

Although the cost to replace the UPS would normally require a competitive bid process, the urgency of this repair necessitates quick action to rectify. Both UPSCO and Rymax are vetted vendors for the City and have performed numerous contracts for the City. For prior projects requiring bids, both have been competitive and often have been the lowest bidder. One recent example is the previous battery service for the UPS—UPSCO provided a bid for this service and was selected for having the lowest cost for the quality battery selected. Acquisition of the UPS will take between three and five weeks due to the somewhat specialized nature of the device. Any delays beyond this significantly add to the potential of another unplanned power event crippling operations.

FISCAL IMPACT: If authorized by the City Council, funding for a replacement UPS would result in an appropriation from the COVID-19 General Fund Account No. 1001-4202-52080-400-00000 in the amount of $51,716.12.

RECOMMENDATION: Staff recommends that the City Council authorize a $51,716.12 appropriation from the COVID-19 Fund to purchase a replacement hardwired uninterruptible power supply for the Police Department's server room, Dispatch Center, radio communications, and 9-1-1 system.

CITY COUNCIL
AGENDA REPORT

DATE:	MARCH 1, 2021	**FILE I.D.:**	PER020/PUB140
SECTION:	CONSENT - ADMIN. REPORTS	**DEPT.:**	ADMIN. SVCS.
ITEM NO.:	2	**PREPARER:**	J. HAMILTON

SUBJECT: CONSIDER AUTHORIZATION TO CREATE THE POSITION OF ASSISTANT ENGINEER IN THE PUBLIC WORKS DEPARTMENT

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the creation of the position of Assistant Engineer in the Public Works Department.

BACKGROUND: On October 7, 2019, the City Council approved the reorganization of the Public Works Department, which resulted in the creation of the Engineering Division Manager position and the Environmental Compliance Coordinator to ensure the Engineering Division was properly managed and that its Environmental Compliance Section was properly staffed.

The Environmental Compliance Section oversees, inspects, and monitors certain environmental compliance issues within the City such as storm water collection and discharge and pretreatment of materials disposed of through the City's sewer system. To accomplish these needs, the October 7, 2019 reorganization provided for a National Pollutant Discharge Elimination System (NPDES) Coordinator, an Environmental Compliance Coordinator, and a NPDES/Environmental Compliance Inspector. On July 30, 2020, after a 31-year career with the City, the NPDES Coordinator retired and, on November 19, 2020, the Environmental Compliance Coordinator resigned from City employment. As a result, the Engineering Division Manager, whose duties are primarily designed to handle the project management of the City's various improvement projects, began to focus more of his time to the needs of the Environmental Compliance Section, diminishing his abilities to effectively manage all of the City's projects.

Additionally, the Engineering Division Manager also has been with the City for 30 years and has indicated an intent to retire in the next 3 to 4 years. Based upon the current needs of the City, the skills of the Engineering Division Manager, and the future needs of the City, if the Engineering Division Manager could focus the majority of his time on the needs of the Environmental Compliance Section, there would be no need to replace the two Coordinator positions. Instead, one person would need to be hired to begin assuming the project management needs of the City, resulting in an overall savings.

In many cities, an entry-level assistant engineer provides for project management but also offers the additional flexibility that his/her engineering background provides. With this arrangement, the Engineering Division Manager will be able to train and transfer his years of expertise in project management to the new Assistant Engineer, ensure that the duties of the two coordinators is completed to maintain the City's compliance with environmental laws and regulations, and to train and transfer his knowledge and experience in environmental compliance to the NPDES/Environmental Compliance Inspector. Additionally, the Assistant Engineer, as he/she grows within the organization, may then progress along a traditional engineering career path with the City: assistant engineer, associate engineer, senior engineer, principal engineer, and city engineer.

The Assistant Engineer duties would include, but not be limited to: performing professional engineering work involving the research, design, and construction of public works, storm water, and wastewater utility projects; performing analytical professional engineering and technical assignments in support of City construction and environmental projects; managing the City's Capital Improvement Program; applying for grants; issuing construction and overload permits; assisting, when necessary, with environmental compliance; preparing regulatory reports; providing assistance to the public on Public Works related matters; and performing related duties as assigned. The specific job classification description shall be presented to the City Manager/Personnel Committee for review, approval, and for any subsequent modifications.

In the Fiscal Year 2020-21 Budget, the Environmental Compliance Coordinator and NPDES Coordinator were budgeted for $5,185/month and $5,716/month (Step "B" and Step "D" of the Environmental Compliance Coordinator and NPDES Coordinator pay scale, respectively), for a total of $10,901 in base salary. After considering the job duties for the Assistant Engineer position and comparative factors for considering the appropriate salary, the proposed salary schedule for Assistant Engineer is:

Assistant Engineer
Proposed Salary Schedule

A	B	C	D	E
$6,777	$7,115	$7,471	$7,845	$8,237

The Assistant Engineer will start at Step A ($6,777/month) of the above-outlined salary schedule, which is a $4,124/month savings resulting from the need to no longer hire a replacement NPDES Coordinator and Environmental Compliance Coordinator. Staff is proposing that the position of Assistant Engineer be a full-time position and initially be classified as a covered classification belonging to the Montclair City Confidential Employees' Association (MCCEA).

Because the positions of NPDES Coordinator and Environmental Compliance Coordinator will remain vacant to fund the new position of Assistant Engineer, the two Coordinator positions will be unfunded for the remainder of Fiscal Year 2020-21.

FISCAL IMPACT: The creation of the Assistant Engineer position in the Public Works Department and the unfunding of the NPDES Coordinator and Environmental Compliance Coordinator positions would not cost the City any additional money and would result in a fiscal impact of savings in the amount of $4,124/month, or $49,488 annually.

RECOMMENDATION: Staff recommends that the City Council approve the creation of the position of Assistant Engineer in the Public Works Department.

CITY COUNCIL
AGENDA REPORT

DATE:	MARCH 1, 2021	**FILE I.D.:**	FIN540
SECTION:	CONSENT - ADMIN. REPORTS	**DEPT.:**	FINANCE
ITEM NO.:	3	**PREPARER:**	L. LEW/V. FLORES

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION

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

BACKGROUND: Mayor Pro Tem Ruh has examined the Warrant Register dated March 1, 2021, and the Payroll Documentation dated January 31, 2021, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated March 1, 2021, totals $1,076,290.86; and the Payroll Documentation dated January 31, 2021 totals $707,145.82 gross, with $486,234.94 net being the total cash disbursement.

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

CITY COUNCIL
AGENDA REPORT

DATE: MARCH 1, 2021

SECTION: CONSENT - AGREEMENTS

ITEM NO.: 1

FILE I.D.: HSV070, ATH215, ATH218, ATH020

DEPT.: HUMAN SVCS.

PREPARER: F. SALTOS

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NOS. 21-08, 21-09, AND 21-10 WITH MONTCLAIR LITTLE LEAGUE AND GOLDEN GIRLS SOFTBALL LEAGUE FOR USE OF BALL FIELD FACILITIES

REASON FOR CONSIDERATION: Montclair Little League and Golden Girls Softball League have requested the use of City facilities for their spring/summer sports activities. The Leagues will follow at all times the most current and updated safety measures outlined for Moderate-Contact Sports due to COVID-19 as outlined by the California Department of Public Health in proposed Agreement Nos. 21-08, 21-09, and 21-10 with Montclair Little League and Golden Girls Softball League.

Copies of Agreement Nos. 21-08 and 21-09 with Montclair Little League and Agreement No. 21-10 with Golden Girls Softball League are attached for the City Council's review and consideration.

BACKGROUND: In September 2020, Montclair Little League was provided by the City protocols for sport conditioning and at that time, the Board elected not to pursue re-opening the League for conditioning as they felt the protocols were very demanding—in particular, the required testing for COVID-19 every two weeks. Now, as the State of California is providing fewer restrictions for Moderate-Contact Sports, Montclair Little League is requesting the use of the two southern and two northern fields at Saratoga Park and the southern field at Kingsley Park on weekdays and Saturdays for its baseball activities pursuant to Agreement Nos. 21-08 and 21-09. Pursuant to Agreement No. 21-10, Golden Girls Softball League would use the two fields at Vernon Park for its softball activities on weekdays and Saturdays. Sunday field use by all leagues is not permitted.

Montclair Little League and Golden Girls Softball League have each requested the use of lights for activities that may be conducted after dark. The cost of electrical services associated with such lighting and alarm fees will be covered by the City of Montclair. Due to COVID-19, the City will cover the costs for the cleaning of the restrooms. The Leagues are responsible to provide a deposit of $300 for a cleaning fee if needed during the contract period.

FISCAL IMPACT: Approval of the proposed Agreements would be a cost to the City of Montclair of approximately $13,000 total in lighting and alarm fees and $20,800 in restroom cleaning fees through Anthesis, for a grand total of $33,800. Maintenance costs for the fields are incorporated in the Fiscal Year 2020-21 Budget. The terms of proposed Agreement Nos. 21-08, 21-09, and 21-10 with Montclair Little League and Golden Girls Softball League are from March 2, 2021, through August 31, 2021.

RECOMMENDATION: Staff recommends the City Council approve Agreement Nos. 21-08, 21-09, and 21-10 with Montclair Little League and Golden Girls Softball League for use of ball field facilities.

AGREEMENT NO. 21-08
WITH MONTCLAIR LITTLE LEAGUE
FOR USE OF SARATOGA PARK

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Montclair Little League, hereinafter called "LEAGUE." This Agreement is contingent upon the LEAGUE fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

LEAGUE must follow at all times the most current and updated safety measures outlined below for Moderate-Contact Sports due to COVID-19 as outlined by the State of California-Health and Human Services Agency, California Department of Public Health.

1. General guidance requirements must be adhered to at all times:
    - Face coverings to be worn when not participating in the activity (e.g., on the sidelines or dug out).
    - Face coverings to be worn by coaches, support staff and **observers** at all times, and in compliance with the CDPH Guidance for the Use of Face Coverings.
    - Observers maintain at least 6 feet from non-household members.
    - No sharing of drink bottles and other personal items and equipment.
    - Mixing with other households prior to and post any practice or competition must strictly adhere to current gathering guidance.
    - Limit indoor sports activities (practice, conditioning) to comply with capacity limits (which shall include all athletes, coaches, and observers) indicated in current CDPH Gym & Fitness Center Guidance Capacity.
    - Associated indoor activities for the team (e.g., dinners, film study) are prohibited if engaged in competition given evidence that transmission is more likely to occur in these indoor higher risk settings.
    - Teams must not participate in out-of-state games and tournaments; several multistate outbreaks have been reported around the nation, including California residents.
2. Limitations on Observers
    - Limit observation of youth sports (age 18 years and under) to immediate household members, and for the strict purpose of age appropriate supervision. This includes observation of practice and competition.

- Limit number of observers to ensure physical distance (separation by 6 feet) can be maintained, reduce potential crowding, and maintain indoor and outdoor capacity limits.

- Consider Video streaming of games so that they can be watched "live" from home.

- For adult sports, spectators are not permitted at this time.

Limitations for Inter-Team Competitions and Tournaments:

- Inter-team competitions, meets, races, or similar events are permitted to occur only if (a) both teams are located in the same county and the sport is authorized in the Tables below; or (b) teams are located in immediately bordering counties and the sport is authorized in <u>both counties</u> in **Table 1** below.

    - The county-based authorizations outlined in the Table below apply to the locations/counties in which the teams, schools, clubs, leagues, and similar organizations are functionally based (e.g., where the players reside, where facilities are located, etc.).

- Teams adhere to current <u>CDPH Travel Advisory</u> recommendations when determining travel for competition in neighboring counties.

- No tournaments or events that involve more than two teams to occur.

- Only one competition, per team, per day maximum to be played.

Permitted Youth and Recreational Adult Sports by Case Rate Threshold

- Physical conditioning, practice, skill-building, and training that can be conducted outdoors, with 6 feet of physical distancing, and within stable cohorts are authorized regardless of case rate or sport. Such activities may be conducted indoors consistent with restrictions by Tier in the <u>Gym & Fitness Center Guidance Capacity</u>.

Other General Guidance

Below are other general guidance that are strongly encouraged as part of any participation in sport. Depending on risk level (high or moderate) and county case rates, these general guidance may be **required** for play of outdoor sports in less restrictive tiers, as specified below.

1. Face Coverings

    - Face coverings worn by participants during practice, conditioning and during competition, even during heavy exertion as tolerated. See the <u>American Academy of Pediatrics Interim Guidance on Return to Sports</u> [1] for specific exceptions where the face covering may become a hazard.

2. Physical Distancing

    - Maintain at least six feet of distance between sport participants and others to the maximum extent possible, including when on the sidelines.

    - Maintain at least 6 feet of distance between coaches and participants and facilitate physical distancing between participants to the maximum extent possible (e.g., staggered starts instead of mass starts for races).

3. Informed Consent

    - Due to the nature and risk of transmission while participating in Outdoor High-Contact and Moderate-Contact sports, provide information regarding risk to all parents/guardians of minors participating in such sports, and have each parent sign an informed consent indicating their understanding and acknowledgement of the risks indicated herein.

    - Similar to other required waivers, the City of Montclair will require all participants to sign waivers absolving the City of COVID-19 transmission, illness and death.

4. Testing

    - Unless required as noted below, regular and postseason antigen or PCR testing of sports participants and coaches weekly while participating in Outdoor High-Contact sports is strongly encouraged. If competing, testing performed with test results made available within 24 hours of play.

5. Hygiene and Equipment Sanitation

    - When equipment is shared during an activity, participants perform hand hygiene (wash hands with soap and water or use an alcohol-based hand sanitizer) before play, during breaks, at half time, and after the conclusion of the activity.

        - Balls or other objects or equipment can be touched by multiple players during practice and play if the above hand hygiene practices are followed.

6. Limitations on Mixing by Participants

    - Limit participation by athletes and coaches during practice and competition to one team, and refrain from participating with more than one team over the same season or time period. For larger teams, limit mixing by establishing stable smaller training groups for drills and conditioning.

- Review practice or game footage virtually, to the greatest extent possible. If not feasible, then it should be conducted outdoors, with all participants wearing face coverings and following appropriate physical distancing measures.

7. Indoor Venue Capacity Limitations

    - Ventilation in indoor venues (gyms or other fitness centers) increased to the maximum extent possible.

8. Travel Considerations

    - Bus/van travel for members of a team may pose a greater risk. To mitigate COVID-19 transmission risk during bus/van travel, employ universal masking, physical distancing and windows to remain open the full duration of the trip unless not feasible.

    - Plan for proper communication of all travel rules, protocols and expectations to everyone in the travel party. When feasible, teams should aim to travel and play the same day to avoid overnight stays.

    - Travel by private car limited to only those within the immediate household.

9. Returning to Sports After Infection

    - No one with symptoms of COVID-19 or who is in isolation or quarantine for COVID-19 is permitted to attend practices or competitions.

    - Anyone with symptoms of COVID-19 should consult their physician for testing and notify their coach, athletic trainer and/or school administrator of their symptoms and test results.

    - Youths recovering from COVID-19 will have different paths to return to sports based on the severity of their illness. See the American Academy of Pediatrics Interim Guidance on Return to Sports for additional guidance for more serious infections.

10. Vaccination of Eligible Households

    - Sports participants, including coaches and support staff, are strongly encouraged to be vaccinated once eligible as vaccines will protect residents and reduce the likelihood of transmission from infected persons to others.

Table 1
Youth and Adult Recreational Sports
As Permitted by Current Tier of County

Widespread Tier 1 (Purple)	Substantial Tier 2 (Red)	Moderate Tier 3 (Orange)	Minimal Tier 4 (Yellow)
Outdoor *low-contact sports* • Archery • Badminton (singles) • Biking • Bocce • Corn hole • Cross country • Dance (no contact) • Disc golf • Equestrian events (including rodeos) that involve only a single rider at a time • Fencing • Golf • Ice and roller skating (no contact) • Lawn bowling • Martial arts (no contact) • Physical training programs (e.g., yoga, Zumba, Tai chi) • Pickleball (singles) • Rowing/crew (with 1 person) • Running • Shuffleboard • Skeet shooting • Skiing and snowboarding • Snowshoeing • Swimming and diving • Tennis (singles) • Track and field • Walking and hiking	*Outdoor* *moderate-contact sports* • Badminton (doubles) • Baseball • Cheerleading • Dodgeball • Field hockey • Gymnastics • Kickball • Lacrosse (girls/women) • Pickleball (doubles) • Softball • Tennis (doubles) • Volleyball	*Outdoor* *high-contact sports* • Basketball • Football • Ice hockey • Lacrosse (boys/men) • Rugby • Rowing/crew (with 2 or more people) • Soccer • Water polo *Indoor* *low-contact sports* • Badminton (singles) • Curling • Dance (no contact) • Gymnastics • Ice skating (individual) • Physical training • Pickleball (singles) • Swimming and diving • Tennis (singles) • Track and field • Bowling	*Indoor* *moderate-contact sports* • Badminton (doubles) • Cheerleading • Dance (intermittent contact) • Dodgeball • Kickball • Pickleball (doubles) • Racquetball • Squash • Tennis (doubles) • Volleyball *Indoor* *high-contact sports* • Basketball • Boxing • Ice hockey • Ice skating (pairs) • Martial arts • Roller derby • Soccer • Water polo • Wrestling

Play in Less Restrictive Tiers — Outdoor High-Contact Sports. Outdoor high-contact sports (orange tier) can be played in the purple or red tier with an adjusted case rate equal to or less than 14 per 100,000 under the following conditions:

1. Implement and strictly adhere to the following additional general guidance:

    - Informed Consent

    - Testing – antigen or PCR (regular and postseason antigen or PCR testing of sports participants and coaches weekly. If competing, testing performed with test results made available within 24 hours of play). Testing shall only apply in the following situations:

        - For football, rugby and water polo as these are high contact sports that are likely to be played unmasked, with close, face to face contact exceeding 15 minutes.
        - When adjusted case rates for the county are between 14-7 per 100,000.
        - For sport participants 13 years of age or above as evidence shows that younger children do not seem to be major sources of transmission—either to each other or to adults.
        - If more than 50% of a team's participants are less than the age of 13 (and are not required to test per the above), then the entire team is exempted from the testing requirement. Coaches, however, will still be required to meet the testing requirement.

Play in Less Restrictive Tiers — Outdoor Moderate-Contact Sports. Outdoor moderate-contact sports (red tier) can be played in the purple tier with an adjusted case rate equal to or less than 14 per 100,000 under the following conditions:

- Informed Consent

- The following general guidance are strongly encouraged:

    - Face Coverings (during play)
    - Physical Distancing (during play)
    - Hygiene and Sanitation
    - Limitations on mixing by participants
    - Travel Considerations

<u>If competition for high- and moderate-contact sports is permitted to resume in a county pursuant to this updated guidance, competition is not required to cease if the county's adjusted case rate exceeds the 14 per 100,000 threshold.</u>

WITNESSETH:

WHEREAS, CITY presently has baseball fields in Saratoga Park (two northern and two southern fields) generally located at the southwest corner of Vernon Avenue and Kingsley Street, Montclair, California, and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for Little League baseball (including the Challenger Division for children with disabilities) conditioning at such times and hours set forth in Section 1(aa). The term of this Agreement is for March 2, 2021 through August 31, 2021.

SECTION 1: LEAGUE hereby agrees as follows:

a. Provide CITY a list of all your participants and coaches. All must sign CITY approved waiver and submit to CITY liaison prior to participating.

b. Not to use the premises for any other purpose, except as above indicated.

c. Not to sublet the field.

d. Not to make any improvements or alterations on said premises.

e. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.

f. Not to erect any barriers or fences of any kind unless approved by CITY.

g. Not to use herbicides at the park for any purpose.

h. Not to disconnect or make changes to existing phone line account.

i. Not to allow hitting balls into the chain link fences for batting practice.

j. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.

k. To provide a special parking area for participants in the Challenger Division, at the times of their games, by cordoning off the southeast portion of the parking lot; to provide the equipment and personnel needed to set up the special parking area; to see that all equipment is removed and properly stored after each use; to provide personnel to monitor the cordoned off area during its use.

l. CITY to maintain restroom facilities and CITY to furnish all supplies for each well- maintained restroom. LEAGUE to police the entire premises after each day's use and pick up all paper, trash, and other debris that may have

accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.

m. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.

n. To ensure when a barbecue is used (a permit is required to be obtained by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.

o. To deposit, with the CITY representative, the sum of Three Hundred Dollars ($300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.

p. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snack bar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.

q. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.

r. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandal-ism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 909-625-9429 and report vandalism immediately to the Public Works

Department at 909-625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.

s. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.

t. To deposit, with the CITY representative, the sum of Five Hundred Dollars ($500) as a security deposit, to ensure the proper and prompt payment of any incurred damages to facilities associated with the LEAGUE. In the event all potential damages are paid by the end of this Agreement term, the deposit will be refunded.

u. To provide the CITY representative with a list of the Board of Directors, including names, addresses, and telephone numbers.

v. To provide CITY with participant rosters, practice and game schedules. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.

w. To provide CITY with financial statements upon request for audit purposes.

x. To designate one individual as the LEAGUE's representative to work with the CITY's representative.

y. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency, of which LEAGUE had knowledge.

aa. It is agreed that LEAGUE may use said baseball fields from March 2, 2021, through August 31, 2021, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays, generally commencing at 8:00 a.m. No games or activities will be conducted past 9:45 p.m.

bb. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept, in full force and effect, for the mutual benefit of CITY and LEAGUE, comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars ($1,000,000) for bodily injury or death to any one person or for any one accident or occurrence, and at least Three Hundred Thousand Dollars ($300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and non contributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or

materially changed except after thirty (30) days' notice, in writing, by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them or certificate(s) evidencing the insurance.

cc. INDEMNIFICATION: LEAGUE shall defend, indemnify and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.

dd. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.

ee. To conduct all operations in compliance with the Americans with Disabilities Act.

ff. The use of City facilities for room reservations by the LEAGUE are not available at this time. In the event they become available the City will notify LEAGUE. City recommends Zoom meetings.

gg. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3 feet by 5 feet. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2 inches. The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc., and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.

hh. LEAGUE may place shade cloth as necessary to dug outs on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Shade cloth is not allowed to stay up on Sundays. Shade cloth must be no greater than what may be required to provide adequate coverage over dug outs. Shade cloth will be attached to dug out structure using clip on rings. The City will determine if a shade cloth is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said shade cloth. The CITY has the right to remove and dispose of any shade cloth that is not displayed following the above mentioned procedures. If LEAGUE does not remove or replace shade cloth as requested by CITY within 24 hours, CITY may prohibit use of fields and snack bar facilities to LEAGUE until request has been met.

ii. Locks are issued by the City to secure areas of the park and have access to those areas such as snack bar shutters for maintenance. If locks are needed to replace a lost or damaged lock contact the City immediately. The League at no time shall use personal locks to secure any area. If a personal lock is found the League will be notified and will have 24 hours to remove it. If not removed the City will remove it by any means necessary and the City will not be held responsible for the League's lock.

SECTION 2: CITY hereby agrees as follows:

a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.

b. To pay for all water used on premises.

c. To have full control over watering the entire premises. LEAGUE shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.

d. To provide emergency call-out telephone numbers for use by LEAGUE. A Contact List containing the emergency telephone numbers is attached.

e. To provide to LEAGUE, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.

f. Upon approval of the Director of Human Services, LEAGUE's cleaning deposit shall rollover any unused monies into the next Agreement.

g. To designate a CITY representative to work with LEAGUE on all non-maintenance issues relating to the use of CITY facilities.

h. To provide alarm service at no charge to LEAGUE.

[SIGNATURES ON FOLLOWING PAGE]

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities.

APPROVED AND ADOPTED this _____ day of _____, 2021.

LEAGUE:	**CITY:**
MONTCLAIR LITTLE LEAGUE	**CITY OF MONTCLAIR**
_____	_____
Name: President	Javier John Dutrey Mayor
	ATTEST:
_____	_____
Name: Secretary	Andrea M. Phillips City Clerk

CITY OF MONTCLAIR

CONTACT LIST FOR SPORTS LEAGUES

MARCH 2021

Reason for Contact	Authority	Contact	Telephone Number
After-Hours/ Emergency	Montclair Police Department	Dispatch	(909) 621-4771 9-1-1 (Emergency)
Sports League Administration	City's Sports League Liaison	Fernando Saltos	(909) 625-9496
Building Maintenance	Building Maintenance Supervisor	Mathew Paradis	(909) 625-9443 Cell: (909) 721-1860
Grounds Maintenance	Asst. Public Works Superintendent	Jim Diaz	(909) 625-9466 Cell: (909) 721-1775
Vandalism	Public Works Department		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429

AGREEMENT NO. 21-09
WITH MONTCLAIR LITTLE LEAGUE
FOR USE OF KINGSLEY PARK

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Montclair Little League, hereinafter called "LEAGUE." This Agreement is contingent upon the LEAGUE fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

LEAGUE must follow at all times the most current and updated safety measures outlined below for Moderate-Contact Sports due to COVID-19 as outlined by the State of California-Health and Human Services Agency, California Department of Public Health.

1. General guidance requirements must be adhered to at all times:

    - Face coverings to be worn when not participating in the activity (e.g., on the sidelines or dug out).

    - Face coverings to be worn by coaches, support staff and **observers** at all times, and in compliance with the CDPH Guidance for the Use of Face Coverings.

    - Observers maintain at least 6 feet from non-household members.

    - No sharing of drink bottles and other personal items and equipment.

    - Mixing with other households prior to and post any practice or competition must strictly adhere to current gathering guidance.

    - Limit indoor sports activities (practice, conditioning) to comply with capacity limits (which shall include all athletes, coaches, and observers) indicated in current CDPH Gym & Fitness Center Guidance Capacity.

    - Associated indoor activities for the team (e.g., dinners, film study) are prohibited if engaged in competition given evidence that transmission is more likely to occur in these indoor higher risk settings.

    - Teams must not participate in out-of-state games and tournaments; several multistate outbreaks have been reported around the nation, including California residents.

2. Limitations on Observers

    - Limit observation of youth sports (age 18 years and under) to immediate household members, and for the strict purpose of age appropriate supervision. This includes observation of practice and competition.

- Limit number of observers to ensure physical distance (separation by 6 feet) can be maintained, reduce potential crowding, and maintain indoor and outdoor capacity limits.

- Consider Video streaming of games so that they can be watched "live" from home.

- For adult sports, spectators are not permitted at this time.

Limitations for Inter-Team Competitions and Tournaments:

- Inter-team competitions, meets, races, or similar events are permitted to occur only if (a) both teams are located in the same county and the sport is authorized in the Tables below; or (b) teams are located in immediately bordering counties and the sport is authorized in <u>both counties</u> in **Table 1** below.

    - The county-based authorizations outlined in the Table below apply to the locations/counties in which the teams, schools, clubs, leagues, and similar organizations are functionally based (e.g., where the players reside, where facilities are located, etc.).

- Teams adhere to current <u>CDPH Travel Advisory</u> recommendations when determining travel for competition in neighboring counties.

- No tournaments or events that involve more than two teams to occur.

- Only one competition, per team, per day maximum to be played.

Permitted Youth and Recreational Adult Sports by Case Rate Threshold

- Physical conditioning, practice, skill-building, and training that can be conducted outdoors, with 6 feet of physical distancing, and within stable cohorts are authorized regardless of case rate or sport. Such activities may be conducted indoors consistent with restrictions by Tier in the <u>Gym & Fitness Center Guidance Capacity</u>.

Other General Guidance

Below are other general guidance that are strongly encouraged as part of any participation in sport. Depending on risk level (high or moderate) and county case rates, these general guidance may be **required** for play of outdoor sports in less restrictive tiers, as specified below.

1. Face Coverings

    - Face coverings worn by participants during practice, conditioning and during competition, even during heavy exertion as tolerated. See the <u>American Academy of Pediatrics Interim Guidance on Return to Sports</u> [1] for specific exceptions where the face covering may become a hazard.

2. Physical Distancing

    - Maintain at least six feet of distance between sport participants and others to the maximum extent possible, including when on the sidelines.

    - Maintain at least 6 feet of distance between coaches and participants and facilitate physical distancing between participants to the maximum extent possible (e.g., staggered starts instead of mass starts for races).

3. Informed Consent

    - Due to the nature and risk of transmission while participating in Outdoor High-Contact and Moderate-Contact sports, provide information regarding risk to all parents/guardians of minors participating in such sports, and have each parent sign an informed consent indicating their understanding and acknowledgement of the risks indicated herein.

    - Similar to other required waivers, the City of Montclair will require all participants to sign waivers absolving the City of COVID-19 transmission, illness and death.

4. Testing

    - Unless required as noted below, regular and postseason antigen or PCR testing of sports participants and coaches weekly while participating in Outdoor High-Contact sports is strongly encouraged. If competing, testing performed with test results made available within 24 hours of play.

5. Hygiene and Equipment Sanitation

    - When equipment is shared during an activity, participants perform hand hygiene (wash hands with soap and water or use an alcohol-based hand sanitizer) before play, during breaks, at half time, and after the conclusion of the activity.

        - Balls or other objects or equipment can be touched by multiple players during practice and play if the above hand hygiene practices are followed.

6. Limitations on Mixing by Participants

    - Limit participation by athletes and coaches during practice and competition to one team, and refrain from participating with more than one team over the same season or time period. For larger teams, limit mixing by establishing stable smaller training groups for drills and conditioning.

- Review practice or game footage virtually, to the greatest extent possible. If not feasible, then it should be conducted outdoors, with all participants wearing face coverings and following appropriate physical distancing measures.

7. Indoor Venue Capacity Limitations

    - Ventilation in indoor venues (gyms or other fitness centers) increased to the maximum extent possible.

8. Travel Considerations

    - Bus/van travel for members of a team may pose a greater risk. To mitigate COVID-19 transmission risk during bus/van travel, employ universal masking, physical distancing and windows to remain open the full duration of the trip unless not feasible.

    - Plan for proper communication of all travel rules, protocols and expectations to everyone in the travel party. When feasible, teams should aim to travel and play the same day to avoid overnight stays.

    - Travel by private car limited to only those within the immediate household.

9. Returning to Sports After Infection

    - No one with symptoms of COVID-19 or who is in isolation or quarantine for COVID-19 is permitted to attend practices or competitions.

    - Anyone with symptoms of COVID-19 should consult their physician for testing and notify their coach, athletic trainer and/or school administrator of their symptoms and test results.

    - Youths recovering from COVID-19 will have different paths to return to sports based on the severity of their illness. See the American Academy of Pediatrics Interim Guidance on Return to Sports for additional guidance for more serious infections.

10. Vaccination of Eligible Households

    - Sports participants, including coaches and support staff, are strongly encouraged to be vaccinated once eligible as vaccines will protect residents and reduce the likelihood of transmission from infected persons to others.

Table 1
Youth and Adult Recreational Sports
As Permitted by Current Tier of County

Widespread Tier 1 (Purple)	Substantial Tier 2 (Red)	Moderate Tier 3 (Orange)	Minimal Tier 4 (Yellow)
Outdoor *low-contact sports* • Archery • Badminton (singles) • Biking • Bocce • Corn hole • Cross country • Dance (no contact) • Disc golf • Equestrian events (including rodeos) that involve only a single rider at a time • Fencing • Golf • Ice and roller skating (no contact) • Lawn bowling • Martial arts (no contact) • Physical training programs (e.g., yoga, Zumba, Tai chi) • Pickleball (singles) • Rowing/crew (with 1 person) • Running • Shuffleboard • Skeet shooting • Skiing and snowboarding • Snowshoeing • Swimming and diving • Tennis (singles) • Track and field • Walking and hiking	*Outdoor* *moderate-contact sports* • Badminton (doubles) • Baseball • Cheerleading • Dodgeball • Field hockey • Gymnastics • Kickball • Lacrosse (girls/women) • Pickleball (doubles) • Softball • Tennis (doubles) • Volleyball	*Outdoor* *high-contact sports* • Basketball • Football • Ice hockey • Lacrosse (boys/men) • Rugby • Rowing/crew (with 2 or more people) • Soccer • Water polo *Indoor* *low-contact sports* • Badminton (singles) • Curling • Dance (no contact) • Gymnastics • Ice skating (individual) • Physical training • Pickleball (singles) • Swimming and diving • Tennis (singles) • Track and field • Bowling	*Indoor* *moderate-contact sports* • Badminton (doubles) • Cheerleading • Dance (intermittent contact) • Dodgeball • Kickball • Pickleball (doubles) • Racquetball • Squash • Tennis (doubles) • Volleyball *Indoor* *high-contact sports* • Basketball • Boxing • Ice hockey • Ice skating (pairs) • Martial arts • Roller derby • Soccer • Water polo • Wrestling

Play in Less Restrictive Tiers — Outdoor High-Contact Sports. Outdoor high-contact sports (orange tier) can be played in the purple or red tier with an adjusted case rate equal to or less than 14 per 100,000 under the following conditions:

1. Implement and strictly adhere to the following additional general guidance:

    - Informed Consent

    - Testing – antigen or PCR (regular and postseason antigen or PCR testing of sports participants and coaches weekly. If competing, testing performed with test results made available within 24 hours of play). Testing shall only apply in the following situations:

        - For football, rugby and water polo as these are high contact sports that are likely to be played unmasked, with close, face to face contact exceeding 15 minutes.
        - When adjusted case rates for the county are between 14-7 per 100,000.
        - For sport participants 13 years of age or above as evidence shows that younger children do not seem to be major sources of transmission—either to each other or to adults.
        - If more than 50% of a team's participants are less than the age of 13 (and are not required to test per the above), then the entire team is exempted from the testing requirement. Coaches, however, will still be required to meet the testing requirement.

Play in Less Restrictive Tiers — Outdoor Moderate-Contact Sports. Outdoor moderate-contact sports (red tier) can be played in the purple tier with an adjusted case rate equal to or less than 14 per 100,000 under the following conditions:

- Informed Consent

- The following general guidance are strongly encouraged:

    - Face Coverings (during play)
    - Physical Distancing (during play)
    - Hygiene and Sanitation
    - Limitations on mixing by participants
    - Travel Considerations

<u>If competition for high- and moderate-contact sports is permitted to resume in a county pursuant to this updated guidance, competition is not required to cease if the county's adjusted case rate exceeds the 14 per 100,000 threshold.</u>

WITNESSETH:

WHEREAS, CITY presently has a baseball field generally located at the northwest end of Kingsley Elementary School at Benson Avenue and Kingsley Street, Montclair, California, and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for Junior/Senior Little League baseball conditioning at such times and hours set forth in Section 1(y). The term of this Agreement is for March 2, 2021 through August 31, 2021.

SECTION 1: LEAGUE hereby agrees as follows:

a. Provide CITY a list of all your participants and coaches. All must sign CITY approved waiver and submit to CITY liaison prior to participating.

b. Not to use the premises for any other purpose, except as above indicated.

c. Not to sublet the field.

d. Not to make any improvements or alterations on said premises.

e. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.

f. Not to erect any barriers or fences of any kind unless approved by CITY.

g. Not to use herbicides at the park for any purpose.

h. Not to disconnect or make changes to existing phone line account.

i. Not to allow hitting balls into the chain link fences for batting practice.

j. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.

k. CITY to maintain restroom facilities and CITY to furnish all supplies for each well- maintained restroom. LEAGUE to police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.

l. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.

m. To ensure when a barbecue is used (a permit is required to be obtained by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.

n. To deposit, with the CITY representative, the sum of Three Hundred Dollars ($300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, meeting areas, towers, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.

o. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snack bar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.

p. To follow proper call-out procedures in an emergency (an urgent need for assistance or some type of immediate action) by using only telephone numbers issued for this purpose. A Contact List containing the emergency telephone numbers is attached.

q. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 909-625-9429 and report vandalism immediately to the Public Works Department at 909-625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.

r. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.

s. To deposit, with the CITY representative, the sum of Five Hundred Dollars ($500) as a security deposit, to ensure the proper and prompt payment of any incurred damages to facilities associated with the LEAGUE. In the event all potential damages are paid by the end of this Agreement term, the deposit will be refunded.

t. To provide the CITY representative with a list of the Board of Directors including names, addresses, and telephone numbers.

u. To provide CITY with participant rosters, and conditioning schedules. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.

v. To provide CITY with financial statements upon request for audit purposes.

w. To designate one individual as the LEAGUE's representative to work with the CITY's representative.

x. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency of which LEAGUE had knowledge.

y. It is agreed that LEAGUE may use said baseball fields from March 2, 2021, through August 31, 2021, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m.. No games or activities will be conducted past 9:45 p.m.

z. PUBLIC LIABILITY AND PROPERTY DAMAGE: Throughout the term of this Agreement, at LEAGUE's sole cost and expense, LEAGUE shall keep, or cause to be kept in full force and effect for the mutual benefit of CITY and LEAGUE comprehensive, broad form, general public liability insurance against claims and liabilities for personal injury, death, or property providing proof of at least One Million Dollars ($1,000,000) for bodily injury or death to any one person or for any one accident or occurrence and at least Three Hundred Thousand Dollars ($300,000) for property damage. All insurance required by this Agreement shall be carried only by responsible insurance companies duly admitted to transact business in the State of California and shall name as additional insured the CITY, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer and the insured waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' notice in writing by the insurer to CITY by certified mail. LEAGUE shall furnish CITY with copies of such policies promptly upon receipt of them, or certificate(s) evidencing the insurance.

aa. INDEMNIFICATION: LEAGUE shall defend, indemnify, and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property including the payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages to the maximum extent permitted by law.

bb. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.

cc. To conduct all operations in compliance with the Americans with Disabilities Act.

dd. The use of City facilities for room reservations by the LEAGUE are not available at this time. In the event they become available the City will notify LEAGUE. City recommends Zoom meetings.

ee. LEAGUE may place banners up on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Banners are not allowed to stay up on Sundays. Banners must be no greater than 3'X 5'. Banners will be attached to outfield chain link fence using clip on rings. Banner clearance from turf is a minimum of 2". The City will determine if a banner is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said banner. The CITY has the right to remove and dispose of any banner that is not displayed following the above mentioned procedures.

ff. LEAGUE may place shade cloth as necessary to dug outs on weekdays and Saturdays, but they must be removed by the close of Saturday each week. Shade cloth is not allowed to stay up on Sundays. Shade cloth must be no greater than what may be required to provide adequate coverage over dug outs. Shade cloth will be attached to dug out structure using clip on rings. The City will determine if a shade cloth is past its useful life due to sun fade, rips, graffiti, etc. and will notify LEAGUE of said issue. LEAGUE will have 24 hours to remove said shade cloth. The CITY has the right to remove and dispose of any shade cloth that is not displayed following the above mentioned procedures. If LEAGUE does not remove or replace shade cloth as requested by CITY within 24 hours, CITY may prohibit use of fields and snack bar facilities to LEAGUE until request has been met.

gg. Locks are issued by the City to secure areas of the park and have access to those areas such as snack bar shutters for maintenance. If locks are needed to replace a lost or damaged lock contact the City immediately. The League at no time shall use personal locks to secure any area. If a personal lock is found the League will be notified and will have 24 hours to remove it. If not removed the City will remove it by any means necessary and the City will not be held responsible for the League's lock.

SECTION 2: CITY hereby agrees as follows:

a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.

b. To pay for all water used on premises.

c. To have full control over watering the entire premises. LEAGUE shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.

d. To provide emergency call-out telephone numbers for use by LEAGUE. A Contact List containing the emergency telephone numbers is attached.

e. To provide to LEAGUE, inventory list of equipment in snack bar and meeting areas; to provide inspection of those areas and equipment at the end of the agreement period.

f. Upon approval of the Director of Human Services, LEAGUE's cleaning deposit shall rollover any unused monies into the next Agreement.

g. To designate a CITY representative to work with LEAGUE on all non-maintenance issues relating to the use of CITY facilities.

h. To provide alarm service at no charge to LEAGUE.

[SIGNATURES ON FOLLOWING PAGE]

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities.

APPROVED AND ADOPTED this _____ day of _____, 2021.

LEAGUE:	**CITY:**
MONTCLAIR LITTLE LEAGUE	**CITY OF MONTCLAIR**
_____	_____
Name: President	Javier John Dutrey Mayor
	ATTEST:
_____	_____
Name: Secretary	Andrea M. Phillips City Clerk

CITY OF MONTCLAIR

CONTACT LIST FOR SPORTS LEAGUES

MARCH 2021

Reason for Contact	Authority	Contact	Telephone Number
After-Hours/ Emergency	Montclair Police Department	Dispatch	(909) 621-4771 9-1-1 (Emergency)
Sports League Administration	City's Sports League Liaison	Fernando Saltos	(909) 625-9496
Building Maintenance	Building Maintenance Supervisor	Mathew Paradis	(909) 625-9443 Cell: (909) 721-1860
Grounds Maintenance	Asst. Public Works Superintendent	Jim Diaz	(909) 625-9466 Cell: (909) 721-1775
Vandalism	Public Works Department		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429

AGREEMENT NO. 21-10
WITH MONTCLAIR GOLDEN GIRLS SOFTBALL LEAGUE
FOR USE OF VERNON PARK

THIS AGREEMENT is made and entered into by and between the City of Montclair, hereinafter called "CITY," and Golden Girls Softball League, hereinafter called "LEAGUE." This Agreement is contingent upon the LEAGUE fulfilling its prior contract's financial obligations and paying any and all outstanding invoices owed to the CITY. Use of any and all facilities listed herein may not be used until all fees have been paid.

LEAGUE must follow at all times the most current and updated safety measures outlined below for Moderate-Contact Sports due to COVID-19 as outlined by the State of California-Health and Human Services Agency, California Department of Public Health.

1. General guidance requirements must be adhered to at all times:

    - Face coverings to be worn when not participating in the activity (e.g., on the sidelines or dug out).

    - Face coverings to be worn by coaches, support staff and **observers** at all times, and in compliance with the CDPH Guidance for the Use of Face Coverings.

    - Observers maintain at least 6 feet from non-household members.

    - No sharing of drink bottles and other personal items and equipment.

    - Mixing with other households prior to and post any practice or competition must strictly adhere to current gathering guidance.

    - Limit indoor sports activities (practice, conditioning) to comply with capacity limits (which shall include all athletes, coaches, and observers) indicated in current CDPH Gym & Fitness Center Guidance Capacity.

    - Associated indoor activities for the team (e.g., dinners, film study) are prohibited if engaged in competition given evidence that transmission is more likely to occur in these indoor higher risk settings.

    - Teams must not participate in out-of-state games and tournaments; several multistate outbreaks have been reported around the nation, including California residents.

2. Limitations on Observers

    - Limit observation of youth sports (age 18 years and under) to immediate household members, and for the strict purpose of age appropriate supervision. This includes observation of practice and competition.

- Limit number of observers to ensure physical distance (separation by 6 feet) can be maintained, reduce potential crowding, and maintain indoor and outdoor capacity limits.

- Consider Video streaming of games so that they can be watched "live" from home.

- For adult sports, spectators are not permitted at this time.

Limitations for Inter-Team Competitions and Tournaments:

- Inter-team competitions, meets, races, or similar events are permitted to occur only if (a) both teams are located in the same county and the sport is authorized in the Tables below; or (b) teams are located in immediately bordering counties and the sport is authorized in <u>both counties</u> in **Table 1** below.

    - The county-based authorizations outlined in the Table below apply to the locations/counties in which the teams, schools, clubs, leagues, and similar organizations are functionally based (e.g., where the players reside, where facilities are located, etc.).

- Teams adhere to current <u>CDPH Travel Advisory</u> recommendations when determining travel for competition in neighboring counties.

- No tournaments or events that involve more than two teams to occur.

- Only one competition, per team, per day maximum to be played.

Permitted Youth and Recreational Adult Sports by Case Rate Threshold

- Physical conditioning, practice, skill-building, and training that can be conducted outdoors, with 6 feet of physical distancing, and within stable cohorts are authorized regardless of case rate or sport. Such activities may be conducted indoors consistent with restrictions by Tier in the <u>Gym & Fitness Center Guidance Capacity</u>.

Other General Guidance

Below are other general guidance that are strongly encouraged as part of any participation in sport. Depending on risk level (high or moderate) and county case rates, these general guidance may be **required** for play of outdoor sports in less restrictive tiers, as specified below.

1. Face Coverings

    - Face coverings worn by participants during practice, conditioning and during competition, even during heavy exertion as tolerated. See the <u>American Academy of Pediatrics Interim Guidance on Return to Sports</u> [1] for specific exceptions where the face covering may become a hazard.

2. Physical Distancing

    - Maintain at least six feet of distance between sport participants and others to the maximum extent possible, including when on the sidelines.

    - Maintain at least 6 feet of distance between coaches and participants and facilitate physical distancing between participants to the maximum extent possible (e.g., staggered starts instead of mass starts for races).

3. Informed Consent

    - Due to the nature and risk of transmission while participating in Outdoor High-Contact and Moderate-Contact sports, provide information regarding risk to all parents/guardians of minors participating in such sports, and have each parent sign an informed consent indicating their understanding and acknowledgement of the risks indicated herein.

    - Similar to other required waivers, the City of Montclair will require all participants to sign waivers absolving the City of COVID-19 transmission, illness and death.

4. Testing

    - Unless required as noted below, regular and postseason antigen or PCR testing of sports participants and coaches weekly while participating in Outdoor High-Contact sports is strongly encouraged. If competing, testing performed with test results made available within 24 hours of play.

5. Hygiene and Equipment Sanitation

    - When equipment is shared during an activity, participants perform hand hygiene (wash hands with soap and water or use an alcohol-based hand sanitizer) before play, during breaks, at half time, and after the conclusion of the activity.

        - Balls or other objects or equipment can be touched by multiple players during practice and play if the above hand hygiene practices are followed.

6. Limitations on Mixing by Participants

    - Limit participation by athletes and coaches during practice and competition to one team, and refrain from participating with more than one team over the same season or time period. For larger teams, limit mixing by establishing stable smaller training groups for drills and conditioning.

- Review practice or game footage virtually, to the greatest extent possible. If not feasible, then it should be conducted outdoors, with all participants wearing face coverings and following appropriate physical distancing measures.

7. Indoor Venue Capacity Limitations

    - Ventilation in indoor venues (gyms or other fitness centers) increased to the maximum extent possible.

8. Travel Considerations

    - Bus/van travel for members of a team may pose a greater risk. To mitigate COVID-19 transmission risk during bus/van travel, employ universal masking, physical distancing and windows to remain open the full duration of the trip unless not feasible.

    - Plan for proper communication of all travel rules, protocols and expectations to everyone in the travel party. When feasible, teams should aim to travel and play the same day to avoid overnight stays.

    - Travel by private car limited to only those within the immediate household.

9. Returning to Sports After Infection

    - No one with symptoms of COVID-19 or who is in isolation or quarantine for COVID-19 is permitted to attend practices or competitions.

    - Anyone with symptoms of COVID-19 should consult their physician for testing and notify their coach, athletic trainer and/or school administrator of their symptoms and test results.

    - Youths recovering from COVID-19 will have different paths to return to sports based on the severity of their illness. See the American Academy of Pediatrics Interim Guidance on Return to Sports for additional guidance for more serious infections.

10. Vaccination of Eligible Households

    - Sports participants, including coaches and support staff, are strongly encouraged to be vaccinated once eligible as vaccines will protect residents and reduce the likelihood of transmission from infected persons to others.

Table 1
Youth and Adult Recreational Sports
As Permitted by Current Tier of County

Widespread **Tier 1 (Purple)**	**Substantial** **Tier 2 (Red)**	**Moderate** **Tier 3 (Orange)**	**Minimal** **Tier 4 (Yellow)**
Outdoor *low-contact sports* • Archery • Badminton (singles) • Biking • Bocce • Corn hole • Cross country • Dance (no contact) • Disc golf • Equestrian events (including rodeos) that involve only a single rider at a time • Fencing • Golf • Ice and roller skating (no contact) • Lawn bowling • Martial arts (no contact) • Physical training programs (e.g., yoga, Zumba, Tai chi) • Pickleball (singles) • Rowing/crew (with 1 person) • Running • Shuffleboard • Skeet shooting • Skiing and snowboarding • Snowshoeing • Swimming and diving • Tennis (singles) • Track and field • Walking and hiking	*Outdoor* *moderate-contact sports* • Badminton (doubles) • Baseball • Cheerleading • Dodgeball • Field hockey • Gymnastics • Kickball • Lacrosse (girls/women) • Pickleball (doubles) • Softball • Tennis (doubles) • Volleyball	*Outdoor* *high-contact sports* • Basketball • Football • Ice hockey • Lacrosse (boys/men) • Rugby • Rowing/crew (with 2 or more people) • Soccer • Water polo *Indoor* *low-contact sports* • Badminton (singles) • Curling • Dance (no contact) • Gymnastics • Ice skating (individual) • Physical training • Pickleball (singles) • Swimming and diving • Tennis (singles) • Track and field • Bowling	*Indoor* *moderate-contact sports* • Badminton (doubles) • Cheerleading • Dance (intermittent contact) • Dodgeball • Kickball • Pickleball (doubles) • Racquetball • Squash • Tennis (doubles) • Volleyball *Indoor* *high-contact sports* • Basketball • Boxing • Ice hockey • Ice skating (pairs) • Martial arts • Roller derby • Soccer • Water polo • Wrestling

Play in Less Restrictive Tiers — Outdoor High-Contact Sports. Outdoor high-contact sports (orange tier) can be played in the purple or red tier with an adjusted case rate equal to or less than 14 per 100,000 under the following conditions:

1. Implement and strictly adhere to the following additional general guidance:

    - Informed Consent

    - Testing – antigen or PCR (regular and postseason antigen or PCR testing of sports participants and coaches weekly. If competing, testing performed with test results made available within 24 hours of play). Testing shall only apply in the following situations:

        - For football, rugby and water polo as these are high contact sports that are likely to be played unmasked, with close, face to face contact exceeding 15 minutes.
        - When adjusted case rates for the county are between 14-7 per 100,000.
        - For sport participants 13 years of age or above as evidence shows that younger children do not seem to be major sources of transmission—either to each other or to adults.
        - If more than 50% of a team's participants are less than the age of 13 (and are not required to test per the above), then the entire team is exempted from the testing requirement. Coaches, however, will still be required to meet the testing requirement.

Play in Less Restrictive Tiers — Outdoor Moderate-Contact Sports. Outdoor moderate-contact sports (red tier) can be played in the purple tier with an adjusted case rate equal to or less than 14 per 100,000 under the following conditions:

- Informed Consent

- The following general guidance are strongly encouraged:

    - Face Coverings (during play)
    - Physical Distancing (during play)
    - Hygiene and Sanitation
    - Limitations on mixing by participants
    - Travel Considerations

<u>If competition for high- and moderate-contact sports is permitted to resume in a county pursuant to this updated guidance, competition is not required to cease if the county's adjusted case rate exceeds the 14 per 100,000 threshold.</u>

WITNESSETH:

WHEREAS, CITY presently has softball fields (the east and west fields) generally located at the southeast corner of the Vernon Junior High School complex, south of the corner of Benson Avenue and San Bernardino Street, Montclair, California; and

WHEREAS, said Park has been developed to provide areas for youth sports, on which premises LEAGUE desires to use for girls softball conditioning at such times and hours set forth in Section 1(y). The term of this Agreement is for March 2, 2021 through August 31, 2021.

SECTION 1: LEAGUE hereby agrees as follows:

a. Provide CITY a list of all your participants and coaches. All must sign CITY approved waiver and submit to CITY liaison prior to participating.

b. Not to use the premises for any other purpose, except as above indicated.

c. Not to permit practice sessions in the southeast quadrant of the field; to provide specific written notice to each coach and, in turn, obtain written confirmation from each coach.

d. Not to sublet the field.

e. Not to make any improvements or alterations on said premises.

f. Not to charge for parking of vehicles in the parking lots located within CITY facilities and not to park in the fields or walkways.

g. Not to erect any barriers or fences of any kind unless approved by CITY.

h. Not to use herbicides at the park for any purpose.

i. Not to disconnect or make changes to existing phone line account

j. To provide the CITY with a written list of all items to be stored in park buildings. No items should be stored in rest room facilities, except rest room supplies. Any items found to be stored in buildings without prior written authorization from the CITY will be removed by city crews with or without prior notice to LEAGUE. Any cost incurred by the CITY by removing, storing, or disposal of said property shall be the responsibility of LEAGUE.

k. CITY to maintain restroom facilities and CITY to furnish all supplies for each well- maintained restroom. LEAGUE to police the entire premises after each day's use and pick up all paper, trash, and other debris that may have accumulated, and leave the premises in a condition deemed acceptable to CITY. This work shall be completed within two hours after an activity has ended. If the premises are not maintained as stated a contracted cleaning agency will be hired by the CITY and the LEAGUE will be responsible for all fees related to the service.

l. To maintain all equipment and appliances within the snack bar and snack bar building at all times. To clean all sinks, grills, screens, exhaust hoods, mop all floors and clean countertops and utensils after each day's use and leave the snack bar in a condition deemed acceptable to CITY. The snack bar area should not be used for storage of any materials not pertaining to food items used for snack bar operations.

m. To ensure when a barbecue is used (a permit is required to be obtained by Department of Public Health), it is set up a minimum of ten feet away from any structure and LEAGUE must provide one fire extinguisher for each barbecue being used. All safety and health regulations set forth by the County of San Bernardino Department of Public Health must be followed. LEAGUE must also ensure that a drip pan be used and ensure barbecue has completely cooled down before returning to storage in any CITY structure.

n. To deposit, with the CITY representative, the sum of Three Hundred Dollars ($300) as a refundable cleaning deposit to ensure the proper care and cleanup of the snack bar, restrooms, and equipment therein. At the end of the playing season, an inspection shall be conducted by CITY and LEAGUE representatives to ensure that all areas and CITY-owned equipment have been properly cared for, maintained and cleaned. All non-CITY-owned equipment, with exception of refrigerators, freezers, and ice machines shall be removed from snack bar areas. Refrigerators, freezers, and ice machines owned by LEAGUE shall be cleaned out, doors left open, and electrical turned off. Any food items left in the refrigerators and/or freezers will be discarded by the CITY. Ice machines owned by CITY shall be cleaned out, serviced, and maintained by CITY.

o. To conform to all safety and health regulations set forth by the County of San Bernardino Department of Public Health and register your snackbar as Pre-packaged. Maintain all CITY-installed facilities and equipment in their original condition. Failure to comply with these requirements will result in a breach of this Agreement and the loss of the use of the premises.

p. To be responsible for all costs as a result of lost or stolen keys.

q. LEAGUE agrees to assist CITY in keeping order in the park area and to provide responsible supervision as may be necessary to prevent vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 909-625-9429 and report vandalism immediately to the Public Works Department at 909-625-9480. LEAGUE will not attempt to remove Graffiti or make repairs to building. LEAGUE shall furnish and supply personnel to conduct and supervise LEAGUE activities on the premises.

r. If LEAGUE elects to use lights for activities conducted after dark, the CITY will provide electrical services associated with lights at no charge to the LEAGUE.

s. To deposit, with the CITY representative, the sum of Five Hundred Dollars ($500) as a security deposit, to ensure the proper and prompt payment of any incurred damages to facilities associated with the LEAGUE. In the event all potential damages are paid by the end of this Agreement term, the deposit will be refunded.

t. To provide the CITY representative with a list of the Board of Directors including names, addresses, and telephone numbers.

u. To provide CITY with participant rosters, and conditioning schedules. Also, sixty percent of league participants must live in Montclair and provide verification such as registration forms.

v. To provide CITY with financial statements upon request for audit purposes.

w. To designate one individual as the LEAGUE's representative to work with the CITY's representative.

x. This Agreement is subject to the terms and conditions of any master lease CITY may have with another public agency of which LEAGUE had knowledge.

y. It is agreed that LEAGUE may use said baseball fields from March 2, 2021, through August 31, 2021, Mondays through Fridays generally commencing at 4:00 p.m. and Saturdays generally commencing at 8:00 a.m.. No games or activities will be conducted past 9:45 p.m.

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payment by LEAGUE of any and all legal costs and attorneys' fees in any manner arising out of any negligent or intentional or willful acts or omissions of the LEAGUE in the activities, use, or occupancy of the PREMISES including, but not limited to, all consequential damages, to the maximum extent permitted by law.

bb. It is understood and agreed that there is no relationship of employer-employee for Workers' Compensation purposes between CITY and any person connected with the LEAGUE, unless such person is otherwise regularly employed by and conducting official business of CITY.

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a. To maintain the periphery of the premises, including shrubs and trees, and mow all grass on a year-round basis.

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c. To have full control over watering the entire premises. LEAGUE shall not adjust or readjust or otherwise change the sprinkler system or water control facilities.

d. To provide emergency call-out telephone numbers for use by LEAGUE. A Contact List containing the emergency telephone numbers is attached.

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[SIGNATURES ON FOLLOWING PAGE]

NOW, THEREFORE, if any terms of this Agreement are not complied with, the Agreement will become null and void and the LEAGUE will be refused use of CITY facilities.

APPROVED AND ADOPTED this _____ day of _____, 2021.

LEAGUE:	**CITY:**
GOLDEN GIRLS SOFTBALL LEAGUE	**CITY OF MONTCLAIR**
_____	_____
Name: President	Javier John Dutrey Mayor
	ATTEST:
_____	_____
Name: Secretary	Andrea M. Phillips City Clerk

CITY OF MONTCLAIR

CONTACT LIST FOR SPORTS LEAGUES

MARCH 2021

Reason for Contact	Authority	Contact	Telephone Number
After-Hours/ Emergency	Montclair Police Department	Dispatch	(909) 621-4771 9-1-1 (Emergency)
Sports League Administration	City's Sports League Liaison	Fernando Saltos	(909) 625-9496
Building Maintenance	Building Maintenance Supervisor	Mathew Paradis	(909) 625-9443 Cell: (909) 721-1860
Grounds Maintenance	Asst. Public Works Superintendent	Jim Diaz	(909) 625-9466 Cell: (909) 721-1775
Vandalism	Public Works Department		(909) 625-9480
Graffiti Removal	Graffiti Abatement Hotline		(909) 625-9429

CITY COUNCIL
AGENDA REPORT

DATE:	MARCH 1, 2021	**FILE I.D.:**	FIN100
SECTION:	CONSENT - AGREEMENTS	**DEPT.:**	FINANCE
ITEM NO.:	2	**PREPARER:**	J. KULBECK

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 21-11 WITH VAN LANT & FANKHANEL, LLP TO PROVIDE ACCOUNTING AND AUDITING SERVICES TO THE CITY OF MONTCLAIR AND ITS RELATED ENTITIES

REASON FOR CONSIDERATION: The City of Montclair has contracted with Van Lant & Fankhanel, LLP for auditing and report preparation services since April 1, 2013. The most recent professional service agreement (Agreement No. 17-16) expires February 21, 2021. Agreements with the City of Montclair require City Council approval.

A copy of proposed Agreement No. 21-11 with Van Lant & Fankhanel, LLP is attached for the City Council's review and consideration.

BACKGROUND: In 2012, the City went through the RFP process for independent financial auditing and report preparation services. Mr. Greg Fankhanel and Mr. Brett Van Lant have provided those services previously for another public accounting firm and most recently through their own firm, Van Lant & Fankhanel, LLP. The services provided included those specified in their agreement and additionally multiple agreed-upon procedural reviews for the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency (Successor Agency), meeting all the unrealistic deadlines of the Department of Finance. The work performed has been done in a timely and professional manner, allowing the City to meet its reporting deadlines.

Because the City has received quality services from Van Lant & Fankhanel, LLP at a price demonstrated previously to be the lowest through an RFP process, it would be beneficial to continue those services. Toward that end, staff has negotiated a pricing structure for a four-year period which arrived at agreement to hold fees constant through fiscal year 2021-22, with minimal increases the two following years. Van Lant & Fankhanel, LLP has submitted an engagement letter proposal specifying that approach, which is attached to Agreement No. 21-11.

As to getting a new perspective on our operations, there is no specific requirement for changing auditing firms and familiarity with City operations is a major benefit in staying with our current auditing firm. However, Section 12410.6.(b) of the Government Code does requires a City to change the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, when that auditing firm has performed audit services for that local agency for six consecutive fiscal years. Staff has discussed this requirement with Van Lant & Fankhanel, LLP even though their last agreement was for less than a six-year period. We all recognize that a "new look" is valuable and they have agreed that, should their contract be approved, they would internally reassign these responsibilities from Mr. Van Lant to Mr. Fankhanel to comply with this requirement.

FISCAL IMPACT: The proposal submitted by Van Lant & Fankhanel, LLP has no increase in the cost of services for the current fiscal year. Since the previous year's costs were

included in our current budget, there would not be a financial impact on the City of Montclair's General Fund or other operating funds as a result of continuing these services.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 21-11 with Van Lant & Fankhanel, LLP to provide accounting and auditing services to the City of Montclair and its related entities.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

ANNUAL AUDIT SERVICES

THIS AGREEMENT is made and effective as of March 1, 2021 between the City of Montclair, a municipal corporation ("City") and Van Lant & Fankhanel, LLP a California Partnership ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on March 1, 2021 and shall remain and continue in effect for a period of 48 months until tasks described herein are completed, but in no event later than March 1, 2025, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

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

3. PERFORMANCE

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

4. CITY MANAGEMENT

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

5. PAYMENT

(a) The City agrees to pay Consultant, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and

incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed $188,600 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall additional total compensation exceed Ten Thousand Dollars ($10,000.00). Any additional work in excess of this amount shall be approved by the City Council.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

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

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

(c) Subcontractors/Subconsultants and Indemnification. Consultant agrees to and shall obtain executed indemnity agreements in favor of the Indemnified Parties with provisions identical to those set forth from each and every Subcontractor, Sub consultant, or other person or entity involved by, for, with, or on behalf of Consultant in the performance of any aspect of this Agreement. In the event Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible for each and every Subcontractor, Subconsultant or other person or entity in terms of defense, indemnity and hold harmless obligations in favor of the Indemnified Parties as set forth above. This

obligation to indemnify and defend the Indemnified Parties is binding on the successors, assigns, or heirs of Consultant and shall survive the full performance or termination of this Agreement. These indemnification provisions are independent of and shall not in any way be limited or superseded by the insurance requirements and insurance-related provisions of this Agreement.

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

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

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

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

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

10. INSURANCE

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

(a) Types of Required Coverages

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

(1) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than $1,000,000 per occurrence, and $2,000,000 aggregate total bodily injury, personal injury, and property damage.

(2) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the exact equivalent, with minimum limits of $1,000,000 for bodily injury and property damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.

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

(4) Professional Liability: Professional Liability insurance with limit of not less than $1,000,000 each claim. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusion that may potentially affect the work to be performed.

(b) Endorsements

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

(1) Commercial General Liability

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

Additional Insured Endorsements shall not:

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

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

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

(2) Auto Liability

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

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

(3) Workers’ Compensation

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

(c) Notice of Cancellation

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

(d) Waiver of Subrogation

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

(e) Evidence of Insurance

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

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

(f) Deductible or Self-Insured Retention

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

(g) Contractual Liability/Insurance Obligations

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

(h) Failure to Maintain Coverage

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

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

(i) Acceptability of Insurers

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

(j) Claims Made Policies

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

(k) Insurance for Subcontractors

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

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all

times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(c) Consultant covenants that either he/she nor any office or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement.

16. NOTICES

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

To City: Janet Kulbeck, Finance Manager
City of Montclair
5111 Benito Street
Montclair, CA 91763

To Consultant: Greg Fankhanel, CPA, Partner
Van Lant & Fankhanel, LLP
29970 Technology Drive, Suite 105A
Murrieta, CA 92563

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only Brett Van Lant, CPA, Partner-In-Charge (responsible employee) shall perform and/or supervise the services described in this Agreement.

Consultant's responsible employee may use assistants, under his direct supervision, to perform some of the services under this Agreement. Consultant shall provide City fourteen (14) days' notice prior to the departure of the responsible employee from Consultant's employ. Should he leave Consultant's employ, the City shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's

sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF ENGAGEMENT LETTER

Consultant is bound by the contents of Consultant’s Engagement Letter, Exhibit "A" hereto and incorporated herein by this reference. In the event of conflict between the terms of the Engagement Letter and this Agreement, the requirements of this Agreement shall take precedence over those contained in the Consultant's Engagement Letter.

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

CITY

CITY OF MONTCLAIR

By: _____
Javier John Dutrey, Mayor

Attest:

By: _____
Andrea M. Phillips, City Clerk

Approved as to Form:

By: _____
Diane E. Robbins, City Attorney

CONSULTANT

VAN LANT & FANKHANEL, LLP

By: _____
Greg Fankhanel, CPA, Partner

EXHIBIT A

Engagement Letter

with

Van Lant & Fanhanel, LLP

Van Lant & Fankhanel, LLP
Certified Public Accountants

January 15, 2021

To: Management and the City Council
City of Montclair
5111 Benito Street
Montclair, CA 91763

We are pleased to confirm our understanding of the services we are to provide the City of Montclair (City) for the year ending June 30, 2021. We will audit the financial statements of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the City as of and for the year ending June 30, 2021. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1) Budgetary comparison schedules.

2) OPEB and Pension RSI.

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

1) Schedule of expenditures of federal awards.

2) Combining schedules.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.

Van Lant & Fankhanel, LLP
29970 Technology Drive, Suite 105 A
Murrieta, CA 92563
909.856.6879

- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the City Council and Management of the City. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

We will also provide a report on agreed upon procedures performed on the City's calculation of its annual appropriations limit as required by Article XIII B of the California State Constitution. We will perform the procedures in the Article XIII B Appropriations Limit Uniform Guidelines as published by the League of California Cities. This report will include a statement that the report is intended solely for the information and use of management, City Council and specific legislative or regulatory bodies and is not intended to be and should not be used by anyone other than these specified parties.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the City in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for (1) establishing and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that

management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review in a timely manner.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon OR make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe

the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations and schedules we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of VLF, LLP and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Oversight Agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of VLF, LLP personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release date or for any additional period requested by the Oversight Agency for Audit, or Pass-through Entity. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We will begin our audit in May/June of 2021 and plan to issue our reports in December of 2021. Greg Fankhanel, CPA is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fees for these services, including proposed fees for the three subsequent fiscal years, are as follows:

Service	Fiscal Year Ending June 30, 2021	2022	2023	2024	Total
City audit, including GANN Limit AUP	$ 39,800	$ 39,800	$ 41,500	$ 42,100	$ 163,200
State Controller's Report	2,400	2,400	2,400	2,500	9,700
Single Audit	3,900	3,900	3,900	4,000	15,700
Total Maximum Costs	$ 46,100	$ 46,100	$ 47,800	$ 48,600	$ 188,600

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. In addition, the above fees are based on the assumption that the Single Audit will include no more than two major programs, in accordance with the Uniform Guidance.

We appreciate the opportunity to be of service to the City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign a copy and return it to us.

Very truly yours,

VAN LANT & FANKHANEL, LLP

Van Lant & Fankhanel, LLP

Greg Fankhanel
Certified Public Accountant

RESPONSE:

This letter correctly sets forth the understanding of the City of Montclair.

Signature: _____

Title: _____

Date: _____

EXHIBIT B

Schedule of Payment:

As work progresses City agrees to pay Consultant for actual time spent on the various engagements priced out utilizing the hours performed by the various professional staff working on such engagements.

EXHIBIT C

California Labor Code Certification

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Agreement"

By:

_____

Greg Fankhanel, CPA, Partner
Van Lant & Fankhanel, LLP

CITY COUNCIL
AGENDA REPORT

DATE:	MARCH 1, 2021	**FILE I.D.:**	SAG060
SECTION:	CONSENT - AGREEMENTS	**DEPT.:**	FINANCE/SA
ITEM NO.:	3	**PREPARER:**	J. KULBECK

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 21-12 WITH VAN LANT & FANKHANEL, LLP TO PROVIDE AUDITING SERVICES TO THE SUCCESSOR AGENCY RELATED TO BOND TRANSACTIONS

REASON FOR CONSIDERATION: Staff is requesting the City Council, acting as the Successor to the City of Montclair Redevelopment Agency (Successor Agency) Board of Directors, approve Agreement No. 21-12 with Van Lant & Fankhanel, LLP, Certified Public Accountants, to perform an audit of financial statements of the Successor Agency covering bonding requirements and related financial disclosures.

A copy of proposed Agreement No. 21-12 with Van Lant & Fankhanel, LLP, is attached for the Successor Agency Board's review and consideration.

BACKGROUND: Prior to the dissolution law, the Health and Safety Code required all redevelopment agencies to have an annual financial audit. Additionally, this audit was utilized to comply with the continuing annual financial disclosure requirements present in redevelopment bond issues, which are still outstanding today.

As part of the dissolution law, Section 34177(n) of the Health and Safety Code was established to replace this annual audit requirement indicating that Successor Agencies were to have an annual "post audit" of its financial transactions. Since "post audit" was not defined, the Department of Finance (DOF) issued its interpretation that inclusion of the Successor Agency operations within the financial audit of the City would meet the minimum requirements of this section but additionally they noted that "Oversight Board can specifically require a separate audit of the Successor Agency as a matter of best practice, if they believe that a more focused audit is warranted, or if a separate audit is required by bond covenants".

The inclusion of the Successor Agency's financial transactions within the City's annual financial audit, while meeting the minimum requirements of the Health and Safety Code, does not provide sufficient information for the bonding community to determine the amounts of pledged revenues by redevelopment project area and how those revenues compare to debt service. To provide specific information on pledged revenues and debt servicing, Successor Agency staff have prepare financial statements specifically covering only bond transactions. These statements have been audited, as part of an annual engagement agreement, by the City's auditing firm and filed with the annual bond continuing disclosure reports with the bonding community for redevelopment bond issues still outstanding.

DOF, as part of its review of our current Redevelopment Obligation Payment Schedule (ROPS), is now indicating that the annual engagement agreement is not, in its opinion, sufficient documentation of the contractual obligation to conduct this audit. They have indicated that a specific agreement between the Successor Agency and the auditing firm of Van Lant & Fankhanel, LLP, Certified Public Accountants, needs to be obtained.

To satisfy DOF's need for specific documentation, Successor Agency staff has obtained a professional services agreement between the Successor Agency and Van Lant & Fankhanel, LLP, Certified Public Accountants, to continue to perform existing auditing services in the same manner and amount as specified in the previous annual engagement agreements.

FISCAL IMPACT: There is no additional fiscal impact to the Successor Agency as a result of entering into this separate agreement. As indicated, this agreement continues the existing annual auditing services of bond-related transactions in the same manner and amount as they currently exist.

RECOMMENDATION: Successor Agency staff recommends the Successor Agency Board of Directors approve Agreement No. 21-12 with Van Lant & Fankhanel, LLP, to provide auditing services for the Successor Agency related to bond transactions.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

Annual Audit Services

THIS AGREEMENT is made and effective as of March 1, 2021 between the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency, ("Successor Agency") and Van Lant & Fankhanel, LLP, Certified Public Accountants, a California Partnership ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on March 1, 2021 and shall remain and continue in effect for a period of 48 months until tasks described herein are completed, but in no event later than March 1, 2025, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

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

3. PERFORMANCE

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

4. CITY MANAGEMENT

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

5. PAYMENT

(a) The Successor Agency agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in EXHIBIT B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed $40,000 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Ten Thousand Dollars ($10,000.00). Any additional work in excess of this amount shall be approved by the Successor Agency.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

Successor Agency. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the Successor Agency pursuant to Section 5(c).

7. DEFAULT OF CONSULTANT

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

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

8. OWNERSHIP OF DOCUMENTS

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

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, claims, applications, computer files, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become available to the Successor Agency and may not be used, reused, or otherwise disposed of by the Consultant without the permission of the Successor Agency. With respect to computer files, Consultant shall make available to the Successor Agency, at the Consultant's office and upon reasonable written request by the Successor Agency,

the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

9. INDEMNIFICATION

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

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

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

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

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

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

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

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

10. INSURANCE

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

(a) Types of Required Coverages

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

(1) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than $1,000,000 per occurrence, and $2,000,000 aggregate total bodily injury, personal injury, and property damage.

(2) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the exact equivalent, with minimum limits of $1,000,000 for bodily injury and property damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.

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

(4) Professional Liability: Professional Liability insurance with limit of not less than $1,000,000 each claim. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusion that may potentially affect the work to be performed.

(b) Endorsements

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

(1) Commercial General Liability

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

Additional Insured Endorsements shall not:

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

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

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

(2) Auto Liability

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

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

(3) Workers’ Compensation

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

(c) Notice of Cancellation

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

(d) Waiver of Subrogation

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

(e) Evidence of Insurance

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

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

(f) Deductible or Self-Insured Retention

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

(g) Contractual Liability/Insurance Obligations

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

(h) Failure to Maintain Coverage

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

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

(i) Acceptability of Insurers

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

(j) Claims Made Policies

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

(k) Insurance for Subcontractors

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

11. INDEPENDENT CONTRACTOR

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

obligation, or liability whatever against Successor Agency, or bind Successor Agency in any manner.

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without Successor Agency's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, responses to interrogatories, or other information concerning the work

performed under this Agreement or relating to any project or property located within the Successor Agency. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives Successor Agency notice of such court order or subpoena.

(b) Consultant shall promptly notify Successor Agency should Consultant, its officers, employees, agents or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the Successor Agency. Successor Agency retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with Successor Agency and to provide the opportunity to review any response to discovery requests provided by Consultant. However, Successor Agency's right to review any such response does not imply or mean the right by Successor Agency to control, direct, or rewrite said response.

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

16. NOTICES

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

To Successor Agency:

Janet Kulbeck, Finance Manager
City of Montclair
5111 Benito
Montclair, CA 91763

To Consultant:

Brett Van Lant, CPA, Partner
Van Lant & Fankhanel, LLP
29970 Technology Drive, Suite 105A
Murrieta, CA 92563

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the Successor Agency. Because of the personal nature of the services to be rendered pursuant to this Agreement, only Greg Fankhanel (responsible employee) shall perform the services described in this Agreement.

Consultant's responsible employee may use assistants, under his direct supervision, to perform some of the services under this Agreement. Consultant shall provide Successor Agency fourteen (14) days' notice prior to the departure of the responsible employee from Consultant's employ. Should he leave Consultant's employ, the Successor Agency shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the Successor Agency and the Consultant.

17. LICENSES

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

18. GOVERNING LAW

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

19. ENTIRE AGREEMENT

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

20. CONTENTS OF ENGAGEMENT REQUIREMENTS

Consultant is bound by the contents of Consultant's Engagement Letter, EXHIBIT A hereto and incorporated herein by this reference. In the event of conflict between the terms of the Engagement Letter and this Agreement, the requirements of this Agreement shall take precedence over those contained in the Consultant's Engagement Letter.

21. CONFIDENTIALITY

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

22. DISCRIMINATION

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

23. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

CITY OF MONTCLAIR AS SUCCESSOR AGENCY FOR THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

By: _____
Javier John Dutrey, Chair

Attest:

By: _____
Andrea Phillips, Secretary

VAN LANT & FANKHANEL, LLP

By: _____
Greg Fankhanel, CPA, Partner

EXHIBIT A

Engagement Services and Responsibilities

Services to be Provided

Van Lant & Fankhanel, LLP (Consultant) will audit the financial statements of the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency (Successor Agency), which comprise the bonding financial disclosure basis project area balance sheet, all debt services funds and the bonding financial disclosure basis project area revenues, expenditures and changes in fund balances, all debt service funds and the related notes to the financial statements.

The financial statements will be prepared by the Successor Agency on the basis of the financial reporting provisions of bonding financial disclosure requirements, which is a basis of accounting other than accounting principles generally accepted in the United States of America, to comply with the financial disclosure provisions of the bonding contractual relationships referred to above.

Audit Objectives

The objective the audit is the expression of an opinion as to whether the financial statements referred to above are fairly presented, in all material respects, in conformity with the financial reporting disclosure provisions applicable to the outstanding bond issues.

The audit report will include a paragraph describing that the financial statements are prepared on the basis of the financial reporting provisions of bonding financial disclosure requirements, which is a basis of accounting other than accounting principles generally accepted in the United States of America. As a result, Consultant's audit report will include an adverse opinion on the financial statements in accordance with U.S. generally accepted accounting principles. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America, and will include tests of accounting records, and other procedures Consultant consider necessary to enable Consultant to express an opinion and to render the required reports. Consultant cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for Consultant to modify their opinions or add emphasis-of-matter or other-matter paragraphs. If Consultant's opinions on the financial statements are other than unmodified, Consultant will discuss the reasons with Successor Agency in advance. If, for any reason, Consultant are unable to complete the audit or are unable to form or have not formed opinions, Consultant may decline to express opinions or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the financial reporting provisions of bonding financial disclosure requirements. Management is also responsible for the design, implementation,

and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Management is also responsible for including all informative disclosures that are appropriate for the special purpose framework used to prepare the entity's financial statements, including:

a. a description of the special purpose framework, including a summary of significant accounting policies, and how the framework differs from GAAP.

b. informative disclosures similar to those required by GAAP, in the case of special purpose financial statements that contain items that are the same as, or similar to, those in financial statements prepared in accordance with GAAP.

c. a description of any significant interpretations of the contract on which the special purpose financial statements are based, in the case of special purpose financial statements prepared in accordance with a contractual basis of accounting.

d. additional disclosures beyond those specifically required by the framework that may be necessary for the special purpose financial statements to achieve fair presentation.

As part of the audit, Consultant will assist with preparation of Successor Agency financial statements, and related notes. Successor Agency will be required to acknowledge in the written representation letter Consultant's assistance with preparation of the financial statements and that Successor Agency have reviewed and approved the financial statements, and related notes prior to their issuance and have accepted responsibility for them. Successor Agency agree to assume all management responsibilities for any nonaudit services Consultant provide; oversee the services by designating an individual, preferably from senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. Successor Agency is also responsible for the selection and application of accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts.

Management is also responsible for making all financial records and related information available to Consultant and for ensuring that management is reliable and financial information is reliable and properly recorded. Successor Agency is also responsible for providing Consultant with (1) access to all information of which Successor Agency is aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that Consultant may request for the purpose of the audit, and (3)

unrestricted access to persons within the government from whom Consultant determine it necessary to obtain audit evidence.

Successor Agency responsibilities also include identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Successor Agency responsibilities include adjusting the financial statements to correct material misstatements and confirming to Consultant in the written representation letter that the effects of any uncorrected misstatements aggregated by Consultant during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Successor Agency is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing Consultant about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Successor Agency responsibilities include informing Consultant of its knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, Successor Agency is responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for Consultant previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to Consultant corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. Successor Agency is also responsible for providing management's views on Consultant's current findings, conclusions, and recommendations, as well as any planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on Successor Agency's website, Electronic sites are a means to distribute information and, therefore, Consultant are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, Consultant's audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall

presentation of the financial statements. Consultant will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because Consultant will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by Consultant, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements.

However, Consultant will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to Consultant's attention. Consultant will also inform the appropriate level of management of any violations of laws or governmental regulations that come to Consultant's attention, unless clearly inconsequential, and of any material abuse that comes to Consultant's attention. Consultant's responsibility as auditors is limited to the period covered by Consultant's audit and does not extend to any later periods for which Consultant are not engaged as auditors.

Consultant's procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. Consultant will request written representations from Successor Agency's attorneys as part of the engagement, and they may bill Successor Agency for responding to this inquiry. At the conclusion of Consultant's audit, Consultant will require certain written representations from Successor Agency about the financial statements and related matters.

Audit Procedures—Internal Control

Consultant's audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, Consultant will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, Consultant will perform tests of the entity's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the

objective of Consultant's audit will not be to provide an opinion on overall compliance and Consultant will not express such an opinion.

Engagement Administration, Fees, and Other

Consultant's understand that Successor Agency employees will prepare all cash, accounts receivable, or other confirmations Consultant requests and will locate any documents selected by Consultant for testing.

Mr. Greg Fankhanel, CPA, Partner is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Consultant's fee for these services will not exceed $40,000 for the term of Consultant's engagement. Consultant's invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with Consultant's policies, work may be suspended if Successor Agency's account becomes 30 days or more overdue and may not be resumed until the account is paid in full. If Consultant elect to terminate Consultant's services for nonpayment, Consultant's engagement will be deemed to have been completed upon written notification of termination, even if Consultant has not completed Consultants' report(s). Successor Agency will be obligated to compensate Consultant for all time expended and to reimburse Consultant for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from Successor Agency personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, Consultant will discuss it with Successor Agency and arrive at a new fee estimate before Consultant incur the additional costs.

EXHIBIT B

Schedule of Payment:

As work progresses Successor Agency agrees to pay Consultant monthly for actual time spent on the various engagements priced out utilizing the hours performed by the various professional staff working on such engagements.

CITY COUNCIL
AGENDA REPORT

DATE:	MARCH 1, 2021	**FILE I.D.:**	SOR275/PRK050
SECTION:	CONSENT - AGREEMENTS	**DEPT.:**	HUMAN SVCS.
ITEM NO.:	4	**PREPARER:**	M. RICHTER

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 21-13 WITH ANTHESIS TO PROVIDE CUSTODIAL SERVICES FOR THE SPORTS FIELD RESTROOMS

REASON FOR CONSIDERATION: The City Council is requested to consider approval of proposed Agreement No. 21-13 with Anthesis, formerly known as Pomona Valley Workshop, to provide custodial services for the sports field restrooms.

A copy of proposed Agreement No. 21-13 with Anthesis is attached for the City Council's review and consideration.

BACKGROUND: Anthesis has been in business since 1966 and has been providing custodial services at the Montclair Police Department since 2016. The organization was established by a small group of determined parents who were willing to take great risks to ensure a full and productive life for each of their disabled adult children. Anthesis has blossomed into four distinct programs that serve over 400 people with disabilities throughout Los Angeles and San Bernardino Counties. Anthesis' mission is to assist adults with disabilities in reaching their potential in vocational and socialization skills so that they may achieve their highest level of employment and successful community integration.

One of the programs offered by Anthesis is their supported employment services. This program links businesses with pre-screened workers who have developmental disabilities. One worker with a job coach will be assigned to clean the sports field restrooms. The job coach provides onsite customer service to the business partner. In return, the business partner pays a pre-determined contracted rate for the worker assigned to this job and Anthesis absorbs the cost of the job coach, payroll, benefits, workers' compensation, training, and recruitment. They would provide one individual (referred to as a consumer) and a job coach to perform custodial services Monday through Friday for 4 hours per day at a rate of $20 per hour. All wages, payroll taxes, workers' compensation, and benefits for the job coach will be paid by Anthesis.

FISCAL IMPACT: The annual cost for the one consumer and one job coach from Anthesis will be approximately $20,800. Funds to cover the cost of this will be provided from money set aside for COVID-19 related expenses per Resolution No. 20-3263. The contract will renew annually unless either party expressly requests to terminate or modify it upon the renewal date.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 21-13 with Anthesis to provide custodial services for the sports field restrooms.

Anthesis

Date: February 24, 2021

Customer: City of Montclair
5111 Benito Street
Montclair, California 91763
Phone: 909 626-8571

MEMORANDUM OF UNDERSTANDING FOR THE CITY OF MONTCLAIR

This is a written agreement between Anthesis and the City of Montclair for janitorial services at the following locations:
Essex Park 4295 Howard St., Montclair, CA 91763.
Vernon Park 9762 Benson Ave., Montclair, CA 91763
Kingsley Park 5575 Kingsley St., Montclair, CA 91763
Saratoga Park 5397 Kingsley St., Montclair, CA 91763
This MOU stipulates conditions of the relationship between Anthesis and the City of Montclair for the mutual provision of supported employment services.

THE CITY OF MONTCLAIR AGREES TO PROVIDE THE FOLLOWING:

1. The City of Montclair agrees to provide work for an individual providing janitorial services 5 days a week for a period of 4 hours a day. The individual will work Monday through Friday between the hours of 9:00am and 1:00pm. Services will begin on or about March 1, 2021.
2. The City of Montclair agrees that payment of fees is at a rate of $20.00 per hour for the individual worker made payable to Anthesis for work performed and will be invoiced on a weekly basis.
3. The City of Montclair agrees that Anthesis will re-evaluate and appropriately adjust said service agreement (MOU) every six months, or at any time State of California minimum wage changes.
4. The City of Montclair agrees to provide directions and details of the work to be performed, with specific instructions for work to be performed provided to the job coach, including a comprehensive description of job duties to be performed by the individual. The percentage of job coaching support will decrease on a monthly basis.
5. The City of Montclair understands that the role of the job coach is to supervise, direct and maintain the quality of work of the individual under his/her supervision.
6. The City of Montclair will provide an accurate description of safety requirements, personnel standards and other conditions required at the job site.
7. The City of Montclair will provide all products associated with performance of all assigned duties such as safety supplies and equipment.
8. The City of Montclair will ensure observation of all applicable standards of confidentiality related to persons working at their site.
9. The City of Montclair will ensure observation of all applicable labor laws.
10. The City of Montclair will provide prompt response when requests are made for management support to resolve problems or other issues.

ANTHESIS AGREES TO PROVIDE THE FOLLOWING:

1. Anthesis will provide one individual that is able to perform the tasks agreed upon by Anthesis and The City of Montclair.
2. Anthesis will make every attempt to provide a substitute for any day that the individual is absent.
3. Anthesis will provide payroll services for the individual and the job coach to include workers' compensation insurance and other related payroll benefits.
4. Anthesis will provide supervision, job coach services, and vocational training support for the individual while at the City of Montclair's facilities.
5. Anthesis will ensure quality work is performed in compliance with the requirements of the City of Montclair.
6. Anthesis will provide prompt management support to resolve problems or other issues.
7. Anthesis will provide a list of key contacts for the City of Montclair's use only.

This MOU is considered automatically renewed annually unless either party expressly requests to terminate or modify it upon the renewal date.

Anthesis will provide the City of Montclair with weekly invoices for services performed by the individual, which are due and payable within thirty (30) days from invoice date. A 1.5% per month (18% annum) will be charged on all past due invoices. Anthesis reserves the right to cancel said contract without notice if payment for services is not received.

CONDITIONS FOR THE AMENDMENT OR TERMINATION OF THIS AGREEMENT:

This agreement may be amended by mutual consent of authorized representatives of the City of Montclair and Anthesis. If dissatisfaction should arise on the part of either party, the parties will meet to seek resolution. If no resolution is found, either party may terminate this agreement with a minimum of 10 working days written notice. If during the course of the contract the City of Montclair would like to add additional individuals, rates will be negotiated for each additional individual as described in this agreement. In the event additional individuals are placed at the City of Montclair and subsequently cancelled, the cancellation of an individual does not void the provision for the remaining individual or negate this contract in its entirety.

Signatures below are by persons authorized to represent each company, respectively:

APPROVED AND ADOPTED this _____ day of _____, 2021.

ANTHESIS:

_____
Mitch Gariador
Executive Director

CITY:

_____
Javier John Dutrey
Mayor

ATTEST:

_____
Andrea M. Phillips
City Clerk

CITY COUNCIL
AGENDA REPORT

DATE:	MARCH 1, 2021	**FILE I.D.:**	CCK140
SECTION:	BUSINESS ITEMS	**DEPT.:**	CITY MGR.
ITEM NO.:	A	**PREPARER:**	A. PHILLIPS

SUBJECT: CONSIDER PROVIDING DIRECTION TO STAFF RELATED TO ASSEMBLY BILL 571 (AB 571) IMPOSING LOCAL CAMPAIGN CONTRIBUTION LIMITS

REASON FOR CONSIDERATION: Effective January 1, 2021, AB 571 established default campaign contribution limits for cities and counties that have not adopted their own limits. The default limits are set at the same level as the limit on contributions from individuals to candidates for seats in the state's Senate and Assembly—no more than $4,900 per person per election (adjusted by the Fair Political Practices Commission [FPPC] in January of each odd-numbered year according to the CPI index). AB 571 preserves the ability of cities and counties to adopt their own contribution limits (higher or lower) by resolution or ordinance.

If a city does not adopt a local campaign finance resolution or ordinance, the default limits of the state will apply and will be enforced by the FPPC (punishable as a misdemeanor and subject to specified penalties). A city that establishes a campaign contribution limit may adopt enforcement standards for a violation of the limit, which may include administrative, civil, or criminal penalties. The FPPC is not responsible for the administration or enforcement of a city-established campaign contribution limit.

Montclair is among the majority of cities that did not limit campaign contributions in connection with local elections prior to AB 571. The status quo changed when AB 571 went into effect on January 1, 2021. The City Council must decide whether to take no action, thus accepting the default provisions of AB 571, or to provide direction to staff to draft an ordinance or resolution to set local contribution limits.

BACKGROUND: State law imposes campaign contribution limits for elections to state office. Existing state law does not impose limits on contributions to candidates for local offices, although cities and counties have the authority to adopt their own contribution limits. As of 2016, only 23 percent of cities and 28 percent of counties in the state had adopted campaign contribution limits. Of the cities that had adopted campaign contribution limits, more than 90 percent imposed limits of $1,000 or less. In cities without local limits, a single donor could contribute tens to hundreds of thousands of dollars to a candidate for city council—far exceeding the amount that even state legislators can legally accept. In recent years, there have been examples of $50,000, $100,000, and even $244,000 contributions to candidates for local office from donors with business before that local government. The sponsors of AB 571 were concerned that such large campaign contributions create a serious risk of actual or perceived corruption. AB 571 was signed by the governor in 2019 to address these concerns.

Options for the City Council

The City Council may choose to adopt an ordinance or resolution establishing campaign contribution limits. These may be higher or lower than the default limits of AB 571. The City also has the option of imposing no limits on campaign contributions, which would continue the City's prior status of not enforcing any limits. If the Council establishes a

limit on local campaign contributions different than the state limits, it will also need to adopt a mechanism for administration and enforcement of the new limits as the FPPC will not administer or enforce any local limits on campaign contributions (unless it imposes "no limit"). Enforcement standards for a violation of a local campaign contribution limit may include administrative, civil, or criminal penalties. Because the City, and not the FPPC, would be charged with administering and enforcing a local campaign contribution limit, the City would bear all costs associated with its administration and with the investigation/prosecution of violations. These costs could be significant. Also, if the Council adopts its own limits, some of the other provisions adopted by AB 571 would not take effect as explained in the section below.

What Happens if the City Does Nothing?

If the City Council chooses to take no action, the default campaign limits set forth in Government Code Section 85301(a) will apply locally. Specifically, it will be unlawful for a person to make to a candidate for elective city office, and for a candidate for elective city office to accept from a person, a contribution totaling more than $4,900 per election. That amount is adjusted in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments are rounded to the nearest $100. The FPPC would remain responsible for the administration and enforcement of the default contribution limit. Violations of the default limit would be punishable as a misdemeanor and subject to fines.

Other Provisions in AB 571

AB 571 also contains a variety of other provisions that create comprehensive state limits on campaign financing as of January 1, 2021. ***The following provisions would not apply if a local ordinance or resolution limiting campaign contributions is in place.***

- Contributions to Other Candidates. Section 85305 provides that a candidate for a city office or a committee controlled by that candidate cannot make a contribution to any other candidate for an elective state, county, or city office in excess of the default limit.

- Transfer of Contributions. Section 85306 provides that a candidate for a city office may transfer campaign funds from one controlled committee to another controlled committee for elective state, county, or city office of the same candidate.

- Limitations on Loans. Section 85307 limits loans by a candidate for city office. The candidate cannot personally loan his or her campaign more than $100,000 even if those funds came from a commercial lending institution on terms available to the public. Section 85307 also prohibits a candidate from charging interest on any loan the candidate makes to the candidate's campaign.

- Recalls. Section 85315 applies to recall qualification efforts and recall elections. It authorizes a city officer to establish a committee to oppose the qualification of a recall petition and any recall election. That officer may accept contributions without regard to the state's (default) contribution limits. It also exempts from the voluntary expenditure limits of the Political Reform Act expenditures made to oppose the qualification of a recall measure or to oppose a recall election.

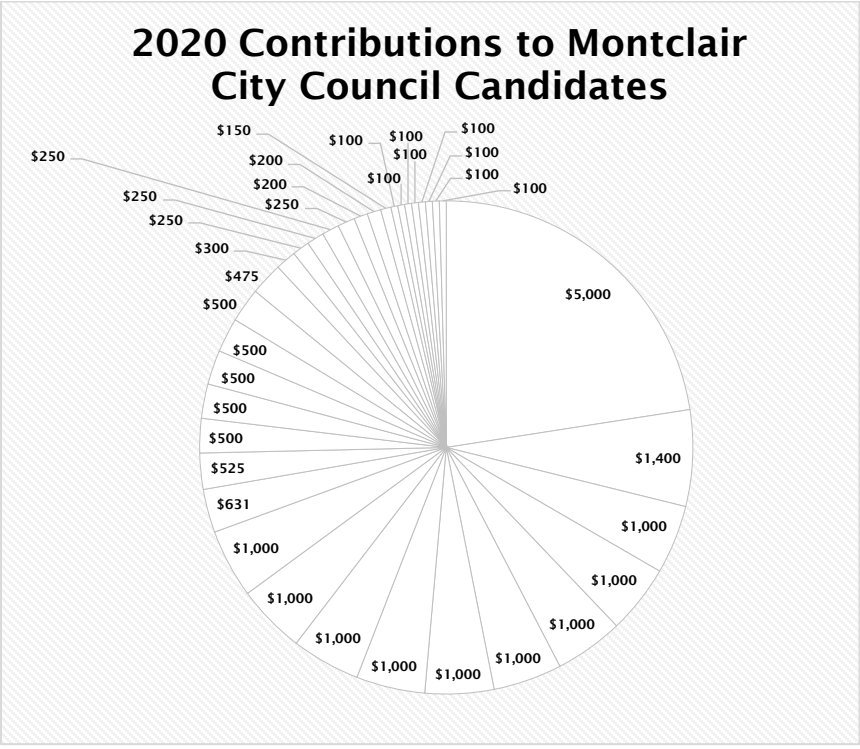
- Contributions after the Election. Section 85316 allows a candidate for city office to accept contributions after the election so long as the contribution does not exceed the net debt outstanding from the election and does not exceed the contribution limit for that election.

- Carry-Over of Contributions. Section 85317 allows a candidate for city office to carry over contributions raised in connection with an election for city office to subsequent elections for the same office.

- Contributions before an Election. Section 85318 authorizes candidates for city office to establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections. This section also authorizes a candidate to raise money for a general election before the primary election, and for a special general election before a special primary election, for the same office if the candidate sets aside the contributions and uses the contributions for the general election or special general election. If the candidate is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds must be refunded to the contributors on a pro rata bass less any expenses associated with the raising and administration of the contributions.

Montclair Election Contributions

Showing the contributions made to candidates from the City's last General Municipal Election gives a clearer picture of recent trends in campaign contributions for our own candidates. The below chart shows the cumulative contributions made to City Council candidates by individual sources in the 2020 Election. The largest reported contribution over $100 from a single source to a candidate's campaign was $5,000, which represents 23% of the total contributions to candidates in the election; the average of all contributions was $634; and the median contribution was $500.



FISCAL IMPACT: Significant fiscal impacts to the General Fund budget could apply annually to cover costs of implementation, enforcement and prosecution if the City Council adopts its own campaign contribution limits that differ from the state's default limits. However, if the City Council decides to impose no contribution limits, or merely takes no action and allows the state's default limits to apply, there would be no cost to the City for enforcement.

RECOMMENDATION: Staff recommends the City Council provide direction to staff related to AB 571 imposing local campaign contribution limits by taking one of the following actions:

1. Direct staff to bring back an ordinance and/or resolution determining the preferred campaign contribution limit(s) or setting no limits, and adopting a policy for administration and enforcement of the limits, if any;

   OR

2. Take no action, thereby allowing the default campaign limits set forth in Government Code Section 85301(a) to apply.

AB-571 Political Reform Act of 1974: contribution limits. (2019-2020)

Date Published: 10/09/2019 09:00 PM

Assembly Bill No. 571

CHAPTER 556

An act to amend and repeal Sections 10003 and 10202 of the Elections Code, and to amend Section 85301 of, to amend, repeal, and add Sections 85305, 85306, 85307, 85315, 85316, 85317, and 85318 of, and to add Section 85702.5 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 571, Mullin. Political Reform Act of 1974: contribution limits.

The Political Reform Act of 1974 prohibits a person, other than a small contributor committee or political party committee, from making to a candidate for elective state office, for statewide elective office, or for the office of Governor, and prohibits those candidates from accepting from a person, a contribution totaling more than a specified amount per election. For a candidate for elective state office other than a candidate for statewide elective office, the limitation on contributions is $3,000 per election, as that amount is adjusted by the Fair Political Practices Commission in January of every odd-numbered year.

Existing law authorizes a county, city, or district to limit campaign contributions in local elections. Existing law authorizes the governing board of a school district or of a community college district to limit campaign expenditures or contributions in elections to district offices. The act specifies that it does not prevent the Legislature or any other state or local agency from imposing additional requirements on a person if the requirements do not prevent the person from complying with the act, and that the act does not nullify contribution limitations or prohibitions by any local jurisdiction that apply to elections for local elective office, as specified.

This bill, commencing January 1, 2021, instead would prohibit a person from making to a candidate for elective county or city office, and would prohibit a candidate for elective county or city office from accepting from a person, a contribution totaling more than the amount set forth in the act for limitations on contributions to a candidate for elective state office. This bill would also authorize a county or city to impose a limitation that is different from the limitation imposed by this bill. This bill would make specified provisions of the act relating to contribution limitations applicable to a candidate for a elective county or city office, except as specified.

The act makes a violation of its provisions punishable as a misdemeanor and subject to specified penalties.

This bill would add the contribution limitation imposed by the bill to the act's provisions, thereby making a violation of the limitation punishable as a misdemeanor and subject to specified penalties. However, the bill would specify that a violation of a limitation imposed by a local government is not subject to the act's enforcement provisions. The bill would authorize a local government that imposes a limitation that is different from the limitation imposed by this bill to adopt enforcement standards for a violation of the limitation imposed

by the local government agency, including administrative, civil, or criminal penalties. By expanding the scope of an existing crime with regard to a violation of a contribution limitation imposed by the bill, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $^{2}/_{3}$ vote of each house of the Legislature and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Most states impose limitations on contributions to candidates for elective county and city offices. California is among the minority of states without these contribution limitations.

(b) Most counties and cities in this state have not independently imposed limitations on contributions to candidates for elective offices in those jurisdictions.

(c) In counties and cities in this state that have not imposed limitations on contributions, candidates for elective offices in those jurisdictions often receive contributions that would exceed the limitations for a state Senate campaign, even though most counties and cities contain far fewer people than the average state Senate district.

(d) In counties and cities in this state that have not imposed limitations on contributions, candidates for elective office in those jurisdictions sometimes raise 40 percent or more of their total campaign funds from a single contributor.

(e) A system allowing unlimited contributions to a candidate for elective county or city office creates the risk and the perception that elected officials in those jurisdictions are beholden to their contributors and will act in the best interest of those contributors at the expense of the people.

(f) This state has a statewide interest in preventing actual corruption and the appearance of corruption at all levels of government.

(g) This act establishes a limitation on contributions to a candidate for elective office in a city or county in which the local government has not established a limitation. However, a local government may establish a different limitation that is more precisely tailored to the needs of its communities.

SEC. 2. Section 10003 of the Elections Code is amended to read:

10003. (a) A county may by ordinance or resolution limit campaign contributions in county elections.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 3. Section 10202 of the Elections Code is amended to read:

10202. (a) A city may, by ordinance or resolution, limit campaign contributions in municipal elections.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 4. Section 85301 of the Government Code is amended to read:

85301. (a) A person, other than a small contributor committee or political party committee, shall not make to a candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective

state office other than a candidate for statewide elective office shall not accept from a person, a contribution totaling more than three thousand dollars ($3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, shall not make to a candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office shall not accept from a person other than a small contributor committee or a political party committee, a contribution totaling more than five thousand dollars ($5,000) per election.

(c) A person, other than a small contributor committee or political party committee, shall not make to a candidate for Governor, and a candidate for Governor shall not accept from any person other than a small contributor committee or political party committee, a contribution totaling more than twenty thousand dollars ($20,000) per election.

(d) (1) A person shall not make to a candidate for elective county or city office, and a candidate for elective county or city office shall not accept from a person, a contribution totaling more than the amount set forth in subdivision (a) per election, as that amount is adjusted by the Commission pursuant to Section 83124. This subdivision does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(2) This subdivision shall become operative on January 1, 2021.

(e) The provisions of this section do not apply to a candidate’s contributions of the candidate’s personal funds to the candidates own campaign.

SEC. 5. Section 85305 of the Government Code is amended to read:

85305. (a) A candidate for elective state office or committee controlled by that candidate shall not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 6. Section 85305 is added to the Government Code, to read:

85305. (a) A candidate for elective state, county, or city office or committee controlled by that candidate shall not make a contribution to any other candidate for elective state, county, or city office in excess of the limits set forth in subdivision (a) of Section 85301. This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

SEC. 7. Section 85306 of the Government Code is amended to read:

85306. (a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate. Contributions transferred shall be attributed to specific contributors using a “last in, first out” or “first in, first out” accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(d) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 8. Section 85306 is added to the Government Code, to read:

85306. (a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state, county, or city office of the same candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor shall not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(d) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(e) This section shall become operative on January 1, 2021.

SEC. 9. Section 85307 of the Government Code is amended to read:

85307. (a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state office shall not personally loan to the candidate's campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars ($100,000). A candidate shall not charge interest on any loan the candidate made to the candidate's campaign.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 10. Section 85307 is added to the Government Code, to read:

85307. (a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state, county, or city office shall not personally loan to the candidate's campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars ($100,000). A candidate shall not charge interest on any loan the candidate made to the candidate's campaign. This subdivision does not apply to a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

SEC. 11. Section 85315 of the Government Code is amended to read:

85315. (a) Notwithstanding any other provision of this chapter, an elected state officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 12. Section 85315 is added to the Government Code, to read:

85315. (a) Notwithstanding any other provision of this chapter, an elected state, county, or city officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state, county, or city officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state, county, or city officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contribution limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state, county, or city officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

SEC. 13. Section 85316 of the Government Code is amended to read:

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) A person shall not make, and an elected state officer shall not receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars ($3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars ($5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars ($20,000) in the case of the Governor.

(2) An elected state officer shall not receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars ($50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars ($100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars ($200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that the candidate may seek during the term of office to which the candidate is currently elected, including, but not limited to, reelection to the office the candidate currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The Commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars ($100).

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 14. Section 85316 is added to the Government Code, to read:

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state, county, or city office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) A person shall not make, and an elected state officer shall not receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars ($3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars ($5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars ($20,000) in the case of the Governor.

(2) An elected state officer shall not receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars ($50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars ($100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars ($200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that the candidate may seek during the term of office to which the candidate is currently elected, including, but not limited to, reelection to the office the candidate currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. The expenditures made by elected state officers pursuant to this subdivision shall not be subject to the voluntary expenditure limitations in Section 85400.

(4) The Commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars ($100).

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

SEC. 15. Section 85317 of the Government Code is amended to read:

85317. (a) Notwithstanding subdivision (a) of Section 85306, a candidate for elective state office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 16. Section 85317 is added to the Government Code, to read:

85317. (a) Notwithstanding subdivision (a) of Section 85306, a candidate for elective state, county, or city office may carry over contributions raised in connection with one election for elective state, county, or city office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state, county, or city office. This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

SEC. 17. Section 85318 of the Government Code is amended to read:

85318. (a) A candidate for elective state office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective state office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 18. Section 85318 is added to the Government Code, to read:

85318. (a) A candidate for elective state, county, or city office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective state, county, or city office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state, county, or city office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state, county, or city office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(b) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

SEC. 19. Section 85702.5 is added to the Government Code, to read:

85702.5. (a) A county or city may, by ordinance or resolution, impose a limit on contributions to a candidate for elective county or city office that is different from the limit set forth in subdivision (d) of Section 85301. The limitation may also be imposed by means of a county or city initiative measure.

(b) A county or city that establishes a contribution limit pursuant to subdivision (a) may adopt enforcement standards for a violation of that limit, which may include administrative, civil, or criminal penalties.

(c) The Commission is not responsible for the administration or enforcement of a contribution limit adopted pursuant to subdivision (a).

(d) This section shall become operative on January 1, 2021. A county or city's limit on contributions to a candidate for elective county or city office that is in effect on the operative date of this section shall be deemed to be a limit imposed pursuant to subdivision (a).

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 21. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.