

**CITY COUNCIL, SUCCESSOR REDEVELOPMENT AGENCY,
MONTCLAIR HOUSING CORPORATION, MONTCLAIR
HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY
FOUNDATION MEETINGS**

AGENDA

Tuesday, January 18, 2022
7:00 p.m.

Location

Council Chamber
5111 Benito Street
Montclair, CA 91763

Webinar Link

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

Dial #

1-669-900-6833

Meeting ID

952-3987-2725



Mayor Javier "John" Dutrey
Mayor Pro Tem Bill Ruh
Council Members Tenice Johnson,
Council Member Corysa Martinez
Council Member Benjamin "Ben" Lopez

City Manager Edward C. Starr
City Attorney Diane E. Robbins
City Clerk Andrea M. Myrick



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

NOTICE

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

In accordance with Government Code section 54953(e) et seq. (AB 361) to ensure the health and safety of the public by limiting human contact that could spread COVID-19, this meeting will be conducted remotely via the Zoom virtual meeting platform. There will be no in-person meeting location; however, the public may participate using the methods described below using a telephone or an internet-connected electronic device.

Tuesday, January 18, 2022
7:00 p.m.

Remote Participation Information:

Zoom Link: <https://zoom.us/j/95239872725>
Dial Number: 1-(669)-900-6833
Meeting ID: 952-3987-2725

*If you want to make a public comment or speak on an agenda item, including public hearing and closed session items, please complete a Virtual Speaker Card at <https://www.cityofmontclair.org/public-comment/>. The Mayor/Chair (or the meeting's Presiding Officer) will call on those who have submitted a request to speak at the appropriate time. Those who did not submit a request to speak may request speak using the "raise hand" function on the Zoom meeting platform or over the phone by dialing *9. Written comments (200-word limit per agenda item, and 200-word limit for all non-agenda items combined) and requests to speak can also be sent in via email to cityclerk@cityofmontclair.org.*

Video recordings of Council meetings are available on the City's website at <https://www.cityofmontclair.org/council-meetings/> and can be accessed by the end of the business day following the meeting.

AGENDA

- 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

This meeting may include a nonsectarian invocation, which is 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. Monte Vista Water District Report of Emergency Conservation Regulations
- B. Proclamation Declaring January 2022 as Blood Donor Month in the City of Montclair

VI. PUBLIC COMMENT

*During Public Comment, you may comment on any subject that **does not** appear on this agenda. Each speaker has up to five minutes. The meeting's presiding officer may provide more or less time to accommodate speakers with special needs or a large number of speakers waiting in line. (Government Code Section 54954.3).*

*If you did not submit a Virtual Speaker Card and would like to speak on an item on the **Consent Calendar**, please raise your hand (or dial *9 on the phone) during Public Comment to announce the agenda item you would like to provide comments on. The presiding officer will pull the item from the Consent Calendar and will then call on you to speak at the time of the 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. Adjourned Meeting — October 18, 2021 [CC] | 89 |
| 2. Adjourned Meeting — November 10, 2021 [CC] | 91 |
| 3. Special Joint Meeting — December 15, 2021 [CC/PC] | 93 |
| 4. Regular Joint Meeting — December 20, 2021 [CC/SA/MHC/MHA/MCF] | 96 |

B. Administrative Reports

- | | |
|--|----|
| 1. Consider Receiving and Filing of Treasurer's Report [CC] | 4 |
| 2. Consider Approval of Warrant Register & Payroll Documentation [CC] | 5 |
| 3. Consider Receiving and Filing of Treasurer's Report [SA] | 6 |
| 4. Consider Approval of Warrant Register [SA] | 7 |
| 5. Consider Receiving and Filing of Treasurer's Report [MHC] | 8 |
| 6. Consider Approval of Warrant Register [MHC] | 9 |
| 7. Consider Receiving and Filing of Treasurer's Report [MHA] | 10 |
| 8. Consider Approval of Warrant Register [MHA] | 11 |
| 9. Consider Receiving and Filing a Status Report on Emergency Contracting Procedures for the Pacific Electric Trail Bridge Replacement Project and Determining There is a Need to Continue the Action [CC] | 12 |

C. Agreements

- | | |
|--|----|
| 1. Consider Approval of Agreement Nos. 22-01, 22-02, and 22-03 with Montclair Little League and Golden Girls Softball League for Use of Ball Field Facilities [CC] | 14 |
| 2. Consider Approval of Agreement No. 22-05 with David Taussig & Associates, Inc., to Provide Services for New Formations and Annual Administration of Community Facilities Districts [CC] | |
| Consider Approval of Agreement No. 22-06 with Dudek to Provide Environmental Review and Compliance Services [CC] | 36 |
| 3. Consider Approval of Agreement No. 22-07, Amendment No. 1 to Agreement No. 15-63 with the City of Chino Increasing the City's Contribution by \$99,099 for Interchange Improvements at Central Avenue and State Route 60 [CC] | |
| Consider Authorizing City Manager Edward C. Starr to Execute Agreement No. 22-07 and Related Documents [CC] | 75 |

D. Resolutions

- | | |
|--|----|
| 1. Consider Adoption of Resolution No. 22-3333 Making Factual Findings in Compliance with AB 361 for the Continuation of Public Meeting Teleconferencing During Public Health Emergencies for the Period of January 18, 2022, Through February 17, 2022 [CC] | 81 |
|--|----|

2. Consider Adoption of Resolution No. 22-3335 Authorizing Submittal of Applications for CalRecycle Grants for Which the City is Eligible [CC] 85

IX. PULLED CONSENT CALENDAR ITEMS

X. COMMUNICATIONS

- A. Department Reports — None
- B. City Attorney
- C. City Manager/Executive Director
- D. Mayor/Chairperson
- E. Council Members/Directors
- F. Committee Meeting Minutes *(for informational purposes only)*

1. Personnel Committee Meeting — December 20, 2021 [CC] 88

XI. ADJOURNMENT

The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, February 7, 2022, at 7:00 p.m.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the meeting bodies after publication of the Agenda packet are available for public inspection in the Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Please call the City Clerk's Office at (909) 625-9416 or send an e-mail to cityclerk@cityofmontclair.org to request documents via e-mail.

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. Myrick, 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 <https://www.cityofmontclair.org/agendas/> and on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763 on Thursday, January 13, 2022.



CITY COUNCIL AGENDA REPORT

| | | | |
|------------------|---|-------------------|------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN520 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | FINANCE |
| ITEM NO.: | 1 | PREPARER: | J. KULBECK |
| SUBJECT: | CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT | | |

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending December 31, 2021.

BACKGROUND: Included in the City Council's agenda packet is a copy of the Treasurer's Report for the period ending December 31, 2021.

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

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending December 31, 2021.



CITY COUNCIL AGENDA REPORT

| | | | |
|------------------|---|-------------------|------------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN540 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | FINANCE |
| ITEM NO.: | 2 | 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 January 18, 2022, and the Payroll Documentation dated December 5 and 19, 2021, and January 2, 2022, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated January 18, 2022, totals \$2,112,319.18.

The Payroll Documentation dated December 5, 2021 totals \$728,659.67 gross, with \$502,917.11 net being the total cash disbursement.

The Payroll Documentation dated December 19, 2021 totals \$654,170.52 gross, with \$455,875.84 net being the total cash disbursement.

The Payroll Documentation dated January 2, 2022 totals \$628,842.87 gross, with \$432,860.72 net being the total cash disbursement.

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



CITY COUNCIL AGENDA REPORT

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|------------------|---|-------------------|------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN510 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | SA |
| ITEM NO.: | 3 | PREPARER: | C. RAMIREZ |
| SUBJECT: | CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT | | |

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors (Successor Agency Board) is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending December 31, 2021, pursuant to state law.

BACKGROUND: Included in the Successor Agency Board's agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending December 31, 2021.

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

RECOMMENDATION: Staff recommends the Successor Agency Board receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending December 31, 2021.



CITY COUNCIL AGENDA REPORT

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|------------------|---------------------------------------|-------------------|------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN530 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | SA |
| ITEM NO.: | 4 | PREPARER: | C. RAMIREZ |
| SUBJECT: | CONSIDER APPROVAL OF WARRANT REGISTER | | |

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending December 31, 2021, pursuant to state law.

BACKGROUND: Vice Chair Ruh has examined the Successor to the Redevelopment Agency Warrant Register dated 12.01.21-12.31.21 in the amounts of \$7,057.89 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds, and finds it to be in order.

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

RECOMMENDATION: Vice Chair Ruh recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending December 31, 2021.



CITY COUNCIL AGENDA REPORT

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|------------------|---|-------------------|------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN525 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | MHC |
| ITEM NO.: | 5 | PREPARER: | C. RAMIREZ |
| SUBJECT: | CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT | | |

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending December 31, 2021, pursuant to state law.

BACKGROUND: Included in the Montclair Housing Corporation Board agenda packet is a copy of the Treasurer's Report for the period ending December 31, 2021.

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

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending December 31, 2021.



CITY COUNCIL AGENDA REPORT

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|------------------|---------------------------------------|-------------------|------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN545 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | MHC |
| ITEM NO.: | 6 | PREPARER: | C. RAMIREZ |
| SUBJECT: | CONSIDER APPROVAL OF WARRANT REGISTER | | |

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending December 31, 2021, pursuant to state law.

BACKGROUND: Vice Chair Ruh has examined the Warrant Register dated 12.01.21–12.31.21 in the amount of \$28,190.68 for the Montclair Housing Corporation and finds it to be in order.

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

RECOMMENDATION: Vice Chair Ruh recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending December 31, 2021.



CITY COUNCIL AGENDA REPORT

| | | | |
|------------------|---|-------------------|------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN525 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | MHA |
| ITEM NO.: | 7 | PREPARER: | C. RAMIREZ |
| SUBJECT: | CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT | | |

REASON FOR CONSIDERATION: The Montclair Housing Authority Commission is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending December 31, 2021, pursuant to state law.

BACKGROUND: Included in the Montclair Housing Authority Commission's agenda packet is a copy of the Treasurer's Report for the period ending December 31, 2021.

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

RECOMMENDATION: Staff recommends the Montclair Housing Authority Commission receive and file the Treasurer's Report for the month ending December 31, 2021.



CITY COUNCIL AGENDA REPORT

| | | | |
|------------------|---------------------------------------|-------------------|------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | FIN545 |
| SECTION: | CONSENT - ADMIN. REPORTS | DEPT.: | MHA |
| ITEM NO.: | 8 | PREPARER: | C. RAMIREZ |
| SUBJECT: | CONSIDER APPROVAL OF WARRANT REGISTER | | |

REASON FOR CONSIDERATION: The Montclair Housing Authority Commission is requested to consider receiving and filing the Warrant Register for the month ending December 31, 2021, pursuant to state law.

BACKGROUND: Vice Chair Ruh has examined the Warrant Register dated 12.01.21–12.31.21 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

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

RECOMMENDATION: Vice Chair Ruh recommends the Montclair Housing Authority Commission approve the Warrant Register for the period ending December 31, 2021.



CITY COUNCIL AGENDA REPORT

DATE: JANUARY 18, 2022

FILE I.D.: TRN110A

SECTION: CONSENT - ADMIN. REPORTS

DEPT.: PUBLIC WORKS

ITEM NO.: 9

PREPARER: S. STANTON

SUBJECT: CONSIDER RECEIVING AND FILING A STATUS REPORT ON EMERGENCY CONTRACTING PROCEDURES FOR THE PACIFIC ELECTRIC TRAIL BRIDGE REPLACEMENT PROJECT AND DETERMINING THERE IS A NEED TO CONTINUE THE ACTION

REASON FOR CONSIDERATION: By City Council action on April 19, 2021, Resolution No. 21-3307 was adopted, declaring a need for emergency contracting procedures for the Pacific Electric (PE) Trail Bridge Replacement Project. Under Public Contract Code Section 22050, the governing body must review the emergency action at every regularly scheduled meeting after making the declaration to determine the need to continue the action by a fourth-fifths majority vote.

BACKGROUND: The City of Montclair, in coordination with San Bernardino County Transportation Authority (SBCTA), constructed a multi-purpose trail linking cities from Claremont to Rialto along the famous Pacific Electric Railway Line. This 21-mile trail is a vital component of our Active transportation and Healthy Montclair programs. The trail provides recreational and alternative transportation opportunities for cyclists, pedestrians, runners, and equestrians and links residents and the commuting public to schools, jobs, and our regional transportation hub. The 20-acre Montclair Transcenter is the largest facility of its kind between Union Station in Los Angeles and the San Bernardino County station. It conveniently connects the region's fixed-route commuter rail, bus service, and rideshare programs in one centrally located area. The Pacific Electric trail is a vital connection to this important transportation hub.

On March 21, 2021, the PE Trail Bridge was damaged due to a fire and closed to active transportation traffic. The closure of the bridge disrupts the regional connections of the PE Trail. A structural engineer who investigated the magnitude and extent of the damage declared the PE Trail bridge a total loss and recommended replacement. The replacement will be a prefabricated steel truss bridge to mitigate the risks that left the existing bridge vulnerable to fire. A steel truss bridge provides the best combination of long-term value and affordability while also recognizing the need for a speedy replacement of this vital piece of infrastructure. The use of a prefabricated bridge saves valuable time since a state-licensed structural engineer has preapproved its design. Compared to a wooden structure, the construction of the steel truss bridge is completed at an accelerated pace since it is delivered assembled and dropped into place.

The City of Montclair is a healthier and more equitable City due to safer and more connected roadways through active transportation options. SBCTA recognizes the value and importance of the PE trail. To that end, SBCTA has shown good faith and leadership by graciously offering to cover a percent of the cost, up to \$100,000, to replace the bridge through their TDA Grant Program. On June 2, 2021, the SBCTA Board of Directors authorized the release of the TDA Article 3 Call for Projects for bicycle and pedestrian improvement projects. The City applied for the grant, and SBCTA's General Policy

Committee awarded \$227,544 for the Project. The City will cash flow the Project and seek reimbursement from SBCTA at a future date.

Currently, Pacific Electric Trail commuters are being detoured from the regional trail to Arrow Highway. To reduce the impact of the bridge closure, City staff will continue to work diligently through the use of the emergency contracting procedures to hire various consultants and contractors to complete the bridge replacement. Contech Engineered Solutions will fabricate the bridge. Biggs Cardosa Associates (BCA), a structural engineering consultant, will design the bridge deck and modify the existing bridge substructure and foundations to accept the new bridge. Additionally, Environmental permits and studies are required to clear the Project through the California Environmental Quality Act (CEQA) and U.S. Army Corps permitting process.

January 18, 2022 Update

On Thursday, January 6, 2022, the City received and opened 10 bid proposals for the project. The bid results are as follows:

| <i>Bidder</i> | <i>Amount</i> |
|---------------------------------------|----------------------------|
| Sunquest General Engineering, Inc. | \$117,080.00 |
| Cora Constructors, Inc. | \$118,745.00 |
| 316 Engineering & Construction, Inc. | \$130,968.00 |
| Wright Construction Engineering Corp. | \$140,176.00 |
| Metrocell Construction, Inc. | \$146,032.00 |
| Beador Construction Company, Inc. | \$146,300.00 |
| Jergensen Construction, Inc. | \$154,330.00 |
| Everlevel Holdings, LLC | \$167,150.00 |
| G.B. Cooke, Inc. | \$193,800.00 |
| <i>Engineers Estimate</i> | <i>\$280,000.00</i> |
| Leonida Builders, Inc. | \$290,300.00 |
| | |

Staff completed a reviewed the proposals for completeness and accuracy, and a contract was awarded by the City Manager to the lowest responsible, responsive bidder, Sunquest General Engineering, Inc. (Agreement No. 22-04).

The bridge is expected to be delivered to the site by the manufacturer on February 3, 2022. Construction is expected to take up to 40 working days for completion.

FISCAL IMPACT: The estimated cost to replace the Pacific Electric Trail Bridge is \$450,000. SBCTA will contribute a total of \$327,544 in TDA Grant funding, and 2021 Lease Revenue Bonds will cover the remaining project costs.

RECOMMENDATION: Staff recommends that the City Council receive and file a status report on emergency contracting procedures for the Pacific Electric Trail Bridge Replacement Project and determine there is a need to continue the action.



CITY COUNCIL AGENDA REPORT

DATE: JANUARY 18, 2022

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

SECTION: CONSENT - AGREEMENTS

DEPT.: HUMAN SVCS.

ITEM NO.: 1

PREPARER: F. SALTOS

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NOS. 22-01, 22-02, AND 22-03 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 (the Leagues) have requested the use of City facilities for their spring 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. 22-01, 22-02, and 22-03 with Montclair Little League and Golden Girls Softball League.

Copies of Agreement Nos. 22-01, 22-02, and 22-03 are attached for City Council review and consideration.

BACKGROUND: In September 2020, the City provided the Leagues with 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, the State of California is providing fewer restrictions for moderate-contact sports. Pursuant to Agreement Nos. 22-01 and 22-02, 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 No. 22-03, 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.

The leagues 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. 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 result in a cost to the City 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 2021-22 Budget. The terms of proposed Agreement Nos. 22-01, 22-02, and 22-03 with Montclair Little League and Golden Girls Softball League are from January 18, 2022, through August 31, 2022.

RECOMMENDATION: Staff recommends the City Council approve Agreement Nos. 22-01, 22-02, and 22-03 with Montclair Little League and Golden Girls Softball League for use of ball field facilities.

**AGREEMENT NO. 22-01
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.

The following guidance is mandatory:

- Informed Consent (City waiver and League waiver)
- Safety Plan

The following general guidance is strongly encouraged:

- Face Coverings
- Physical Distancing
- Hygiene and Sanitation
- Limitations on mixing by participants
- Travel Considerations

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 January 18, 2022 through August 31, 2022.

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 vandalism or malicious mischief to the property including for graffiti removal on buildings within 24 hours of notification, contact Graffiti Abatement Hotline at 625-9429 and report vandalism immediately to the Public Works Department at 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 January 18, 2022, through August 31, 2022, 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.

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. 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 LEAGUE at least ten (10) days prior written notice.

APPROVED AND ADOPTED this _____ day of _____, 2022.

LEAGUE:

CITY:

MONTCLAIR LITTLE LEAGUE

CITY OF MONTCLAIR

President

Javier John Dutrey
Mayor

Secretary

ATTEST:

Andrea M. Myrick
City Clerk

**CITY OF MONTCLAIR
CONTACT LIST FOR SPORTS LEAGUES
JANUARY 2022**

| 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 | Pub. Works Facilities/Maint. Asst. Manager | Mathew Paradis | (909) 625-9443 Cell: (909) 721-1860 |
| Grounds Maintenance | Public Works Operations Asst. Manager | Alex Cardona | (909) 625-9467 Cell: (909) 762-1372 |
| Vandalism | Public Works Department | | (909) 625-9480 |
| Graffiti Removal | Graffiti Abatement Hotline | | (909) 625-9429 |

**AGREEMENT NO. 22-02
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.

The following guidance is mandatory:

- Informed Consent (City waiver and League waiver)
- Safety Plan

The following general guidance is strongly encouraged:

- Face Coverings
- Physical Distancing
- Hygiene and Sanitation
- Limitations on mixing by participants
- Travel Considerations

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 January 18, 2022 through August 31, 2022.

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 625-9429 and report vandalism immediately to the Public Works Department at 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 January 18, 2022, through August 31, 2022, 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.

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. 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 LEAGUE at least ten (10) days prior written notice.

APPROVED AND ADOPTED this _____ day of _____, 2022.

LEAGUE:

MONTCLAIR LITTLE LEAGUE

CITY:

CITY OF MONTCLAIR

President

Javier John Dutrey
Mayor

Secretary

ATTEST:

Andrea M. Myrick
City Clerk

**CITY OF MONTCLAIR
CONTACT LIST FOR SPORTS LEAGUES
JANUARY 2022**

| 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 | Pub. Works Facilities/Maint. Asst. Manager | Mathew Paradis | (909) 625-9443 Cell: (909) 721-1860 |
| Grounds Maintenance | Public Works Operations Asst. Manager | Alex Cardona | (909) 625-9467 Cell: (909) 762-1372 |
| Vandalism | Public Works Department | | (909) 625-9480 |
| Graffiti Removal | Graffiti Abatement Hotline | | (909) 625-9429 |

**AGREEMENT NO. 22-03
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 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.

The following guidance is mandatory:

- Informed Consent (City waiver and League waiver)
- Safety Plan

The following general guidance is strongly encouraged:

- Face Coverings
- Physical Distancing
- Hygiene and Sanitation
- Limitations on mixing by participants
- Travel Considerations

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 January 18, 2022 through August 31, 2022.

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 625-9429 and report vandalism immediately to the Public Works Department at 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 January 18, 2022, through August 31, 2022, 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. Upon approval of the Director of Human Services, LEAGUE's cleaning deposit shall rollover any unused monies into the next Agreement.
- f. To designate a CITY representative to work with LEAGUE on all non-maintenance issues relating to the use of CITY facilities.

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. 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 LEAGUE at least ten (10) days prior written notice.

APPROVED AND ADOPTED this _____ day of _____, 2022.

LEAGUE:

GOLDEN GIRLS SOFTBALL

CITY:

CITY OF MONTCLAIR

President

Javier John Dutrey
Mayor

Secretary

ATTEST:

Andrea M. Myrick
City Clerk

**CITY OF MONTCLAIR
CONTACT LIST FOR SPORTS LEAGUES
JANUARY 2022**

| 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 | Pub. Works Facilities/Maint. Asst. Manager | Mathew Paradis | (909) 625-9443 Cell: (909) 721-1860 |
| Grounds Maintenance | Public Works Operations Asst. Manager | Alex Cardona | (909) 625-9467 Cell: (909) 762-1372 |
| Vandalism | Public Works Department | | (909) 625-9480 |
| Graffiti Removal | Graffiti Abatement Hotline | | (909) 625-9429 |



CITY COUNCIL AGENDA REPORT

DATE: JANUARY 18, 2022

FILE I.D.: EDD100

SECTION: CONSENT - AGREEMENTS

DEPT.: ECONOMIC DEV.

ITEM NO.: 2

PREPARER: M. FUENTES

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 22-05 WITH DAVID TAUSSIG & ASSOCIATES, INC., TO PROVIDE SERVICES FOR NEW FORMATIONS AND ANNUAL ADMINISTRATION OF COMMUNITY FACILITIES DISTRICTS

CONSIDER APPROVAL OF AGREEMENT NO. 22-06 WITH DUDEK TO PROVIDE ENVIRONMENTAL REVIEW AND COMPLIANCE SERVICES

REASON FOR CONSIDERATION: In considering projects within the North Montclair Downtown Specific Plan (NMDSP) and the Montclair Place District Specific Plan (MPDSP) areas, staff has utilized the services of several consultants to provide expertise related to environmental review and analysis, architectural and design review, and infrastructure and maintenance financing.

Agreement No. 22-05 would authorize staff to retain the services of David Taussig & Associates, Inc., (DTA) as the City of Montclair's Special Tax Consultant to provide services on an as-needed basis as it relates to new community facility district (CFD) formations and the annual administration of CFDs.

Agreement No. 22-06 would authorize staff to retain the services of Dudek, Inc., as the City of Montclair's Environmental Consultant to provide services on an as-needed basis as it relates to environmental review for new developments pursuant to the California Environmental Quality Act (CEQA).

Copies of proposed Agreement Nos. 22-05 and 22-06 are attached for City Council review and consideration.

BACKGROUND: The City of Montclair has utilized the services of DTA and Dudek on a variety of development projects throughout the City.

With the adoption of the NMDSP, the City Council directed that all future developments within the NMDSP have CFDs established to offset general fund costs related to infrastructure maintenance and public safety services. With the adoption of the MPDSP, the City Council directed staff to continue the policy of creating CFDs to offset general fund costs related to infrastructure maintenance and public safety services.

David Taussig & Associates, Inc.

DTA is a national public finance, development economics, and clean energy bond consulting firm with offices in Newport Beach, San Jose, Riverside, and San Francisco, California, as well as in Dallas and Houston, Texas, and Raleigh, North Carolina. Since the firm's establishment in 1985, it has specialized in financing public infrastructure, facilities, and services for public agencies and private sector clients throughout the United States.

DTA has provided public finance consulting services to over 3,000 public and private sector clients and utilized a variety of public financing mechanisms, such as Community Facilities Districts, Assessment Districts, Special Service Areas, Local Improvement Districts, Public Improvement Districts, Certificates of Participation, Tax Allocation Bonds, Sewer and Water Revenue Bonds, Marks-Roos Bond Pools, Landscaping and Lighting Districts, Integrated Financing Districts, and various types of regional and benefit area-based fee programs.

DTA's experience in the formation of over 2,000 local special districts and funding programs over the past 33 years, with bond authorizations exceeding \$60 billion, has given them a perspective and level of skill that is unmatched in the public finance industry. In addition, DTA has also assisted clients in obtaining infrastructure funding through numerous programs promulgated under the authority of various state and federal agencies. As a result, DTA's clients have been awarded dozens of state and federal grants and loans, as well as proceeds from various tax credit programs. In addition, DTA has prepared hundreds of Fiscal Impact Reports and Economic Impact Analyses related to land development plans and projects, as well as Development Impact Fee justification studies to determine impact fee levels to fund infrastructure and public improvements.

The City of Montclair has utilized the services of DTA in the formation of two CFDs within the boundaries of the NMDSP. The two CFDs consist of the following: Community Facilities District No 2011-1 (Paseos at Montclair North), and Community Facilities District No. 2011-2 (Arrow Station). The two existing CFDs fund various maintenance and public safety services for the developments contained within the boundaries of the CFDs.

In addition to utilizing the services of DTA for the existing CFDs and their ongoing administration, staff anticipates utilizing the services of DTA to form three additional CFDs with the boundaries of the NMDSP: Village at Montclair Station, Alexan-Kendry Expansion, and Montclair Station.

To utilize the services of DTA, the City must enter into a separate agreement for each development project forming its own CFD or being annexed into an existing CFD. In order to streamline the CFD process by providing developers with quicker access to DTA's services, staff is proposing to retain DTA as the City of Montclair's Special Tax Consultant to provide services on an as-needed basis.

Proposed Agreement No. 22-05 includes the full scopes of services to be provided by DTA. The more salient services to be provided by DTA for work related to new proposed CFDs and their annual administration are as follows:

- DTA shall provide special tax consulting services necessary to assist the City of Montclair in the formation of a CFD to finance certain annual services for such project. The maximum budget shall be determined at the time of commencement of formation of each proposed CFD.
- DTA will prepare the Rate and Method of Apportionment (RMA) of Special Tax which describes the methodology used to calculate the annual special tax levy for the CFD.
- DTA shall prepare the Public Report, as described in Section 53321.5 of the California Government Code, containing descriptions of the proposed services,

their estimated costs, and maximum annual special tax rates.

- DTA will assist the City with the preparation of required documents, including the Resolution of Intention, Resolution of Formation, and related items.
- DTA will prepare the CFD boundary map pursuant to the requirements of the Mello–Roos Act and the San Bernardino County Recorder’s Office.
- DTA will determine, gather, and organize the land use data required to apportion and collect special taxes.
- DTA shall apply the RMA to determine the appropriate special tax classification for each parcel located within each CFD.
- DTA will calculate the special tax requirement for each fiscal year and allocate it to the properties in the CFD and prepare the Annual Special Tax Report containing the findings of the financial analysis and an explanation of the methodology employed to apportion the special taxes.

Dudek

Dudek is an environmental and engineering firm with more than 700 planners, scientists, engineers, contractors, and support staff. Dudek's staff are passionate experts assisting private and public clients on a broad range of projects focused on improving communities, infrastructure, and the natural environment.

From planning, design, and permitting through construction, Dudek helps move projects forward through the complexities of regulatory compliance, budgetary and schedule constraints, and conflicting stakeholder interests. Dudek specializes in energy, water infrastructure, water treatment, mobility, urban development, education, and healthcare projects.

Dudek was founded in 1980 and has offices throughout the United States, including in California, Oregon, Colorado, Hawaii, Florida, and Virginia.

The City of Montclair has utilized the services of Dudek for environmental review and analysis in conformance with the California Environmental Quality Act (CEQA) for various development projects and specific plans. In particular, staff has utilized the services of Dudek to conduct the environmental impact report for the NMDSP and the MPDSP, and subsequent amendments.

Staff has continued to utilize the services of Dudek for projects within the boundaries of the NMDSP and MPDSP, given Dudek's ability to tier off of the environmental review and analysis that the firm conducted as part of the environmental impact reports conducted for the specific plans.

To utilize the services of Dudek, the City is required to enter into a separate agreement for each development project in order to conduct environmental review and analysis. As a means to streamline the environmental review and analysis process and to provide developers with quicker access to the services provided by Dudek, staff is proposing to retain the services of Dudek as the City’s Environmental Consultant to provide services on an as-needed basis.

Proposed Agreement No. 22-06 does not include a full scopes of services to be provided by Dudek, given that each development project requires various levels of environmental review based on project specifics. As such, Agreement No. 22-06 proposes the introduction of "task orders" which would provide a scope of services for each development proposal. The services that will be covered by proposed Agreement No. 22-06 may include the following:

- Technical studies and data collection
- Environmental impact statement
- Environmental assessments
- Environmental impact reports
- Initial studies
- Negative declarations
- Mitigated negative declarations
- Mitigation monitoring and reporting programs
- Findings of fact and statements of overriding considerations.

FISCAL IMPACT: Proposed Agreement No. 22-05 would authorize staff to retain the services of David Taussig & Associates, Inc., as the City of Montclair's Special Tax Consultant to provide services on an as-needed basis as it relates to new CFD formations and annual administration.

The fees associated with the formation of new CFDs would be paid for by reimbursement agreements that developers would be required to enter into with the City as a condition of project approval. The annual costs associated with the administration of the CFDs would be paid from CFD proceeds.

Proposed Agreement No. 22-06 would authorize staff to retain the services of Dudek as the City of Montclair's Environmental Consultant to provide services on an as-needed basis as it relates to environmental review.

The fees associated with Dudek's services would be paid for by reimbursement agreements that developers would be required to enter into with the City as a condition of project approval.

Any work conducted either by DTA or Dudek for services rendered that are not in relation to a development project would be paid from the General Fund.

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

1. Approve Agreement No. 22-05 with David Taussig & Associates, Inc., to provide services for new formations and annual administration of community facilities districts; and
2. Approve Agreement No. 22-06 with Dudek to provide environmental review and compliance services.

CITY OF MONTCLAIR
AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and effective as of January 18, 2022, between the City of Montclair, a municipal corporation ("City") and David Taussig and Associates, Inc. dba DTA, a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on January 18, 2022 and shall remain and continue in effect until modified by the parties or terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

The parties intend Consultant to assist the City with the formation and annual administration of community facility districts from time to time as needed. 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, and the review and approval of all products submitted by Consultant. City's City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Scope of Services to be Performed or change Consultant's compensation as provided in Section 5(b) below.

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment Schedule of Fees set forth in Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the tasks detailed in Exhibit A. The fees and reimbursables set forward in Exhibit A may be subject to annual adjustment.

(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.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

(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. Notwithstanding the above, computer software (including without limitation financial models, compilations of formulas and spreadsheet models), prepared by Consultant are Instruments of Service of Consultant and shall remain the property of Consultant. Consultant shall likewise retain all common law, statutory and other reserved rights, including the copyright thereto.

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, 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 \$2,000,000 per occurrence, and \$4,000,000 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 \$2,000,000 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 good as CG 20 38 04 13.

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall

not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

(c) Consultant shall comply with all applicable federal, state and local Conflict of Interest laws, including the Political Reform Act (California Government Code, Section 81000, *et. seq.*) and California Government Code, Section 1090, *et. seq.* Consultant covenants that neither he/she nor any officer or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement. Further, Consultant covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to the City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by the Consultant. The Consultant's covenant under this Section shall survive the termination of this Agreement.

16. NOTICES

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

| | |
|----------|---|
| To City: | Mikey Fuentes Director of Economic Development City of Montclair 5111 Benito Street Montclair, CA 91763 |
|----------|---|

| | |
|----------------|--|
| To Consultant: | Andrea Roess Managing Director DTA 5000 Birch Street, Suite 3000 Newport Beach, CA 92660 |
|----------------|--|

17. ASSIGNMENT AND SUBCONTRACTING

The Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, nor any monies due hereunder, without prior written consent of the City. The City's consent to an assignment of rights under this Agreement shall not release the Consultant from any of its obligations or alter any of its

obligations to be performed under this Agreement. Any attempt at assignment or delegation by the Consultant in violation of this Section 17 shall be void and of no legal effect and shall constitute grounds to terminate this Agreement for cause. The Consultant shall not subcontract any performance required under this Agreement without the City's prior written consent.

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. PRIORITY OF AGREEMENT

To the extent any provision of Consultant's Proposal attached hereto as Exhibit "A" conflicts with the terms and provisions of this Agreement, the terms and provisions of this Agreement shall control and shall take precedence over those contained in Consultant's Proposal.

22. CONFIDENTIALITY

Information and materials obtained by the Consultant from City during the performance of this Agreement shall be treated as strictly confidential and shall not be used by the Consultant for any purpose other than the performance of this Agreement. Consultant's covenant under this Section shall survive the expiration or termination of this Agreement.

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement and any application of the terms shall remain valid and enforceable under this Agreement or California law.

25. CLAIMS AGAINST CITY

Consultant must comply with the claim procedures set forth in Government Code sections 900, *et. seq.*, and/or Montclair Municipal Code, Chapter 1.16, as applicable, prior to filing any lawsuit against the City. Such claims and any subsequent lawsuit based upon the claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

26. AUTHORITY TO EXECUTE THIS AGREEMENT

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

27. NO THIRD PARTY BENEFICIARIES

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

28. COST OF LITIGATION

If any legal action is necessary to enforce any provision of this Agreement or for damages by reason of an alleged breach of any provisions of this Agreement (whether in contract, tort or both), the prevailing Party shall be entitled to receive from the losing Party all attorneys' fees, costs and expenses in such amount as the courts may determine to be reasonable. In awarding the cost of litigation, the court shall not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses and attorneys' fees paid or incurred in good faith.

29. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

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

CITY OF MONTCLAIR

CONSULTANT

By: _____
Javier John Dutrey, Mayor

By: _____
David Taussig, President

Attest:

By: _____
Andrea M. Myrick, City Clerk

By: _____
Cecily Burke, Secretary

Approved as to Form:

By: _____
Diane E. Robbins, City Attorney

SCOPE OF WORK

DTA shall serve as the City of Montclair's (the "City's") Special Tax Consultant and provide services on an as-needed basis as it relates to new Community Facilities District ("CFD") formations and annual administration. This agreement shall cover any work related to new proposed CFDs and annual administration services for any CFD.

A Phase I – CFD Formation

DTA shall provide special tax consulting services, as described in the tasks below, necessary to assist the City in the formation of a CFD to finance certain annual services for such project. The maximum budget shall be determined at the time of commencement of formation of the proposed CFD.

Task 1 – Initial Kick-off Call

DTA shall attend an initial kickoff call to discuss the scope of work and proposed schedule, in addition to identifying any other issues prior to beginning work.

Task 2 – Research

DTA will gather the necessary data from the City and developer. The City and developer are responsible for providing and verifying data describing types of development, improved property values, net taxable acreage, and the estimated cost of the annual services proposed to be financed. DTA shall rely on such data provided by the City and developer and shall not be responsible for verifying its accuracy. DTA shall also compile Assessor's data for the project area.

Task 3 – Preliminary Tax Spread

DTA shall prepare the initial spread of special taxes (the "Tax Spread") based on land use, building square footage, and/or acreage as obtained through Task 2 above. We will also calculate special taxes to support proposed annual services costs. DTA may recommend alternative techniques to apportion special taxes to enhance project feasibility.

Task 4 – Rate and Method of Apportionment

DTA will prepare the Rate and Method of Apportionment of Special Tax (the "RMA") which describes the methodology used to calculate the annual special tax levy for the CFD. DTA shall work with City staff to modify the RMA, as needed.

Task 5 – Public Report

DTA shall prepare the Public Report, as described in Section 53321.5 of the California Government Code, containing descriptions of the proposed services, their estimated costs, and maximum annual special tax rates.

Task 6 – Document Review and Preparation

DTA will assist the City with the preparation of required documents, including the Resolution of Intention, Resolution of Formation, and related items.

Task – Verbal Consulting Services

DTA shall provide verbal consulting services and advice to the City and other project developers regarding the special tax and apportionment methodology during the period in which Tasks 1-6 is being completed.

Task 8 – Coordination

DTA shall attend conference calls as needed, including the meeting described in Task 1 above. These calls may be used to discuss or present the Tax Spread, RMA, Public Report, or other items prepared by DTA. They may also be used for the protest hearing or other public meetings. In-person meetings attended by DTA will require fees beyond the maximum established in the Fee Schedule if the budgeted amount has been completely expended based on hourly rates quoted herein.

Task 9 – Preparation of Boundary Map

This task entails the preparation of the CFD boundary map pursuant to the requirements of the Mello-Roos Act and the San Bernardino County ("County") Recorder's Office, assuming that computerized base maps are provided by the City. DTA will record the map at the County Recorder's office and distribute a copy of recorded map to the project team.

B Phase II – Annual Administration

DTA shall provide special tax consulting services, as described in the tasks below, necessary to assist the City in the annual administration of any CFD.

Task 1 – Land Use Research

DTA will determine, gather, and organize the land use data required to apportion and collect special taxes. This task includes the following subtasks:

- 1.1 **Subdivision Research:** DTA shall identify and obtain copies of all final tract or parcel maps recorded within the CFD.
- 1.2 **Development Research:** DTA will determine all building permit activity as of January 1 of the previous fiscal year. We shall also identify issuance date, building square footage, and situs address for each new building.
- 1.3 **Assessor Parcel Research:** DTA shall review current Assessor parcel maps to compile a list of the Assessor's parcels that will be valid for each fiscal year. We will then determine the acreage of all parcels.
- 1.4 **Database Management:** DTA will create automated parcel database that will include information for all parcels. Data will include the Assessor Parcel Number ("APN") and

corresponding tract, lot and unit number, acreage, building square footage, building permit issuance date, and situs address.

Task 2 – Classification of Property

DTA shall apply the RMA to determine the appropriate special tax classification for each parcel located within each CFD. This task includes the following subtasks:

- 2.1 **Exempt Property:** DTA will identify all property owned by public agencies or entities otherwise exempt from the special tax and classify such property as exempt property; and
- 2.2 **Taxable Property:** DTA shall ascertain all taxable properties and classify each as "Developed Property" or "Undeveloped Property." We will then assign each "Developed Property" to the appropriate special tax classification.

Task 3 – Financial Analysis

DTA will calculate the special tax requirement for each fiscal year and allocate it to property in the CFD. This task includes the following subtasks:

- 3.1 **Determine Special Tax Requirement:** DTA will assist the City with the calculation of the Special Tax A requirement and Special Tax B requirement.
- 3.2 **Special Tax Rates:** Based on tax classifications and special tax requirement(s), DTA shall compute the current fiscal year Special Tax A and Special Tax B for all classifications of taxable property.

Task 4 – Report Preparation

DTA shall prepare the Annual Special Tax Report containing the findings of the financial analysis and an explanation of the methodology employed to apportion the special taxes. Included in the report is a list of the special tax levy for each Assessor's parcel.

Task 5 – Enrollment of Special Taxes

DTA will submit the special tax levy on or before August 10 of each year, or such other date specified by the County to the Auditor-Controller, for inclusion on the consolidated property tax bills. The special tax levy will be submitted on magnetic tape or other media as specified by the County.

Task 6 – Delinquent Property Owner Research

DTA shall review and research County records to determine which parcels are delinquent in the payment of property and special taxes. This task includes the following subtasks:

- 6.1 **Semi-Annual Delinquent Special Tax Report:** DTA shall review special tax payment information from the County, in addition to determining which parcels are delinquent and the corresponding amount of delinquent special taxes. We will subsequently prepare a report summarizing the amount of delinquent special taxes.

- 6.2 **Collection of Delinquent Special Taxes:** DTA will assist the City with the development of procedures, in order to cure delinquent special taxes, and preparation of demand letters, as necessary.

Task 7 – Roll Changes and Adjusted Property Tax Bills

This task involves monitoring any changes to the secured tax roll that necessitate new or adjusted property tax bills. This task includes the calculation of new or adjusted bills and preparation of requests to the County to prepare such bills.

Task 8 – Responses to Property Owner Questions

This task involves the provision of information to individuals and other interested parties regarding the amount and calculation of the special tax.

Task 9 – Annual Reporting/Disclosure

DTA shall assist the City with meeting the annual disclosure requirements. This task includes the following subtasks:

- 9.1 DTA shall provide special tax disclosure documents to the City for resale properties pursuant to Section 1102.6b of the Civil Code and Section 53340.2 of the Government Code, as stated in SB 1464;
- 9.2 DTA will assist the City in the preparation of material in compliance with Section 50075 of the Government Code;
- 9.3 DTA shall help the City with the preparation of material in compliance with Section 12463.2 of the Government Code, as stated in AB 2109; and
- 9.4 DTA will aid the City with the posting of material on the City's website in compliance with Section 53343.2 of the Government Code, as stated in AB 1666.

FEE SCHEDULE

Fees for services related to both proposed CFDs and existing CFDs shall be charged according to the professional services fee schedule identified in Table 1.

Table 1: DTA's Hourly Rates

| Labor Category | Labor Rate |
|-----------------------|-------------------|
| Managing Director | \$270/Hour |
| Vice President | \$250/Hour |
| Manager | \$220/Hour |
| Senior Associate | \$190/Hour |
| Associate | \$160/Hour |
| Senior Analyst | \$150/Hour |
| Analyst | \$140/Hour |
| Research Assistant | \$115/Hour |

DTA's maximum fee related to tasks under Phase I (CFD Formation) shall be determined at the time of commencement of the formation of the proposed CFD.

DTA's maximum fee related to tasks under Phase II (Annual Administration) shall be determined following the formation of any CFD. DTA currently provides annual administration services for the City's existing CFDs, as listed below.

Table 2: Existing CFDs

| CFD | Maximum Annual Fee |
|----------------|---------------------------|
| CFD No. 2011-1 | \$4,750 |
| CFD No. 2011-2 | \$4,750 |

Out-of-pocket and administrative expenses shall be equal to 3% of DTA's billings for labor, plus travel expenses and any outside vendor payments. All hourly rates for services apply through June 30, 2022, and are subject to a cost-of-living increase at that time. On or about the first two weeks of each month during which consulting services are rendered hereunder, DTA shall present to the City an invoice covering the current consulting services performed and reimbursable expenses incurred pursuant to this Notice of Authorization. Invoices shall be paid by the City within 30 days of the date of each invoice. A 1.2% charge may be imposed monthly against accounts that are not paid within 45 days of the date of each invoice. The prevailing party in any legal action brought by one party against the other and arising out of this Consultant Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorneys' fees.

A Limitations

Any tasks related to the issuance of bonds shall be covered under a separate agreement.

The budgets mentioned in Table 2 above for the existing CFDs are based on the administration of parcels as of fiscal year 2021-2022. If additional property is annexed into such CFDs, it is understood that augmentation to the budget would be required for future years. In addition, if bonds are issued for any CFD or there are annual continuing disclosure obligations, then the budget would need to be increased depending on the actual annual reporting requirements.

DTA has assumed that the City will provide DTA with a copy of all building permits issued within the CFD. Additional services other than those necessary to amend errors on the part of DTA are not covered by the budget listed above. As for Task 8, detailed written responses or formal meetings with property owners to resolve disputes will be classified as Additional Work and billed at hourly rates listed above.

CITY OF MONTCLAIR
AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and effective as of January 18, 2022, between the City of Montclair, a municipal corporation ("City") and DUDEK, a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on January 18, 2022 and shall remain and continue in effect until modified by the parties or terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

The parties intend Consultant to assist the City with the environmental review for a variety of development projects within the City from time to time as needed. This Agreement anticipates the execution of Task Orders in the form attached to this Agreement as Exhibit "A". City will be obligated to compensate Consultant only after performance by Consultant of a Task Order. Each Task Order will contain its own Scope of Services, period of performance, schedule, compensation scheme (e.g., time and expense or fixed fee), Task Order number and any special provisions. All Task Orders are governed by the terms and conditions of this Agreement. Neither City nor Consultant are obligated to agree to any Task Order. A Task Order is only valid and binding when signed by an authorized representative of City and Consultant.

3. **PERFORMANCE**

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience and talent, perform all tasks as set forth in each Task Order. 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, and the review and approval of all products submitted by Consultant. City's City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Scope of Services to be Performed or change Consultant's compensation as provided in Section 5(b) below.

5. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in the Task Order. This amount shall not exceed the amount of compensation as set forth in the Task Order 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 the Task Order which are in addition to those set forth therein, 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 set forth in the Task Order, but in no event shall total compensation exceed Ten Thousand Dollars (\$10,000.00). Any additional work in excess of this amount shall be approved by the City Council.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement and any pending Task Order, 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 or pending Task Order, unless the notice provides otherwise.

(b) In the event this Agreement or pending Task Order 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 or any Task Order 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 and any pending Task Order 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 or pending Task Order, 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 and any pending Task Order 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, Subconsultant, 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. Notwithstanding the foregoing, with respect to any professional liability claim or lawsuit, this indemnity does not include providing the primary defense of Indemnified Parties, provided, however, Consultant shall be responsible for Indemnified Parties' defense costs to the extent such costs are incurred as a result of Consultant's negligence, recklessness or willful misconduct.

(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 \$3,000,000 per occurrence, and \$5,000,000 aggregate total bodily injury, personal injury, and property damage.
- (2) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the exact equivalent, with minimum limits of \$5,000,000 for bodily injury and property damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- (3) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- (4) Professional Liability: Professional Liability insurance with limit of not less than \$3,000,000 each claim. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusion that may potentially affect the work to be performed.

(b) Endorsements

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

(1) Commercial General Liability

Additional Insured: The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the 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 broad as CG 20 38 04 13.

11. INDEPENDENT CONTRACTOR

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

responsible and hold the City harmless for all matters relating to the payment of Consultant's employees, including compliance with Social Security withholdings and all other regulations governing such matters.

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

(c) Consultant shall comply with all applicable federal, state and local Conflict of Interest laws, including the Political Reform Act (California Government Code, Section 81000, *et. seq.*) and California Government Code, Section 1090, *et. seq.* Consultant covenants that neither he/she nor any officer or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement. Further, Consultant covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to the City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by the Consultant. The Consultant's covenant under this Section shall survive the termination of this Agreement.

16. NOTICES

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

To City: Mikey Fuentes
Director of Economic Development
City of Montclair
5111 Benito Street
Montclair, CA 91763

To Consultant: Dudek
605 3rd Street
Encinitas, CA 92024
Attn: Legal Dept.

17. ASSIGNMENT AND SUBCONTRACTING

The Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, nor any monies due hereunder, without prior written consent of the City. The City's consent to an assignment of rights under this Agreement shall not release the Consultant from any of its obligations or alter any of its obligations to be performed under this Agreement. Any attempt at assignment or delegation by the Consultant in violation of this Section 17 shall be void and of no legal effect and shall constitute grounds to terminate this Agreement for cause. The Consultant shall not subcontract any performance required under this Agreement without the City's prior written consent.

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. PRECEDENCE OF AGREEMENT

Consultant is bound by this Agreement and the executed Task Orders. In the event of a conflict between the terms of this Agreement and the terms of the Task Order, this Agreement shall take precedence over the Task Order.

22. CONFIDENTIALITY

Information and materials obtained by the Consultant from City during the performance of this Agreement shall be treated as strictly confidential and shall not be used by the Consultant for any purpose other than the performance of this Agreement. Consultant's covenant under this Section shall survive the expiration or termination of this Agreement.

23. DISCRIMINATION

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

24. EFFECT OF PARTIAL INVALIDITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement and any application of the terms shall remain valid and enforceable under this Agreement or California law.

25. CLAIMS AGAINST CITY

Consultant must comply with the claim procedures set forth in Government Code sections 900, *et. seq.*, and/or Montclair Municipal Code, Chapter 1.16, as applicable, prior to filing any lawsuit against the City. Such claims and any subsequent lawsuit based upon the claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

26. AUTHORITY TO EXECUTE THIS AGREEMENT

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

27. NO THIRD PARTY BENEFICIARIES

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

28. COST OF LITIGATION

If any legal action is necessary to enforce any provision of this Agreement or for damages by reason of an alleged breach of any provisions of this Agreement (whether in contract, tort or both), the prevailing Party shall be entitled to receive from the losing Party all attorneys' fees, costs and expenses in such amount as the courts may determine to be reasonable. In awarding the cost of litigation, the court shall not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses and attorneys' fees paid or incurred in good faith.

29. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

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

CITY OF MONTCLAIR

CONSULTANT

By: _____
Javier John Dutrey, Mayor

By: _____
Name/Title:

Attest:

By: _____
Andrea M. Myrick, City Clerk

By: _____
Name/Title:

Approved as to Form:

By: _____
Diane E. Robbins, City Attorney

\$company_logo

**MASTER SERVICES AGREEMENT
TASK ORDER**

| | | | |
|---|------------------------------|---------------|-----------------|
| Client: | \$company_name | | |
| Master Services Agreement Dated: | \$parent_contract_start_date | | |
| Client Representative: | \$party_main_contact | Phone: | \$company_phone |

This form is provided to document Client's written authorization to proceed with the task(s) described below under the terms of the Consulting Agreement between Client and Dudek dated _____. By documenting Client's written authorization for this Task Order, we hope to avoid any misunderstanding between Client and \$submission_company and to expedite \$submission_company's ability to immediately proceed with services as requested. All terms and conditions of the Consulting Agreement between Client and Dudek referenced above shall apply to this Task Order.

| | | | |
|--|-----------------|---|-----------------------|
| Task Order No.: | \$task_order_no | Effective Date: | \$contract_start_date |
| Job No.: | \$job_no | \$submission_company_short_name Project Manager: | \$requester_name |
| TASK ORDER SCOPE OF WORK/SCHEDULE | | | |
| See Attached Scope of Work | | | |

| | |
|---|-------------------|
| Task Order Type: | \$contract_type |
| Billing Type: | \$billing_type |
| Authorized Task Order Fee: | \$contract_amount |
| Task Order Amendment Fee: | \$to_amd_fee |
| New Total Authorized Task Order Fee: | \$total_to_fee |

| | | | |
|--|--|--------------|--|
| Client Signature: | | | |
| Name and Title: | | Date: | |
| \$submission_com pany_short_name Signature: | | | |
| Name and Title: | | Date: | |



CITY COUNCIL AGENDA REPORT

DATE: JANUARY 18, 2022

FILE I.D.: FWY151

SECTION: CONSENT - AGREEMENTS

DEPT.: PUBLIC WORKS

ITEM NO.: 3

PREPARER: M. HEREDIA

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 22-07, AMENDMENT NO. 1 TO AGREEMENT NO. 15-63 WITH THE CITY OF CHINO INCREASING THE CITY'S CONTRIBUTION BY \$99,099 FOR INTERCHANGE IMPROVEMENTS AT CENTRAL AVENUE AND STATE ROUTE 60

CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO EXECUTE AGREEMENT NO. 22-07 AND RELATED DOCUMENTS

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-07, Amendment No. 1 to Agreement No. 15-63 with the City of Chino for design and construction of interchange improvements at Central Avenue and State Route 60. The City's required contribution toward the project has increased and the agreement needs to be updated accordingly.

BACKGROUND: On August 3, 2015, the City Council approved Agreement No. 15-63 with the City of Chino, a reimbursement agreement for the Central Avenue at State Route 60 Interchange Improvements, which was executed in December of 2015. The Project is critical to the region to reduce traffic congestion at the interchange. The planned improvements include widening the existing eastbound and westbound ramps and the existing Central Avenue bridge overcrossing with enhanced hardscape and landscape.

San Bernardino County Transportation Authority (SBCTA) is the lead agency for project management, planning, environmental documentation, preparation of plans and specifications, right-of-way, and construction activities, including selecting and retaining consultants. Design for the Project is completed, including final design layouts and specifications.

The estimated project cost in 2015 was \$20,591,000 based on a concept design and the City's fair-share of 0.6 percent for the Project was estimated at \$74,964. As a routine practice throughout project delivery, the engineer's estimate was updated. SBCTA updated the engineer's estimate based on actual construction costs resulting in higher anticipated costs for the Project. The updated total project cost estimate is \$36,131,735. It should be noted that Caltrans requested \$8,638,000 in Proposition 1B Trade Corridor Improvement Funding for this Project, which the California Transportation Committee approved in May of 2020.

Staff recommends that the City Council approve Amendment No. 1 to the Reimbursement Agreement outlining recalculated contribution shares due to increased costs for actual construction, construction management, and construction contingencies. The City's fair-share contribution has increased by \$24,135 for a total amount of \$99,099 for the Project. Construction commenced last Spring and is expected to last 18 months.

FISCAL IMPACT: Funds in the amount of \$99,099 are available for the City's fair-share contribution for this Project using Measure I.

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

1. Approve Agreement No. 22-07, Amendment No. 1 to Agreement No. 15-63 with the City of Chino increasing the City's contribution by \$99,099 for interchange improvements at Central Avenue and State Route 60.
2. Authorize City Manager Edward C. Starr to execute Agreement No. 22-07 and related documents.

Project Manager: PW/CIP

Approved: _____

**City of Montclair Agreement No. 22-07
Amendment No. 1 to Agreement No. 15-63**

**AMENDMENT NO. 1
TO
REIMBURSEMENT AGREEMENT
CENTRAL AVENUE AT STATE ROUTE 60 INTERCHANGE IMPROVEMENTS**

WHEREAS, the City of Montclair (MONTCLAIR) and City of Chino (CHINO), MONTCLAIR and CHINO are also each referred to herein as “Party” and collectively as “Parties”, previously entered into a Contract No. 2016-251 (hereinafter referred to as “the AGREEMENT”), whereby MONTCLAIR shall reimburse CHINO for MONTCLAIR’s share of cost for the interchange improvement project at Central Avenue and State Route 60 (SR-60) in the Chino area (“PROJECT”); and,

WHEREAS, in accordance with the San Bernardino County Transportation Authority (SBCTA) Nexus Study, MONTCLAIR’s fair-share shall be 0.6% of the PROJECT cost, in which the estimated cost under the AGREEMENT is \$74,964; and,

WHEREAS, PROJECT design is now at 100 percent and the PROJECT scope is refined, including, but not limited to, adjustments to item quantities and unit prices; bid amounts update based on bid award; extension of a retaining wall for the eastbound on-ramp, recommended by the California Department of Transportation (Caltrans), and increase in cost for design support during construction; and inclusion of PROJECT aesthetic work; and,

WHEREAS, based on the PROJECT scope updates, an amendment to the AGREEMENT is necessary to update the revised PROJECT cost estimate; and,

WHEREAS, the Parties desire to amend the AGREEMENT increasing the PROJECT cost by \$15,540,735, from \$20,591,000 to \$36,131,735; and,

WHEREAS, the California Transportation Commission (CTC) allocated Trade Corridor Improvement Fund (TCIF) in the amount of \$8,638,000 to the PROJECT, reducing each Party’s fair-share cost; and,

WHEREAS, as further detailed in Exhibit “A-1” of this Amendment, the revised estimated fair-share of the remaining costs for the PROJECT is as follows based on the SBCTA Nexus Study percentage shares plus an allocation of project management costs: SBCTA - \$10,977,219, excluding Project Management costs of \$850,000 because SBCTA has been hired to perform this service; and the Local Development Mitigation Contribution - \$16,516,516, including Project Management costs of \$850,000; and,

WHEREAS, SBCTA Nexus Study determines the fair-shares percentages of the total estimated Interchange Improvement costs for the PROJECT as follows: SBCTA Public Share – 41.2%, and Local Development Mitigation Contribution – 58.8%. The Local Development Mitigation Contribution (58.8%) is shared amongst the following local jurisdictions: San Bernardino County - 7.6%, CHINO - 91.8% and MONTCLAIR - 0.6%; and

WHEREAS, the Local Development Mitigation Contribution of \$16,516,516 is further shared amongst the CHINO - \$15,162,162, County of San Bernardino - \$1,255,255, and the MONTCLAIR - \$99,099; and,

WHEREAS, MONTCLAIR’s fair-share contribution is estimated to increase by \$24,135 (from \$74,964 to \$99,099) and the CHINO’s fair-share contribution is estimated to increase by \$3,692,703 (from \$11,469,459 to \$15,162,162).

NOW, THEREFORE, in consideration of the mutual covenants and conditions provided herein, the Parties hereto agree the Agreement, Contract No. R2016-251, is amended as follows:

1. REPLACE all references to SANBAG in the AGREEMENT with SBCTA.
2. DELETE the existing paragraph 1.1 and REPLACE it with a revised paragraph 1.1, which shall read as follows:
 - 1.1 "Pay to CHINO, pursuant to paragraph 1.2, its proportionate share of the design and construction cost of the PROJECT, which shall be 0.6% of the actual design and construction cost of the Developer Fair-Share of the PROJECT (see Exhibit "A-1"). MONTCLAIR's proportionate share of design and construction cost for the PROJECT is estimated at \$99,099 (0.6% of PROJECT). MONTCLAIR shall also be responsible for payment of its share of any PROJECT design and construction cost increases pursuant to paragraphs 3.6 and 3.7, below. In no event shall MONTCLAIR's proportionate share of the design and construction cost of the PROJECT exceed \$99,099, absent a written amendment to this Agreement approved pursuant to paragraph 3.9."
3. DELETE the existing paragraph 2.2 and REPLACE it with a revised paragraph 2.2, which shall read as follows:
 - 2.2 "Pay 100% of its proportionate share (including MONTCLAIR's share) of the design, construction, construction engineering, inspection and construction management cost of the PROJECT, which shall be 92.4% of the actual design and construction cost of the PROJECT (see Exhibit "A-1"). CHINO's proportionate share of the design and construction cost for the PROJECT is estimated at \$16,516,516 (91.8% CHINO in the amount of \$15,162,162, 0.6% MONTCLAIR in the amount of \$99,099, and 7.6% COUNTY in the amount of \$1,255,255). In no event shall CHINO's proportionate share of construction cost of the PROJECT exceed \$16,516,516 (CHINO, MONTCLAIR, and COUNTY's estimated share of design and construction cost for the PROJECT) absent a written amendment to this Agreement approved pursuant to paragraph 3.9."
4. DELETE the existing paragraph 3.6 and REPLACE it with a revised paragraph 3.6, which shall read as follows:
 - 3.6 "The Parties acknowledge that final PROJECT design and construction costs may ultimately exceed current estimate of PROJECT design and construction costs. Any additional PROJECT design and construction cost resulting from increased bid prices, change orders, or arising from unforeseen site conditions, including utility relocation (but not from requested additional work from MONTCLAIR or CHINO, which is addressed in paragraph 3.7, below), over the estimated total of PROJECT's design and construction cost of \$36,131,735 shall be borne by each Party in proportion as part of the Parties' respective obligations to pay the design and construction cost for the PROJECT up to the maximum amounts as set forth in paragraphs 1.1 and 2.2."
5. REPLACE the existing Exhibit "A" with the attached Exhibit "A-1".
6. REPLACE all references to Exhibit "A" in the AGREEMENT with references to Exhibit "A-1".
7. The recitals of this Amendment No. 1 are incorporated into the AGREEMENT by reference.
8. Except as amended by this Amendment No. 1, all other terms and conditions of Contract No. 2016-251 shall remain the same.
9. This Amendment No. 1 may be executed by the Parties in counterparts, all of which together shall constitute a single agreement.
10. This Amendment No. 1 to the AGREEMENT, Contract No. 2016-251, is effective on the date it is approved and signed by both Parties.

IN WITNESS WHEREOF, the Parties to these presents have hereto set their hands.

MONTCLAIR:

CITY OF MONTCLAIR, a municipal corporation

City Manager

Dated

CHINO:

CITY OF CHINO, a municipal corporation

Matthew C. Ballantyne, City Manager

Dated

ATTEST:

City Clerk

APPROVED AS TO CONTENT:

Amer Jakher, Director of Public Works

Dated

APPROVED AS TO FORM:

City Attorney

ATTEST:

Angela Robles, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Fred Galante, City Attorney

EXHIBIT "A-1"
ESTIMATE OF PROJECT COSTS

FOR CITY OF CHINO/COUNTY OF SAN BERNARDINO
FOR CENTRAL AVENUE AT SR-60 INTERCHANGE IMPROVEMENTS
IN THE CHINO AREA

The following is a breakdown of funding:

| Description | Cost | TCIF Buydown | SBCTA | Developer Fair-Share | | |
|-------------------------|---------------------|--------------------|---------------------|----------------------|--------------------|-----------------|
| | | | 41.20% | 58.80% | | |
| Interchange Improvement | \$34,949,735 | \$8,638,000 | \$10,840,435 | \$15,471,300 | | |
| Project Management | \$ 850,000 | \$0 | \$0 | \$ 850,000 | | |
| Landscape Maintenance | \$ 332,000 | \$0 | \$ 136,784 | \$ 195,216 | | |
| Total | \$36,131,735 | \$8,638,000 | \$10,977,219 | \$16,516,516 | | |
| | | | | Chino | County | Montclair |
| | | | | 91.8% | 7.6% | 0.6% |
| | | | | 15,162,162 | \$1,255,255 | \$99,099 |

PROJECT SCHEDULE

| Milestone | Estimated Completion Date |
|--|---------------------------|
| Environmental Approval | January 2018 |
| Plans, Specifications, & Estimates (PS&E) | June 2020 |
| Right of Way (ROW) | June 2020 |
| Construction Start | January 2021 |
| Completion for Beneficial Use and Begin One-Year Landscape Plant Establishment | July 2022 |
| Begin Four-Year Landscape Maintenance | July 2027 |



CITY COUNCIL AGENDA REPORT

| | | | |
|------------------|--|-------------------|---------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | COV100/CYC125 |
| SECTION: | CONSENT - RESOLUTIONS | DEPT.: | CITY MGR. |
| ITEM NO.: | 1 | PREPARER: | A. MYRICK |
| SUBJECT: | CONSIDER ADOPTION OF RESOLUTION NO. 22-3333 MAKING FACTUAL FINDINGS IN COMPLIANCE WITH AB 361 FOR THE CONTINUATION OF PUBLIC MEETING TELECONFERENCING DURING PUBLIC HEALTH EMERGENCIES FOR THE PERIOD OF JANUARY 18, 2022, THROUGH FEBRUARY 17, 2022 | | |

REASON FOR CONSIDERATION: The City Council's adoption of Resolution No. 21-3333 would extend the City's remote public meeting procedures under AB 361 for an additional 30 days, expiring February 17, 2022.

BACKGROUND: Governor Newsom's Executive Order N-29-20, which suspended and modified the Brown Act's teleconferencing requirements during the COVID-19 pandemic, expired on September 30, 2021. On September 16, 2021, Governor Newsom signed AB 361 into law as an urgency bill and, four days later, executed an order delaying the application of AB 361 until October 2, 2021.

AB 361 permits legislative bodies of state and local entities to continue to meet virtually and remotely through telephonic and internet means (i.e., via teleconference) during a proclaimed state of emergency without having to meet the quorum, posting, physical location access, and other requirements of traditional teleconference meetings under the Brown Act. Under AB 361, a legislative body may hold entirely virtual meetings (or partially virtual meetings) until the end of the current state of emergency and during any future emergency declarations through January 1, 2024. However, to do so, the legislative body must make factual findings to continue teleconferencing every 30 days.

FISCAL IMPACT: There is no direct fiscal impact on the General Fund related to the City Council's adoption of Resolution No. 22-3333.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 22-3333 making factual findings in compliance with AB 361 for the continuation of teleconferencing during public health emergencies for the period of January 18, 2022, through February 17, 2022.

RESOLUTION NO. 22-3333

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR
STATING COMPLIANCE WITH THE PROVISIONS OF ASSEMBLY BILL 316
INCLUDING COMPLIANCE WITH ABBREVIATED TELECONFERENCE
REQUIREMENTS FOR OPEN MEETINGS, AND MAKING FACTUAL FINDINGS
REGARDING THE COVID-19 PUBLIC HEALTH EMERGENCY FOR THE
PERIOD OF JANUARY 18, 2022, THROUGH FEBRUARY 17, 2022**

WHEREAS, recognizing the continuing public health threat posed by the novel coronavirus, California Governor Gavin Newsom on September 16, 2021 signed Assembly Bill 361 (AB 361), an urgency law establishing procedures for the continuation of teleconferencing during public health emergencies, including the COVID-19 public health emergency; and

WHEREAS, the Montclair City Council, its standing committees, and the Montclair Planning and Community Activities Commissions may continue to meet virtually and remotely through telephonic and internet means (i.e., via teleconference) during a proclaimed state of emergency without having to meet the quorum, posting, physical location access and other requirements of traditional teleconference meetings under the Ralph M. Brown Act—Government Code (GC) sections (§§)54950-54963 (the "Brown Act") open meeting laws until the end of the current state of emergency and during any future state of emergency, up until January 1, 2024; and

WHEREAS, to continue meeting virtually, the Montclair City Council is required to make factual findings.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby elects to use AB 361's abbreviated teleconferencing procedures where a state of emergency has been formally proclaimed, but only if at least one of the following three conditions apply, and this election shall hereby include its standing committees and the Montclair Planning and Community Activities Commissions:

1. State or local officials have imposed or recommended measures to promote social distancing at the time the legislative body holds the meeting to adopt AB 361 [GC §54953(e)(1)(A)]; or
2. The legislative body holds a meeting for the first time for the purpose of determining by majority vote whether, as a result of proclaimed state of emergency, meeting in person would present imminent risks to the health and safety of attendees [GC §54953(e)(1)(B)], or
3. The legislative body has determined (per the previous bullet) that, as a result of the proclaimed state of emergency, meeting in person would continue to present imminent risks to the health or safety of attendees [GC §54953(e)(1)(C)].

As to condition No. 1, immediately above:

- On March 16, 2020, the City Council adopted Resolution No. 20-3263 declaring that a local public health emergency exists in the City of Montclair. The public health emergency continues until Resolution No. 20-3263 is rescinded.
- On September 21, 2020, the City Manager introduced, and the City Council adopted, the ***City Facilities Public Reopening, Health and Safety Plan***. ***The Plan*** introduced a strong, clear and detailed guidance to ensure public health and safety in City facilities. Protocols in ***the Plan*** are based on a variety of sources including, but not limited to, the federal government's *Opening America* plan, CDC Guidelines, State of California Guidance, EEOC Guidance for the workplace, and the Aspen Institute Return to Play COVID-19 Risk Assessment Tool. A copy of ***the Plan*** had been provided to each member of the City Council.

BE IT FURTHER RESOLVED that pursuant to AB 361, local legislative bodies electing to use the urgency bill's abbreviated teleconferencing procedures must make the following factual findings within 30 days after teleconferencing for the first time after the expiration of Executive Order No. N-29-20 on September 30, 2021, and every 30 days thereafter until January 1, 2024, or when Montclair City Council Resolution No. 20-3263 declaring a public health emergency is rescinded, whichever comes first:

1. The legislative body has reconsidered the circumstances of the state of emergency; and
2. Either of the following circumstances exist:
 - The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - State or local officials continue to impose or recommend measures to promote social distancing.

As to condition No. 1, immediately above, this Resolution makes factual findings as follows:

- The City Council of the City of Montclair, in reconsideration of the circumstances of the public health emergency related to COVID-19, as expressed in Montclair City Council Resolution No. 20-3263, adopted March 16, 2020, declaring that a local public health emergency exists in the City of Montclair, remains in effect.

As to condition No. 2, immediately above, this Resolution makes factual findings as to the following:

- On September 21, 2020, the City Council adopted the ***City Facilities Public Reopening, Health and Safety Plan***, introducing a strong, clear and detailed guidance to ensure public health and safety in City facilities. Protocols in ***the Plan*** are based on a variety of sources including, but not limited to, the federal governments *Opening America* plan, CDC Guidelines, State of California Guidance, EEOC Guidance for the workplace, and the Aspen Institute Return to Play COVID-19 Risk Assessment Tool. Adoption of ***the Plan*** also incorporated guidance from the California Department of Public Health (CDPH) and the Centers for Disease Control and Prevention (CDC), including public health guidelines that promote personal responsibility for social distancing and compliance with face covering mandates, education on the need to avoid large gatherings, and promotion of protocols related to personal hygiene.

By adoption of this Resolution, the City Council of the City of Montclair reaffirms that it continues to impose measures in City facilities and at City-sponsored events to promote social distancing in compliance with the ***City Facilities Public Reopening, Health and Safety Plan***.

BE IT FURTHER RESOLVED that the City Council of the City of Montclair, its standing committees, and the Montclair Planning and Community Activities Commissions shall further comply with each of AB 361's abbreviated teleconference requirement for open meetings, including the following:

1. Notice and agenda:

- The City of Montclair shall provide notice and post agendas as otherwise required under the Brown Act (setting aside traditional teleconferencing requirements), and shall indicate on the notice the means by which the public may access the meeting and offer comment.
- The agenda shall identify and include an opportunity for all persons to attend via a call-in option or internet-based service. Further, (1) the agenda is not required to be posted at all teleconferencing locations, (2) public access does not need to be assured at all teleconference locations, (3) the notices and agenda do not need to list the teleconferencing locations of the members of the City Council, and (4) a quorum of the members of the City Council do not need to participate within physical boundaries of the City of Montclair.

2. Public comment rules: AB 361 instituted new rules for public comments for timed and untimed public comment periods during legislative body meetings.

- **Timed general public comment period:** The Montclair City Council, its committees, and the Montclair Planning and Community Activities Commissions provide members of the public a timed, general public comment

period, and opportunity to register for public comment does not close until the set general public comment period has elapsed.

- **Untimed public comment period per agenda item:** The Montclair City Council, its committees, and the Montclair Planning and Community Activities Commissions provide for a timed, general public comment period.
 - **Timed public comment period per agenda item:** The Montclair City Council, its committees, and the Montclair Planning and Community Activities Commissions provide for a timed public comment period per agenda item.
3. **Prohibition against requirement for public comments to be submitted in advance.** The Montclair City Council, its committees, and the Montclair Planning and Community Activities Commissions comply with AB 361's prohibition against a local legislative body from requiring public comments to be submitted in advance of the meeting.
 4. **Registration for public comment:** The Montclair City Council, its committees, and the Montclair Planning and Community Activities Commissions comply with AB 361 by not imposing a requirement that a member of the public register for public comment before being allowed to provide public comment where a third-party platform (such as Zoom or Microsoft Teams) is employed.
 5. **Disrupted broadcasting procedures:** In the event there is a broadcasting disruption of a meeting of the Montclair City Council, its committees, or the Montclair Planning and Community Activities Commissions to the public by phone or by internet, the Montclair City Council, its committees, and the Montclair Planning and Community Activities Commissions will take no further action on agenda items until public access is restored.
 6. **Standing Committee:** Each standing committee of the Montclair City Council shall fall under the scope of AB 361.
 7. **Montclair Planning and Community Activities Commissions:** The Montclair Planning Commission and the Montclair Community Activities Commission shall fall under the scope of AB 361.

BE IT FURTHER RESOLVED that this action is exempt from review pursuant to the California Environmental Quality Act (CEQA) in accordance with State CEQA Guidelines Section 15061(b)(3), the "common sense" exemption that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of February 17, 2022, or such time as the City Council adopts a subsequent resolution in accordance with GC §54953(e)(3) to extend the time during which meetings may continue to be held remotely by teleconference in compliance with that section.

APPROVED AND ADOPTED this XX day of XX, 2022.

ATTEST:

Mayor

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 22-3333 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2022, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk



CITY COUNCIL AGENDA REPORT

| | | | |
|------------------|--|-------------------|--------------|
| DATE: | JANUARY 18, 2022 | FILE I.D.: | REF275 |
| SECTION: | CONSENT - RESOLUTIONS | DEPT.: | ADMIN. SVCS. |
| ITEM NO.: | 2 | PREPARER: | M. FUENTES |
| SUBJECT: | CONSIDER ADOPTION OF RESOLUTION NO. 22-3335 AUTHORIZING SUBMITTAL OF APPLICATIONS FOR CALRECYCLE GRANTS FOR WHICH THE CITY IS ELIGIBLE | | |

REASON FOR CONSIDERATION: The California Department of Resources, Recycling, and Recovery (CalRecycle) requires an applicant's governing body to declare, by resolution, authorizations related to grant programs. The City Council is requested to consider adoption of Resolution No. 22-3335 authorizing the City to submit applications for all CalRecycle grants for which the City of Montclair is eligible.

Proposed Resolution No. 22-3335 is attached for City Council review and consideration.

BACKGROUND: CalRecycle offers funding opportunities to assist public and private entities in the safe and effective management of the waste stream. Public Resources Code sections 48000 et seq. authorizes CalRecycle to administer various grant programs in furtherance of the State's efforts to reduce, reuse, and recycle solid waste generated in the State, thereby preserving landfill capacity and protecting public health and safety and the environment. These grant funding opportunities have directly supported the City's efforts in meeting many of the State's waste diversion requirements

Recent State legislation has established strict diversion goals, which must be met by municipalities over the next several years. Following the precedents set by Assembly Bill 341 Mandatory Recycling (AB 341) and Assembly Bill 1826 Mandatory Commercial Organics (AB 1826), CalRecycle recently passed and formalized rules and regulations for Senate Bill 1383 Short-Lived Climate Pollutant Reduction law (SB 1383). SB 1383 mandates cities to implement mandatory programming, education, monitoring, reporting, and enforcement actions for all waste streams.

In an effort to meet these stricter mandates and goals, the City of Montclair has actively applied for and received multiple grants from CalRecycle over the past decade. Grant funding resources from CalRecycle have covered recycling and litter abatement initiatives, organics and food recovery programs, as well as household hazardous waste collection services and opportunities.

CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the CalRecycle grants. CalRecycle recommends that government bodies approve a general resolution authorizing the application of all CalRecycle grants in order to streamline and guarantee a City's ability to apply for all grants for which they are eligible for in a timely manner.

Proposed Resolution No. 22-3335 will authorize the City to apply and accept, if awarded, CalRecycle grant funding for up to five years from the date of adoption, per CalRecycle's maximum length of time allowed.

The City Council had previously approved Resolution No. 17-3153 which allowed the City to apply for and accept CalRecycle Payment Program funds, related to beverage container recycling and used oil collection payment programs.

FISCAL IMPACT: Adoption of a Resolution No. 22-3335 to apply for CalRecycle grants does not have a direct fiscal impact related to the General Fund; however, if adopted, it would be instrumental in securing CalRecycle grant funds to subsidize current and future solid waste service and program needs. CalRecycle grant funds, when received, will be placed in the appropriate fund accounts established for that particular grant.

RECOMMENDATION: Staff recommends that the City Council adopt Resolution No. 22-3335 authorizing submittal of applications for CalRecycle grants for which the City is eligible.

RESOLUTION NO. 22-3335

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MONTCLAIR AUTHORIZING THE SUBMITTAL OF APPLICATIONS
FOR ALL CALRECYCLE GRANTS FOR WHICH THE CITY OF
MONTCLAIR IS ELIGIBLE**

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED the City of Montclair authorizes the submittal of application(s) to CalRecycle for all grants for which the City of Montclair is eligible.

BE IT FURTHER RESOLVED that the City Manager, or his/her designee is hereby authorized and empowered to execute in the name of the City of Montclair all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project; and

BE IT FURTHER RESOLVED that these authorizations are effective five (5) years from the date of adoption of this resolution.

APPROVED AND ADOPTED this XX day of XX, 2022.

ATTEST:

Mayor

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 22-3335 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2022, and that it was adopted by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
DECEMBER 20, 2021, AT 6:20 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem Ruh called the meeting to order at 6:20 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Ruh, Council Member Johnson, and City Manager Starr

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of November 15, 2021.

Moved by Council Member Johnson, seconded by Mayor Pro Tem Ruh, and carried unanimously to approve the minutes of the Personnel Committee meeting of November 15, 2021.

IV. PUBLIC COMMENT – None

V. CLOSED SESSION

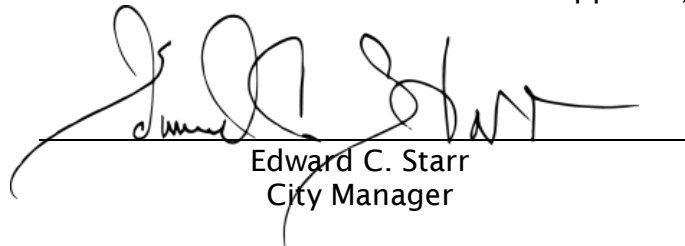
At 6:21 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 6:53 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Ruh stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 6:53 p.m., Mayor Pro Tem Ruh adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager

MINUTES OF THE ADJOURNED MEETING OF THE MONTCLAIR
CITY COUNCIL HELD ON MONDAY, OCTOBER 18, 2021, AT
5:46 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Dutrey called the meeting to order at 5:46 p.m.

II. ROLL CALL

Present: Mayor Dutrey; Mayor Pro Tem Ruh; Council Members Johnson, Martinez, and Lopez

City Manager Starr; Director of Public Works/City Engineer Heredia; Director of Community Development Diaz; Finance Manager Kulbeck; Director of Human Services Richter; City Attorney Robbins; City Clerk Myrick

III. COUNCIL WORKSHOP

A. Determination of Infrastructure Projects to be Funded by Lease Revenue Bond Issue 2021A

City Manager Starr advised the City's bond premium came in lower than expected but the bond total remains intact at about \$45 million, which must be spent on projects within a three-year timeframe. He introduced **Ms. Monica Heredia**, the City's newly hired Director of Public Works/City Engineer, who will be presenting staff's recommended project list with an emphasis on projects that can be completed within the time period set forth. He emphasized the total list of projects represents a much greater cost than the bond funds can cover, and the City Council is tasked with determining what projects to prioritize or remove from the list.

Director of Public Works/City Engineer Heredia presented a map of the City broken down into the three sections representing the north, central, and south areas of Montclair. A list of street improvement projects and their total costs accompanied each section of the map with the projects' locations indicated by their assigned numbers on the map. She briefly discussed the scope of the projects including median and pavement rehabilitation, alleyway improvement, intersection redesign, and utility undergrounding. She then discussed costs for proposed improvements at City parks and other infrastructure projects such as citywide broadband and City facility upgrades. She presented staff's scoring method for prioritizing projects based on several factors, including the availability of other funding sources, safety concerns, project readiness, and conflicts with other projects. She concluded her presentation with a final ranking of projects based on their scores for City Council consideration.

Council Member Lopez asked if staff has analyzed and prioritized projects within the Safe Routes to School Plan, and if the schools have been involved with the process.

City Manager Starr advised many upcoming roadway projects will address safety issues identified in the Safe Routes to School Plan, which involved the schools' input, and the Systemic Safety Analysis Report Program. He added the recent passage of AB 43 means the City Council will also soon have the ability to designate up to 20 percent of the City's roads as safety corridors by ordinance and reduce speed limits.

Mayor Dutrey indicated support to implement the most cost-efficient methods for school safety zones first, including new signs, striping, and lights around school zones.

Council Member Lopez stated he would like safety measures around **Vernon Middle School** to be prioritized and requested removal of

the Monte Vista Widening Project from the project list.

Mayor Dutrey requested comments from the public on the proposed bond-funded project list.

Mr. Eric Cuevas, resident, requested the rehabilitation of the alleyway behind his home on San Bernardino Street be prioritized, as he feels it is in dire condition.

Mr. Jose Perez, resident, urged the City Council to prioritize safety enhancements around **Vernon Middle School** and requested to be informed of the date when those improvements are scheduled.

Mr. Roberto Rangel, Safety Routes Ontario & Montclair, concurred with **Mr. Perez** and advocated for speed bumps and flashing lights to enhance safety in all school zones.

Ms. Rose Delgado, resident, encouraged the City Council to make the implementation of the Safe Routes to School Plan a priority for the bond funds.

Mr. Joseph Montalejo stated he grew up in Montclair and would like to see the rehabilitation of local parks, noting residents of Montclair should be able to enjoy a nice park without leaving the City.

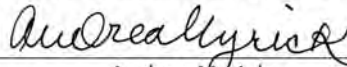
Mayor Dutrey stated the meeting has run past its scheduled end time, and he would like the City Council to revisit this matter at a future meeting to make a final decision. He advised the City Council would schedule the workshop, likely for a Wednesday with a 6:00 p.m. start time, at its next regular meeting.

IV. PUBLIC COMMENT — None

V. ADJOURNMENT

At 6:49 p.m., Mayor Dutrey adjourned the City Council.

Submitted for City Council approval,



Andrea Myrick
City Clerk

MINUTES OF THE ADJOURNED MEETING OF THE MONTCLAIR
CITY COUNCIL HELD ON WEDNESDAY, NOVEMBER 10, 2021, AT
6:01 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Dutrey called the meeting to order at 6:01 p.m.

II. ROLL CALL

Present: Mayor Dutrey; Mayor Pro Tem Ruh; Council Members Johnson, Martinez, and Lopez

City Manager Starr; Director of Public Works/City Engineer Heredia; Director of Community Development Diaz; Finance Manager Kulbeck; Human Services Director Richter; City Clerk Myrick

III. COUNCIL WORKSHOP

A. Determination of Infrastructure Projects to be Funded by Lease Revenue Bond Issue 2021A

City Manager Starr advised that staff has reviewed input from the public and the City Council from the October 18th presentation to revise the project list and has removed all projects that can be funded with other sources. He noted the cost for all projects now more closely reflects the total bond funds.

Director of Public Works/City Engineer Heredia reviewed the updated PowerPoint presentation, noting projects that have been removed and those that require less bond funding due to the anticipation of other funding sources.

Mr. Bruce Culp, resident, requested the presentation slides be posted on the City's website because the slides are cut off in Zoom.

Moved by Mayor Dutrey, seconded by Council Member Johnson, and carried unanimously 5-0, the City Council approved the project list for the 2021A Lease Revenue Bond Infrastructure Projects Issue of \$45 million as follows:

Street Improvement Projects

- Streetscape Projects:
 - Arrow Highway
 - Fremont Avenue
 - La Rambla at Montclair Place (design only)
- Utility Undergrounding Projects:
 - Arrow Highway
 - Moreno Street
- Median and Pavement Rehabilitation Projects:
 - Benson Avenue
 - Mills Avenue
 - Mission Boulevard
 - Monte Vista Avenue
 - Palo Verde Street
 - Richton Street
 - Holt Boulevard
 - Zones 2, 5, and 6 street pavement rehabilitation
- Citywide Projects
 - Alleyway improvements
 - Street striping
 - Retroreflective signal backplate striping
- Other Transportation Projects
 - Huntington Drive Street Project (design only)
 - Modular Restrooms at the Transcenter
 - San Antonio Creek Channel Trail Pilot Section

Park Projects

- Development of a Parks Master Plan
- Park Improvements
 - Freedom Plaza
 - Saratoga Park
 - MacArthur Park
 - Kingsley Park
 - Essex Park
 - Moreno Vista Park
 - Sunset Park
 - Sunrise Park
 - Golden Girls Park
 - Reeder Ranch
- Park Development
 - County Park

Other Infrastructure Improvements

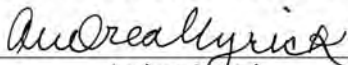
- City Facilities
 - Fire Station 152 landscape improvements
 - Police Department hand rail on Monte Vista Avenue side
 - Development of a public parking garage (design only)
- Safety Improvements
 - Implement Safe Routes to Schools recommendations
 - Implement Local Road Safety Program recommendations
 - San Bernardino Street screen wall

IV. PUBLIC COMMENT — None

V. ADJOURNMENT

At 7:22 p.m., Mayor Dutrey adjourned the City Council.

Submitted for City Council approval,



Andrea Myrick
City Clerk

MINUTES OF THE SPECIAL JOINT MEETING OF THE MONTCLAIR
CITY COUNCIL AND PLANNING COMMISSION HELD ON
WEDNESDAY, DECEMBER 15, 2021, AT 6:01 P.M. IN THE CITY
COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR,
CALIFORNIA

I. CALL TO ORDER

Mayor Dutrey called the meeting to order at 6:01 p.m. Planning Commissioner Sahagun led those assembled in the Pledge of Allegiance.

II. ROLL CALL

Present: Mayor Dutrey; Mayor Pro Tem Ruh; Council Members/Directors Johnson, Martinez, and Lopez; Planning Commission Vice Chair Sanchez; Commissioners Sahagun and Patel

City Manager Starr; Finance Manager Kulbeck; Director of Community Development Diaz; Director of Human Services Richter; City Attorney Robbins; City Clerk Myrick

Absent: Planning Commission Chair Martinez (arrived at 6:45 p.m.); Commissioner Eaton

III. PRESENTATIONS

A. Update on the Housing Element of the General Plan

Ms. Sarah Walker, Project Manager, **National Community Renaissance (National CORE)**, provided a PowerPoint-guided presentation discussing the legal requirements to update the Housing Element, including the Regional Housing Needs Analysis (RHNA); the goals of the 2021-2029 Housing Plan; and the benefits of submitting a certified Housing Element to the **California Department of Housing and Community Development (HCD)**. The City's land inventory with proposed new housing units to meet the RHNA was also included.

Planning Commission Chair Martinez arrived at 6:45 p.m.

Commissioner Sahagun suggested the City focus on improving transportation options for residents of the southern part of the City to support the newly-proposed housing additions to that area.

Commissioner Patel asked if the recent changes in rent and income levels over the past two years due to the pandemic will impact the rent costs and income level requirements for affordable housing.

Ms. Walker indicated the state sets the income standards and pricing for affordable housing.

Mayor Dutrey stated the City is not in the housing business but rather assists with planning and providing assistance and guidance for developers; nevertheless, the state has put the burden of increasing housing stock on cities. The state Attorney General has initiated a task force to enforce these standards and penalize cities and counties that do not comply.

Council Member Johnson asked how income levels would be determined for locations in the City.

Ms. Walker advised the City is taking a mixed-income approach, noting there may be various types of units in a complex to accommodate different income levels.

Mayor Pro Tem Ruh emphasized the need for affordable housing so that those who work in the City can afford to live here. He asked if manufactured housing would be a good option for affordable housing.

Ms. Walker noted manufactured and prefabricated homes are faster to build, but currently tend to be more expensive than wood-framed construction. She suggested they could become more affordable.

Council Member Lopez asserted his frustration that the state is compelling local governments to do more to fix the housing crisis. He received clarification on categorizing accessory dwelling units as affordable because they tend to be used by family members at no cost.

Mayor Pro Tem Ruh argued that cities need to encourage developers to build affordable housing, and the state is getting involved because too many cities are actively working to discourage it.

Mayor Dutrey asked how the City would ensure mixed-use zones do not become a “one or the other” situation?

Director of Community Development Diaz advised that developers would have the option to have mixed-use in those zones.

Mayor Dutrey stated housing would not generate the revenue to support the increased demand for services.

Mr. Kaiser Rangwalla, Principal of **Rangwalla Associates**, the City’s General Plan Update consultant, noted that the City Council now has a unique opportunity to address this issue because the General Plan and Housing Element will be updated in sync with one another when they are typically on different schedules.

Mayor Dutrey and Council Member Lopez suggested allowing local churches to offer housing on their properties to increase the City’s affordable housing inventory.

Mayor Dutrey invited the public to provide comments on the presentation.

Mr. Bruce Culp, resident, indicated his support of the state’s decision to mandate cities to increase affordable housing stock, noting that many developers are willing to build it.

Mr. Jonathan Cook, **Palladium Development**, stated his firm just purchased a property in Montclair and is willing to work with the City to ensure a desirable mixed-use housing project.

Ms. Pamela Ziessler, resident, stated she has a large property in the City and owns horses. She expressed her concern that the neighboring property owner could take her property to build affordable housing units.

Mr. James Park, **STG Auto**, indicated concern that the City is changing the zoning of his property after he has already invested time and money into opening his business.

Mayor Dutrey advised the Housing Element would not compel him to change his current use and recommended he speak to Director of Community Development Diaz if he has any questions.

Ms. Brigitte Thurn, real estate agent for **Mr. Ibrahim Nabham**, asked if 5093 Mission Boulevard would stay commercial or if it would be converted to residential.

Mayor Dutrey stated it would not be appropriate to discuss entitlement issues for specific properties at this meeting.

Mayor Dutrey thanked **Ms. Walker** for her presentation.

IV. PUBLIC COMMENT — None

V. BUSINESS ITEMS

- A. Consider Adoption of Resolution No. 21-3330 Making Factual Findings in Compliance with AB 361 and Establishing Procedures for Continuation of Public Meeting Teleconferencing During Public Health Emergencies, Including the COVID-19 Public Health Emergency, for the Period of December 15, 2021, through January 14, 2022**

Mrs. Carolyn Raft, Trustee, **West Valley Mosquito and Vector Control District (WVMVCD)**, stated she supports the City Council

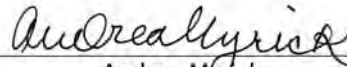
having these procedures in place during the pandemic and noted **WVMVCD** is doing the same.

Moved by Mayor Pro Tem Ruh, seconded by Mayor Dutrey, and carried 5-0, the City Council adopted Resolution No. 21-3330 establishing procedures for continuation of public meeting teleconferencing during public health emergencies, including the COVID-19 public health emergency, for the period of December 15, 2021, through January 14, 2022.

VI. ADJOURNMENT

At 7:32 p.m., Mayor Dutrey adjourned the City Council and Planning Commission.

Submitted for City Council approval,



Andrea Myrick
City Clerk

PENDING APPROVAL

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL, SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS, MONTCLAIR HOUSING AUTHORITY COMMISSION, AND MONTCLAIR COMMUNITY FOUNDATION BOARD HELD ON MONDAY, DECEMBER 20, 2021, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Because Mayor/Chair Dutrey was out of town and participating remotely, he requested that Mayor Pro Tem/Vice Chair Ruh presides over the meeting this evening.

Mayor Pro Tem/Vice Chair Ruh called the meeting to order at 7:00 p.m.

II. INVOCATION

Pastor Donald Rucker, Christian Development Center, provided the invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Johnson led meeting participants in the Pledge.

IV. ROLL CALL

Present: Mayor/Chair Dutrey; Mayor Pro Tem/Vice Chair Ruh; Council Members/Directors Johnson, Martinez, and Lopez

City Manager/Executive Director Starr; Director of Community Development Diaz; Director of Human Services Richter; Finance Manager Kulbeck; City Attorney Robbins; City Clerk Myrick

V. PRESENTATIONS

A. Community Activities Commission Presentation of 2021 Holiday Home Decoration Contest Winners

Community Activities Commission (CAC) Member Rangel announced the winners of the City of Montclair's 23rd Annual Holiday Home Decoration Contest. Of the 26 nominations received, the CAC selected three winners, as follows:

- *Holiday Light Extravaganza* Award: Leslie Heiden, 4832 Rodeo St.
- *Simply Christmas* Award: The Flores Family, 9917 Pradera Ave.
- *Merry & Bright* Award: The Arreola Family, 4352 San Bernardino St.

Mayor Pro Tem Ruh and the City Council presented the winning families with Award Certificates and gift cards to Montclair restaurants.

VI. PUBLIC COMMENT

- A. Mr. Bruce Culp**, resident, expressed his gratitude to **San Bernardino County Transportation Authority** for contributing over \$300,000 to the City for the Pacific Electric Trail Bridge Replacement Project.

VII. PUBLIC HEARINGS

- A. Consider Adoption of Resolution No. 21-3329 Making Findings Pursuant to CEQA and Approving a Conditional Use Permit and Precise Plan of Design to Allow the Establishment of a 9,360 Sq. Ft. Full-Service Restaurant with Drive-Thru Service and Outdoor Dining (Panera Bread Café) Within the Boundaries of the North Montclair Downtown Specific Plan Located at 9052 Central Avenue and 5220 Moreno Street**

Mayor Pro Tem Ruh declared it the time and place for a public hearing related to Resolution No. 21-3329 and invited audience members to provide comments.

Ms. Nina Raey, Vice President, **RSI Group**, speaking on behalf of **Panera Bread Café**, thanked City staff for their due diligence throughout this process and indicated the developer's acceptance of the Conditions of Approval, including those proposed by staff since the Planning Commission's approval.

Mr. Culp stated he is happy to see **Panera Bread** finally coming to Montclair and asked when construction will begin.

Ms. Raey stated that construction would begin as soon as possible after the City's approval.

Since no one else in the audience wished to speak and no written comments were submitted concerning this item, Mayor Pro Tem Ruh closed the public hearing and returned the matter to the City Council for consideration.

Council Member Johnson expressed her excitement for this project.

Mayor Dutrey stated the City has long anticipated this restaurant's arrival and is happy to make it happen.

Moved by Council Member Johnson, seconded by Council Member Lopez, and carried 5-0, the City Council adopted Resolution No. 21-3329 by the following roll call vote:

| | |
|----------|---------------------------------------|
| AYES: | Lopez, Martinez, Johnson, Ruh, Dutrey |
| NOES: | None |
| ABSTAIN: | None |
| ABSENT: | None |

VIII. CONSENT CALENDAR

Council Member/Director Johnson requested to pull Item C-2 from the Consent Calendar and discuss Items C-4 and C-8.

Council Member Lopez requested to comment on Items B-16, C-5, C-9, C-12, and C-13.

City Clerk Myrick indicated there are requests from the public to speak on Items C-2 and C-9.

Moved by Mayor/Chair Dutrey, seconded by Council Member/Director Martinez, and carried unanimously 5-0, the City Council approved the remainder of the Consent Calendar as follows:

A. Approval of Minutes

1. Regular Joint Meeting — November 15, 2021

The City Council, Successor Agency Board of Directors, Montclair Housing Corporation Board of Directors, Montclair Housing Authority Commissioners, and Montclair Community Foundation Board of Directors approved the minutes of the November 15, 2021 regular joint meeting.

B. Administrative Reports

1. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending November 30, 2021.

2. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated December 6, 2021, totaling \$2,216,458.35 and December 20, 2021 totaling 1,323,645.63; and the Payroll Documentation dated November 7, 2021, amounting to \$661,627.00 gross, with \$459,833.71 net being the total cash disbursement; and November 21, 2021 amounting to \$634,674.75 gross, with \$436,931.96 net being the total cash disbursement.

3. Receiving and Filing of Successor Agency Treasurer's Report

The Successor Agency Board received and filed the Successor to the Redevelopment Agency Treasurer's Report for the month ending November 30, 2021.

4. Approval of Successor Agency Warrant Register

The Successor Agency Board approved the Successor to the Redevelopment Agency Warrant Register dated 11.01.21-11.30.21 in the amounts of \$5,823.85 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds.

5. Receiving and Filing of MHC Treasurer's Report

The MHC Board received and filed the MHC Treasurer's Report for the month ending November 30, 2021.

6. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 11.01.21-11.30.21 in the amount of \$37,599.86.

7. Receiving and Filing of MHA Treasurer's Report

The MHA Commissioners received and filed the MHA Treasurer's Report for the month ending November 30, 2021.

8. Approval of MHA Warrant Register

The MHA Commissioners approved the MHA Warrant Register dated 11.01.21-11.30.21 in the amount of \$0.00.

9. Receiving and Filing a Status Report on Emergency Contracting Procedures for the Pacific Electric Trail Bridge Replacement Project and Determining There is a Need to Continue the Action

The City Council received and filed a status report on emergency contracting procedures for the Pacific Electric Trail Bridge Replacement Project and determined there is a need to continue the action.

10. Amending the 2019-2024 Capital Improvement Program to Add the Zone 5 and 6 Street Rehabilitation Project

Authorizing a \$4,000,000 Appropriation from 2021 Lease Revenue Bond Funds for Costs Related to the Zone 5 and 6 Street Rehabilitation Project

Authorizing Staff to Advertise for Bid Proposals for Construction of the Zone 5 and 6 Street Rehabilitation Project

The City Council took the following actions in relation to the Zone 5 and 6 Street Rehabilitation Project:

- (a) Amended the 2019-2024 Capital Improvement Program to add the Project.
- (b) Authorized a \$4,000,000 appropriation from 2021 Lease Revenue Bond funds for costs related to the Project.
- (c) Authorized staff to advertise for bid proposals for construction of the Project.

11. Authorizing the Purchase of Three 2022 Ford Explorer Interceptor Utility Vehicles from Fritts Ford in the Total Amount of \$116,793.90

Declaring Two (Model Years 2008 & 2011) Ford Crown Victoria Police Interceptor Vehicles and One 2019 Ford Explorer Interceptor Utility Vehicle as Surplus and Available for Parts or for Sale at Auction

The City Council took the following actions:

- (a) Authorized the purchase of three 2022 Ford Explorer Interceptor utility vehicles from Fritts Ford in the total amount of \$116,793.90.
- (b) Declared two (model years 2008 & 2011) Ford Crown Victoria Police Interceptor vehicles and one 2019 Ford Explorer Interceptor utility vehicle as surplus and available for parts or sale at auction.

12. Authorizing a \$94,846.03 Allocation from the Equipment Replacement Fund for the Purchase of Two Vehicles for Use by the Code Enforcement Division

Authorizing the Purchase of Two 2022 Ford Explorer Interceptor Utility Vehicles from Fritts Ford in the Total Amount of \$94,846.03

Declaring One 2005 Ford Taurus Vehicle and One 2006 Ford Crown Victoria Interceptor Vehicle as Surplus and Available for Parts or for Sale at Auction

The City Council took the following actions:

- (a) Authorized a \$94,846.03 allocation from the Equipment Replacement Fund for the purchase of two vehicles for use by the Code Enforcement Division.
- (b) Authorized the purchase of two 2022 Ford Explorer Interceptor Utility Vehicles from Fritts Ford in the total amount of \$94,846.03.
- (c) Declared one 2005 Ford Taurus vehicle and one 2006 Ford Crown Victoria Interceptor vehicle as surplus and available for parts or sale at auction.

13. Authorizing the Purchase of a 2022 Ford Super Duty F-250 Pickup Truck from National Fleet Auto Group for \$44,674.16

Authorizing a \$4,674.16 Allocation from the Equipment Replacement Fund for the Purchase and Installation of Beacon Lights and Strobes for the Vehicle

Declaring One 2003 Ford F-250 Pickup Truck as Surplus and Available for Parts or for Sale at Auction

The City Council took the following actions:

- (a) Authorized the purchase of a 2022 Ford Super Duty F-250 pickup truck from National Fleet Auto Group for \$44,674.16.
- (b) Authorized a \$4,674.16 allocation from the Equipment Replacement Fund for the purchase and installation of beacon lights and strobes for the vehicle.
- (c) Declared one 2003 Ford F-250 pickup truck as surplus and available for parts or sale at auction.

14. Authorizing the Purchase of a John Deere 1600 Turbo Series III Commercial Wide-Area Mower from Stotz Equipment for \$82,789.58 for Turf Maintenance at City Parks

Authorizing a \$2,789.58 Appropriation from the Equipment Replacement Fund for Use toward the Purchase of the Mower

The City Council took the following actions:

- (a) Authorized the purchase of a John Deere 1600 Turbo Series III commercial wide-area mower from Stotz Equipment for \$82,789.58 for turf maintenance at City parks.
- (b) Authorized a \$2,789.58 appropriation from the Equipment Replacement Fund for use toward purchasing the mower.

15. Authorizing City Manager Edward C. Starr to Sign a Joint 12-Month Notification Letter to the Inland Empire Utilities Agency for the Chino Basin Regional Sewage Service Contract – Exercise of Option for Continued Service

The City Council authorized City Manager Edward C. Starr to sign a joint 12-month notification letter to the Inland Empire Utilities Agency for the Chino Basin Regional Sewage Service Contract – Exercise of Option for Continued Service.

17. Approval of the Montclair Housing Authority Annual Report Pursuant to Section 3416.1(f) of the Health and Safety Code (SB 341) for Fiscal Year 2020-21

The Montclair Housing Authority Commissioners approved the Montclair Housing Authority Annual Report pursuant to Section 3416.1(f) of the Health and Safety Code (SB 341) for Fiscal Year 2020-21.

18. Review and Acceptance of the Montclair Housing Authority Annual Report for Fiscal Year 2020-21

The Montclair Housing Authority Commissioners reviewed and accepted the Montclair Housing Authority Annual Report for Fiscal Year 2020-21.

C. Agreements

1. Approval of Agreement No. 21-04-I-106 (Case No. 2021-06), an Irrevocable Annexation Agreement with Jose A. Palma for 4168 Howard Street, Montclair, CA 91763 (APN 1012-241-04-0-000)

The City Council approved *Agreement No. 21-04-I-106* (Case No. 2021-06), an Irrevocable Annexation Agreement with Jose A. Palma for 4168 Howard Street, Montclair, CA 91763 (APN 1012-241-04-0-000).

3. Approval of Agreement No. 21-79 with Barbara Pennell, a Purchase and Sale Agreement for Property Located at the Northwest Corner of Central Avenue and Richton Street

Authorizing a \$1,550,000 Appropriation from the Economic Development Fund for Acquisition and Closing Costs Associated with Agreement No. 21-79

Authorizing City Manager Edward C. Starr to Sign Agreement No. 21-79 and All Other Documents Related to Acquisition of the Property

The City Council took the following actions:

- (a) Approved *Agreement No. 21-79* with Barbara Pennell, a Purchase and Sale Agreement for property located at the Northwest Corner of Central Avenue and Richton Street.
- (b) Authorized a \$1,550,000 appropriation from the Economic Development Fund for acquisition and closing costs associated with *Agreement No. 21-79*.
- (c) Authorized City Manager Edward C. Starr to sign *Agreement No. 21-79* and all other documents related to acquisition of the property.

6. Approval of Agreement No. 21-82 with Kaiser Foundation Hospitals to Award a Grant in the Amount of \$10,000 to Support the Montclair to College Program

Authorizing Executive Director Edward C. Starr to Sign Agreement No. 21-82

The City Council took the following actions:

- (a) Approved *Agreement No. 21-82* with Kaiser Foundation Hospitals to award a grant in the amount of \$10,000 to support the Montclair to College Program.
- (b) Authorizing Executive Director Edward C. Starr to sign *Agreement No. 21-82*.

7. Approval of *Agreement No. 21-83* with CSG Advisors for Municipal Advisory Services to Evaluate Augusta Communities LLC's Proposed 2022 Indenture of Trust to Refinance its Series 2012A Mobile Home Park Revenue Refunding Bonds and Series 2012B Mobile Home Park Subordinate Revenue Refunding Bonds Issued by the Independent Cities Finance Authority

Authorizing City Manager Edward C. Starr to Sign *Agreement No. 21-83* with CSG Advisors

The City Council took the following actions:

- (a) Approved *Agreement No. 21-83* with CSG Advisors for Municipal Advisory Services to evaluate Augusta Communities LLC's proposed 2022 Indenture of Trust to refinance its Series 2012A Mobile Home Park Revenue Refunding Bonds and Series 2012B Mobile Home Park Subordinate Revenue Refunding Bonds issued by the Independent Cities Finance Authority.
- (b) Authorized City Manager Edward C. Starr to sign *Agreement No. 21-83* with CSG Advisors.

10. Approval of *Agreement No. 21-86-I-107 (Case No. 2021-40)*, an Irrevocable Annexation Agreement with Pomona Hershey Properties, LLC for 11185 Roswell Avenue, Pomona, CA 91766 (APN 1012-411-51-0000)

The City Council Approval of *Agreement No. 21-86-I-107 (Case No. 2021-40)*, an Irrevocable Annexation Agreement with Pomona Hershey Properties, LLC for 11185 Roswell Avenue, Pomona, CA 91766 (APN 1012-411-51-0000).

11. Approval of *Agreement No. 21-87* with HDR Environmental, Operations and Construction, Inc. for the Preparation of a Spill Prevention Control and Countermeasure Plan for the Police Facility

Authorizing a \$14,200 Appropriation from the Contingency Fund for Costs Associated With *Agreement No. 21-87*

The City Council took the following actions:

- (a) Approved *Agreement No. 21-87* with HDR Environmental, Operations and Construction, Inc. to prepare a Spill Prevention Control and Countermeasure Plan for the police facility.
- (b) Authorized a \$14,200 appropriation from the Contingency Fund for costs associated With *Agreement No. 21-87*.

12. Approval of *Agreement No. 21-88* with San Bernardino County Fire Protection District, a Memorandum of Understanding for Participation in a 2021 Regional Assistance to Firefighters Grant Opportunity

Authorizing City Manager Edward C. Starr to Sign *Agreement No. 21-88*

The City Council took the following actions:

- (a) Approved *Agreement No. 21-88* with San Bernardino County Fire Protection District, a Memorandum of Understanding for participation in a 2021 regional Assistance to Firefighters Grant opportunity.

- (b) Authorized City Manager Edward C. Starr to Sign *Agreement No. 21-88*.

D. Resolutions

1. **Approval of Resolution No. 21-3328 Reaffirming the Payment and Reporting the Value of Employer-Paid Member Contributions to the California Public Employees' Retirement System as of July 15, 2002**

The City Council approved Resolution No. 21-3328 reaffirming the payment and reporting the value of Employer-Paid Member Contributions to the California Public Employees' Retirement System as of July 15, 2002.

2. **Adoption of Resolution No. 21-3331 Making Factual Findings in Compliance with AB 361 and Establishing Procedures for the Continuation of Public Meeting Teleconferencing During Public Health Emergencies, Including the COVID-19 Public Health Emergency, for the Period of December 20, 2021 through January 19, 2022**

The City Council adopted Resolution No. 21-3331 making factual findings in compliance with AB 361 and establishing procedures for the continuation of public meeting teleconferencing during public health emergencies, including the COVID-19 public health emergency, for the period of December 20, 2021 through January 19, 2022.

3. **Adoption of Resolution No. 21-3332 Authorizing Submittal of a Claim to the San Bernardino County Transportation Authority for Transportation Development Act Article 3 Funds for the Pacific Electric Trail Bridge Replacement Project**

The City Council adopted Resolution No. 21-3332 authorizing submittal of a claim to the San Bernardino County Transportation Authority for Transportation Development Act Article 3 funds for the Pacific Electric Trail Bridge Replacement Project.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

2. **Approval of *Agreement No. 21-66* with Greyhound Lines, Inc. for Shared Use of a Single Bus Bay for Daily Commercial Bus Passenger Service and Ground Space for an Employee-Operated Ticket Vending and Customer Service Kiosk at the Montclair Transcenter**

Mr. Robert Pipersky, resident, stated Montclair is a safe community and **Greyhound's** services are sorely needed for the City's population of predominantly Hispanic and low-income residents. He criticized Council Member Lopez's critical statements and implications about **Greyhound's** clientele at the last meeting, and the City Council's decision to delay this item.

Mrs. Carolyn Raft, resident, spoke in support of allowing **Greyhound** to operate at the Montclair Transcenter, noting the differences in security levels and business activities from its current location in Claremont.

Mr. Culp stated that, as a resident of the **Paseos at Montclair North** apartments located near the Transcenter, he supports the **Greyhound** operating as an affordable transportation option for residents. He indicated his disappointment with comments made by a Council Member portraying **Greyhound** riders as criminals.

Council Member Johnson indicated she had supported the contract until negative information was presented by Council

Member Lopez at the prior meeting, and she would still like to hear more from staff about the information received from Claremont Police Department.

Mayor Pro Tem Ruh advised the decision of the City Council to delay this item was a precautionary measure so that staff could investigate the allegations and further analyze whether the concerns are warranted.

City Manager Starr explained that, while it is not inherently wrong for Council Members to perform independent research, it is essential that new data be shared with staff to analyze and vet. He confirmed that the Council had no choice but to continue the item when presented with information about the Claremont Police Department call log from Council Member Lopez. Staff has since determined that Council Member Lopez did not correctly interpret the data and drew false conclusions based on that information. Of the over-200 calls for service associated with the Claremont **Greyhound** station, fewer than ten could be attributed to the station directly.

Executive Director of Public Safety/Police Chief Avels stated he received a copy of the report and discussed it with Claremont's Chief of Police. He confirmed that the area has a high activity rate, and many calls for service or incident reports reference the **Greyhound** station; however, the station is merely used as a location reference point for many of those calls. He confirmed that only eight calls in a 22-month period were attributed directly to the station, which included several mental health evaluations, trespassing, a report of graffiti, public intoxication, a courtesy Grand Theft Auto (GTA) report, and refusal to pay for a ticket. While the courtesy GTA report was taken by an officer at the **Greyhound** station, the crime itself occurred in another jurisdiction.

Council Member Martinez thanked City Manager Starr and Chief Avels for taking the allegations seriously and cautioned that Council Members bringing unvetted information to meetings could negatively impact future contract negotiations.

Council Member Lopez asked Chief Avels the following questions:

- (a) Did Claremont share circumstances about the incident involving the **7-Eleven** [at Indian Hill Boulevard and San Bernardino Street]?

Chief Avels stated an individual who was released from jail purchased alcohol from the **7-Eleven** and was arrested for intoxication at the **Greyhound** station.

- (b) Did any of the eight relevant calls relate to serious crimes such as harm to individuals or property, or involve hostile people?

Chief Avels advised one call was for graffiti, but there was not enough detail on the report to ascertain the nature of the other calls.

- (c) What constitutes a call for service? Is it only 9-1-1 calls, or would calls directly to the dispatch center line also count?

Chief Avels advised that any incident entered into the call log would constitute a call regardless of the contact method or who called it in.

Council Member Lopez thanked Chief Avels for answering his questions. He stated he had no racial motivation or intent behind his concerns—only public safety and crime. He noted it is common for prisoners who are released to use **Greyhound** transportation and he has heard the **7-Eleven** in Pomona on Indian Hill Boulevard and San Bernardino Street is a common source for purchasing alcohol nearby. He stated he feels other

businesses near the Transcenter, such as a nearby liquor store on Monte Vista Avenue and fast-food restaurants that are open late, would attract illicit activities that strain the City's Police and Fire resources.

Mayor Dutrey emphasized the importance of Council Members working and communicating with staff when concerned about issues. He noted statements about other cities' personnel could create problems with those cities. He stressed it is essential to maintain positive relationships with neighboring cities. As a multimodal transportation hub, he asserted that the Montclair Transcenter must offer various transportation options, and it currently lacks this type of bus service.

Mayor Pro Tem Ruh added **Greyhound** buses travel further to where no other local trains or buses go.

Moved by Council Member Johnson, seconded by Mayor Dutrey, and carried 4-1 (Lopez dissenting), the City Council approved *Agreement No. 21-66* with Greyhound Lines, Inc. for shared use of a single bus bay for daily commercial bus passenger service and ground space for an employee-operated ticket vending and customer service kiosk at the Montclair Transcenter.

Moved by Mayor/Chair Dutrey, seconded by Council Member/Director Lopez, and carried unanimously 5-0, the City Council approved Consent Calendar Items B-16, C-4, C-5, C-8, C-9, C-12, and C-13 after additional comments and discussion as follows:

B. Administrative Reports

16. Approval of the Hiring of Retired Annuitant Rosemary Hoerning as a City Engineering Consultant and Authorization to Pay Wages with Lease Revenue Bond Funds Allocated for Consulting Fees

Council Member Lopez stated he is pleased to see the City is bringing **Mrs. Hoerning** on board, noting he has worked with her and feels her expertise would be a great benefit to Montclair.

The City Council approved the hiring of Retired Annuitant Rosemary Hoerning as a City Engineering Consultant and authorized to pay wages with Lease Revenue Bond funds allocated for consulting fees.

C. Agreements

4. Approval of *Agreement No. 21-80* with Flock Group Inc. for a 2-Year Lease for 40 Automated License Plate Reader Cameras

Authorizing a \$110,000 Appropriation from the Federal Asset Forfeiture Fund to Pay Costs Associated with *Agreement No. 21-80*

Council Member Johnson asked if this system would be able to communicate with the Vigilant system that was approved earlier this year.

Chief Avels advised the two programs are not compatible in that way, but they can be used as separate tools for investigations.

The City Council took the following actions:

- (a) Approved *Agreement No. 21-80* with Flock Group Inc. for a 2-Year Lease for 40 automated license plate reader cameras.
- (b) Authorized a \$110,000 appropriation from the Federal Asset Forfeiture Fund to pay costs associated with *Agreement No. 21-80*.

5. **Approval of *Agreement No. 21-81* with Willdan Engineering, Inc., for Electrical Engineering and Design Services for the Electric Vehicle Charging Station Project**

Authorizing the City Manager to Amend the Scope of Services as Necessary for a Contingency Amount Not to Exceed \$5,000

Council Member Lopez asked if this project will impact the commercial vehicle charging facility that will be opening at Moreno Street and Benson Avenue.

City Manager Starr indicated this project involves the construction of electric vehicle charging stations at City facilities.

The City Council took the following actions:

- (a) Approved *Agreement No. 21-81* with Willdan Engineering, Inc., for electrical engineering and design services for the Electric Vehicle Charging Station Project.
- (b) Authorized the City Manager to amend the Scope of Services as necessary for a contingency amount not to exceed \$5,000.

8. **Approval of *Agreement No. 21-84* with Loma Linda University Children's Hospital, a Memorandum of Understanding for the Montclair Police Department's Use of the Children's Assessment Center**

Authorizing Executive Director of Public Safety/Police Chief Robert Avels to Sign *Agreement No. 21-84*

Council Member Johnson asked for clarification about how children are treated at Loma Linda.

Chief Avels stated children are interviewed by psychologists or are given physical assessments in abuse cases.

The City Council took the following actions:

- (a) Approved *Agreement No. 21-84* with Loma Linda University Children's Hospital, a Memorandum of Understanding for the Montclair Police Department's use of the Children's Assessment Center.
- (b) Authorizing Executive Director of Public Safety/Police Chief Robert Avels to sign *Agreement No. 21-84*.

9. **Approval of *Agreement No. 21-85* with Transtech to Prepare a School Area Signage Plan for Vernon Middle School**

Council Member Lopez stated his understanding this would be the pilot project for the safety measures recommended by the Safe Routes to School Plan.

Mr. Jose Perez, resident, advised he lives across the street from **Vernon Middle School**. He requested the City consider incorporating paving the dirt plots between the sidewalk and roadway, which he feels pose a tripping hazard to students due to uneven surfaces.

The City Council approval *Agreement No. 21-85* with Transtech to prepare a school area signage plan for Vernon Middle School.

13. **Approval of *Agreement No. 21-90* with San Bernardino County Sheriff's Department, a Memorandum of Agreement to Conduct Investigations of Officer-Involved Shootings and In-Custody Deaths**

Authorizing Executive Director of Public Safety/Police Chief Robert Avels to Sign *Agreement No. 21-90*

Council Member Lopez expressed his hesitance to enter into a contract in perpetuity that gives the Sheriff's Office the right to release records involving the City's internal investigations, noting the political nature of that office.

Chief Avels stated a new MOU would be signed for each new administration. Even with the MOU in place, he noted that the Police Department could elect to hold internal investigations. He added that most Police Departments enter into these MOUs to remain transparent and impartial.

The City Council took the following actions:

- (a) Approved *Agreement No. 21-90* with San Bernardino County Sheriff's Department, a Memorandum of Agreement to conduct investigations of officer-involved shootings and in-custody deaths.
- (b) Authorized Executive Director of Public Safety/Police Chief Robert Avels to sign *Agreement No. 21-90*.

X. COUNCIL WORKSHOP

A. Implementation of Residential and Commercial Organic Waste Recycling Programs in Compliance with SB 1383 — Burrtec & CalRecycle

Moved by Council Member Lopez, seconded by Council Member Johnson, and carried unanimously 5-0, the City Council continued this presentation to an adjourned meeting on Tuesday, January 18, 2022, at 5:45 p.m.

XI. COMMUNICATIONS

A. Department Reports — None

B. City Attorney — No comments

C. City Manager/Executive Director — No comments

D. Mayor/Chair

1. Cancellation of Monday, January 3, 2022 Regular Joint Meeting

Mayor/Chair Dutrey announced the cancellation of the next regular joint meeting scheduled for January 3, 2022, and stated the City Council would hold its next regular joint meeting on Tuesday, January 18, 2022.

2. Mayor/Chair Dutrey made the following comments:

- (a) He wished everyone Happy Holidays.
- (b) He thanked and recognized the Police and Fire Departments for responding to a tragic incident this past weekend.
- (c) He stated the City is proud of the **Montclair High School (MHS) Cavaliers** for making it to the semifinals in the **California Interscholastic Federation (CIF) Football Championships**.

E. City Council/Successor Agency Board/MHC Board/MHA Board/MCF Board

- 1. Council Member/Director Martinez thanked staff from the Montclair Police, Fire, and Human Services Departments and the **Montclair Chamber of Commerce** for running a successful Holiday Food and Toy Drive.
- 2. Council Member/Director Johnson wished a happy birthday to Jesus; a happy Hanukkah and Kwanzaa, a merry Christmas, and a prosperous New Year to all.

3. Council Member/Director Lopez made the following comments:
 - (a) He congratulated the **MHS** football team for becoming **CIF** finalists.
 - (b) He apologized for his absence from several events in the past few weeks, noting there was a death in his family and he was isolating in order to be safe before and after the funeral.
 - (c) He wished all a Merry Christmas, a blessed and prosperous New Year, and thanked all staff and his Council colleagues for all they do for this City.
4. Mayor Pro Tem/Vice Chair Ruh made the following comments:
 - (a) He announced he is honored to have been appointed Secretary-Treasurer of the **Gold Line Joint Powers Authority** Board last Thursday.
 - (b) He commended Montclair Police and Fire personnel for their response to a tragic car crash involving a drunk driver last week, noting there is only so much the City can do to improve safety and prevent accidents—individuals need to take responsibility for their own actions.
 - (c) He warned of a serious threat with the new Omicron variant and encouraged everyone to get inoculated and boosted.
 - (d) He reported a new mask mandate is in effect throughout the state between December 15 and January 15.
 - (e) He noted as we enter the holiday season, we must keep in mind “the last, the least, the lost, and the lonely.” He wished everyone a Merry Christmas and a Happy New Year.

F. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of November 15, 2021

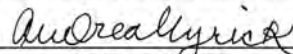
The City Council received and filed the minutes of the Personnel Committee meeting of November 15, 2021, for informational purposes.

XII. ADJOURNMENT

At 9:03 p.m., Vice Chair Ruh adjourned the Successor Agency Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board.

At 9:03 p.m., Mayor Pro Tem Ruh adjourned the City Council to Tuesday, January 18, 2022, at 5:45 p.m. in the City Council Chambers for a Council Workshop Presentation on the Implementation of Residential and Commercial Organic Waste Recycling Programs in Compliance with SB1383 by **Burrtec** and **CalRecycle**.

Submitted for City Council/Successor Agency Board/Montclair Housing Corporation Board/Montclair Housing Authority Commission/Montclair Community Foundation Board approval,



Andrea Myrick
City Clerk

CITY OF MONTCLAIR
TREASURER'S REPORT
FOR THE MONTH ENDING
DECEMBER 31, 2021

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STATEMENT OF CASH AND INVESTMENT ACCOUNTS

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CASH AND INVESTMENTS BY TYPE

**CITY OF MONTCLAIR
STATEMENTS OF COMPLIANCE WITH THE INVESTMENT POLICY
AND INVESTMENT STRATEGY**

DECEMBER 31, 2021

COMPLIANCE STATEMENT

The City has the following amount invested in various financial instruments. This conforms with the investment policy approved by the City Council.

Total Investments

\$ 32,803,124

During the current month the City was in compliance with the internal control procedures set forth in the Investment Policy.

INVESTMENT STRATEGY FOR THE UPCOMING MONTH

During the upcoming month, surplus moneys will be invested in the Local Agency Investment Fund and other investments authorized in the Investment Policy. The City has sufficient monies available to meet expenditures during the next six month period.

CITY OF MONTCLAIR
STATEMENT OF CASH AND INVESTMENTS BY FUND
AS OF DECEMBER 31, 2021

| <u>Fund</u> | <u>Beginning Balance</u> | <u>Receipts</u> | <u>Disbursements</u> | <u>Interfund Transfers</u> | <u>Ending Balance</u> | |
|---------------------------------------|------------------------------|------------------------|------------------------|--------------------------------|---------------------------|-----|
| General Fund | \$ (2,355,885.16) | \$ 3,053,294.37 | \$ 2,525,479.16 | \$ - | \$ (1,828,069.95) | (1) |
| Gas Tax Fund | 85,741.24 | 33,933.35 | 82,349.39 | - | 37,325.20 | (2) |
| Road Maintenance - Section 2032 | 812,831.33 | 88,760.16 | 18,064.06 | - | 883,527.43 | |
| Measure I Fund | 4,047,883.98 | 76,010.02 | - | - | 4,123,894.00 | |
| Traffic Safety | 39,855.63 | 2,216.68 | - | - | 42,072.31 | |
| Disability Access Fund - Bus. License | 40,529.20 | 556.00 | - | - | 41,085.20 | |
| Park Maintenance | 80,068.65 | - | 5,415.35 | - | 74,653.30 | |
| Park Development | 1,152,007.06 | - | - | - | 1,152,007.06 | |
| CDBG | (57,591.37) | 37,212.10 | 11,465.67 | - | (31,844.94) | (2) |
| SB2 Planning Grant | (2,474.00) | - | - | - | (2,474.00) | (2) |
| Air Quality Improvement Trust | 231,144.54 | 13,010.92 | - | - | 244,155.46 | |
| SB City Cares Act Infrastructure | (23,032.05) | - | - | - | (23,032.05) | (2) |
| Senior Nutrition Program | (53,822.41) | 14,378.42 | 16,180.69 | - | (55,624.68) | (2) |
| American Resue Plan | 4,776,276.25 | - | 37,811.25 | - | 4,738,465.00 | |
| Forfeiture Fund - State | 117,684.11 | - | - | - | 117,684.11 | |
| Proposition 30/SB 109 | 121,544.00 | - | 15,700.00 | - | 105,844.00 | |
| SB 509 Public Safety | 163,547.47 | - | 27,296.40 | - | 136,251.07 | |
| Forfeiture Fund-Federal/DOJ | 408,328.10 | - | - | - | 408,328.10 | |
| Asset Seizure Fund | - | 0.04 | - | - | 0.05 | |
| Section 11489 Subfund | 42,092.46 | - | - | - | 42,092.46 | |
| Fed Asset Forfeiture-Treasury | 113,959.76 | - | - | - | 113,959.76 | |
| School District Grant Fund | - | - | - | - | - | |
| State Supplemental Law Enforce | 446,153.90 | 19,143.01 | - | - | 465,296.91 | |
| PC 1202.5 Crime Prevention | 2,163.40 | 8.53 | - | - | 2,171.93 | |
| Recycling Grant Fund | 70,353.67 | - | 10,121.00 | - | 60,232.67 | |
| Homeless Emergency Aid Program | (11,500.00) | 139.00 | - | - | (11,361.00) | (2) |
| Bureau of Justice Assistance | (13,020.00) | - | - | - | (13,020.00) | (2) |
| Statewide Park Dev Grant | - | - | - | - | - | |
| Homeless Housing Assist Preven | 9,898.56 | - | 3,182.51 | - | 6,716.05 | |
| After School Program Fund | 390,771.67 | - | 98,939.44 | - | 291,832.23 | |
| OTS Grant | - | - | - | - | - | |
| FIRST 5 Fund | 1,290.78 | - | - | - | 1,290.78 | |
| Safety Dept. Grants | 264,138.96 | - | - | - | 264,138.96 | |
| OSMD Immunization Grant | 1,370.50 | - | - | - | 1,370.50 | (2) |
| Kaiser Permanente Grant | 4,336.50 | - | - | - | 4,336.50 | |
| Resource Center Grant - OMSD | 36,035.55 | - | 3,575.81 | - | 32,459.74 | |
| Title IIIB Sr Support Services | (916.92) | - | 2,435.67 | - | (3,352.59) | (2) |
| Healthy Community Strategic Plan | 16,935.94 | - | - | - | 16,935.94 | |
| ASES Supplemental Grant | 41,674.65 | 14,110.52 | - | - | 55,785.17 | |
| E.M.S. - Paramedic Fund | 886.37 | 2,333.91 | 2,718.03 | - | 502.25 | (3) |
| Economic Development | 5,394,210.59 | 1,022,387.92 | 69,501.79 | - | 6,347,096.72 | |
| City Contributions/Donations Fund | 500.00 | - | - | - | 500.00 | |
| Sewer Operating Fund | 2,038,057.66 | 550,026.90 | 521,855.38 | - | 2,066,229.18 | |
| Sewer Replacement Fund | 2,244,611.29 | - | - | - | 2,244,611.29 | |
| CFD 2011-1 (Paseos) | 126,194.50 | 70,284.17 | 3,650.61 | - | 192,828.06 | |
| CFD 2011-2 (Arrow Station) | 94,464.09 | 18,465.57 | - | - | 112,929.66 | |
| Inland Empire Utility Agency | 1,824,834.90 | - | - | - | 1,824,834.90 | |
| Sewer Expansion Fee Fund | 608,372.10 | - | - | - | 608,372.10 | |
| Developer Impact Fees - Local | 1,171,868.90 | - | - | - | 1,171,868.90 | |
| Developer Impact Fees - Regional | 76,610.83 | - | - | - | 76,610.83 | |
| Burrtec Pavement Impact Fees | 269,849.61 | - | - | - | 269,849.61 | |
| PUC Reimbursement Fund-MVGS | 324,111.38 | - | - | - | 324,111.38 | |
| Utility Underground In-Lieu | 340,516.52 | - | - | - | 340,516.52 | |
| General Plan Update Fee | 93,630.63 | 760.13 | - | - | 94,390.76 | |
| Housing Fund | 555,708.20 | - | - | - | 555,708.20 | |
| Public Education/Govt. PEG Fee Fund | 50,273.24 | 9,323.80 | - | - | 59,597.04 | |
| Infrastructure Fund | (110,123.09) | - | 119,339.50 | - | (229,462.59) | (4) |
| COVID-19 | (32,068.72) | - | 1,840.74 | - | (33,909.46) | |
| Successor Agency Bonds-Taxable | 4,796,019.53 | - | - | - | 4,796,019.53 | |
| Successor Agency Bonds-Tax Exempt | 8,220,419.94 | - | - | - | 8,220,419.94 | |
| 2014 Lease Revenue Bond Proceeds | (559,059.82) | - | 2,223.00 | - | (561,282.82) | |
| 2021 Lease Revenue Bond Proceeds | (169,260.00) | - | - | - | (169,260.00) | |
| 2014 Lease Revenue Bond Debt Svc | (1,082,826.19) | 215,062.84 | - | - | (867,763.35) | (5) |
| 2021 Lease Revenue Bond Debt Svc | 1,762,308.62 | 794,586.63 | - | - | 2,556,905.25 | |
| Contingency Fund | 233,836.96 | - | - | - | 233,836.96 | (1) |
| Assigned General Fund Reserves | 9,541,843.08 | - | - | - | 9,541,843.08 | (1) |
| TOTALS | \$ 48,816,167.11 | \$ 6,036,014.96 | \$ 3,579,145.45 | \$ - | \$ 51,273,036.62 | |

Negative Cash Notes follow this presentation.

Notes on Negative Cash Balances

- (1)** The General Operating Fund may have a negative cash for the majority of the fiscal year awaiting property and sales tax collections. This is covered by the Contingency Fund and other General Fund Reserve Funds until those collections are received. As Contingency and General Reserves exceed this negative, the City is not utilizing restricted resources.
- (2)** These are reimbursable grant funds that utilize general pool monies initially to cover expenditures pending reimbursement from the granting agencies. Therefore, it is not uncommon for these to be negative until that reimbursement is received.
- (3)** This fund has operational deficits annually. At the end of the fiscal year it is restored by a General Fund Transfer.
- (4)** The Infrastructure Fund receives transfers from other funds to accomplish infrastructure projects. Those transfers are usually recorded when the projects nears completion or prior to mid-year budget preparation. Any negative in that fund will be eliminated at those times. Transfers from these funds (C.D.B.G., Gas Tax, Measure I, etc.) may go negative on cash pending collections of these revenues. In this way we can determine if obligations for projects are exceeding current resources.
- (5)** This debt service operation utilizes transaction and use taxes which are part of the sales tax and Successor Agency property taxes. These have been sufficient in prior fiscal years to cover the necessary debt service; however, they are not completely received until fiscal year-end. Once debt service is covered the excess will be transferred to the General Fund.

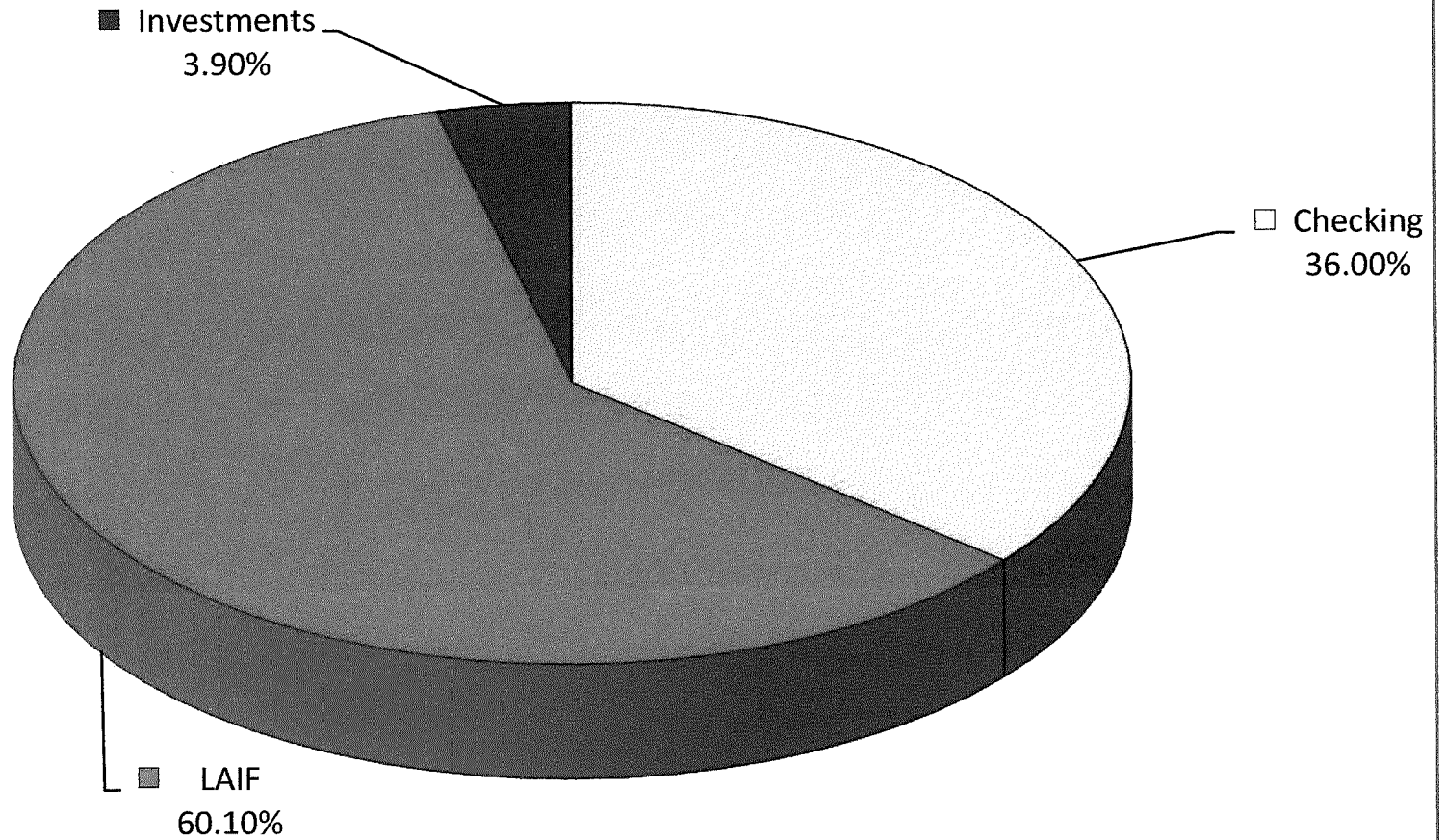
**CITY OF MONTCLAIR
STATEMENT OF CASH AND INVESTMENT ACCOUNTS
AS OF DECEMBER 31, 2021**

| | <u>Par Value</u> | <u>Purchase Date</u> | <u>Maturity Date</u> | <u>Coupon Interest Rate</u> | <u>Current Market Value</u> | <u>Balance at Cost</u> | <u>Totals</u> |
|--|------------------|----------------------|----------------------|-----------------------------|-----------------------------|------------------------|-------------------------|
| CHECKING ACCOUNT | | | | | | | |
| Checking Account | | | | | | | \$ 18,467,443.92 |
| Asset Seizure Account | | | | | | | \$ 2,468.70 |
| CASH W/FISCAL AGENT, CD's, LAIF DEPOSITS, AND SHORT-TERM U.S. AGENCY SECURITIES | | | | | | | |
| Local Agency Investment Fund (LAIF) | | | | 0.220% | 30,842,239.35 | 30,803,124.00 | |
| First American Government | | | | | 2,000,000.00 | 2,000,000.00 | |
| | | | | | <u>\$ 32,842,239.35</u> | | \$ 32,803,124.00 |
| U.S. AGENCY SECURITIES | | | | | | | |
| | | | | | <u>\$ -</u> | | \$ - |
| TOTAL | | | | | | | <u>\$ 51,273,036.62</u> |

Current market values obtained from US Bank.

**CITY OF MONTCLAIR
CASH AND INVESTMENTS BY TYPE
December 31, 2021**

Total Cash & Investments \$51,273,037



**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
TREASURER'S REPORT**

FOR THE MONTH ENDING

December 31, 2021

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH BY FUND
December 31, 2021**

COMBINED OPERATING FUND

| | | |
|-----------|-----------------|-------------|
| Operating | <u>4,285.98</u> | \$ 4,285.98 |
|-----------|-----------------|-------------|

LRPRP Fund

| | | |
|-----------|-------------|---------|
| Operating | <u>0.00</u> | \$ 0.00 |
|-----------|-------------|---------|

RORF

| | | |
|---------------|--------------|-----------------|
| | 3,269,693.96 | |
| RORF Area I | 0.00 | |
| RORF Area II | 0.00 | |
| RORF Area III | 0.00 | |
| RORF Area IV | 0.00 | |
| RORF Area V | 0.00 | |
| RORF Area VI | 0.00 | \$ 3,269,693.96 |

TOTAL CASH

\$ 3,273,979.94

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH
December 31, 2021**

Checking Account

US Bank

3,273,979.94

TOTAL CASH

3,273,979.94

NOTE:

In accordance with State law, the Successor Agency receives the monies necessary to cover its obligations for the upcoming six month period. The monies are received in January and June of each year.

The Successor Agency has sufficient funds available to meet expenditures during the upcoming six-month period.

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
WARRANT REGISTER**

FOR THE MONTH ENDING

December 31, 2021

City of Montclair
Final Warrant Register
Council Date 01/18/2022
Regular Warrants

Checking Account: Successor to the RDA

| | Warrants | US Bank transfers | Area Totals |
|---|----------|-------------------|-------------|
| SRDA Combined Operating Fund | 0.00 | 7,057.89 | 7,057.89 |
| RORF (Redevelopment Obligation Retirement Funds) | 0.00 | 0.00 | 0.00 |
| | 0.00 | 7,057.89 | |

December 2021 Total

7,057.89

Note: Reimburse City for 12/9, and 12/21 payrolls

Vice Chair Ruh

Book Transfer Daily Activity Detail

CITY OF MONTCLAIR

SinglePoint

Reported Activity From 12/01/2021 To 12/30/2021

Printed on 01/05/2022 at 4:09 PM PST



| Effective Date | Amount | From: Debit Account Number | To: Credit Account Number | Status |
|----------------|-----------|----------------------------|---------------------------|-----------|
| 12/21/2021 | \$2761.47 | 153499275813 | 153499275805 | Completed |

Debit Account Name CITY OF MONTCLAIR SUCCESSOR AGENCY
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimburse City for 12/21/21 Payroll
Initiate Date 12/21/2021
Initiate Time 02:31PM CDT
Initiated By JKULBECK
Completed Date 12/21/2021
Completed Time 02:31PM CDT

| Effective Date | Amount | From: Debit Account Number | To: Credit Account Number | Status |
|----------------|-----------|----------------------------|---------------------------|-----------|
| 12/09/2021 | \$4296.42 | 153499275813 | 153499275805 | Completed |

Debit Account Name CITY OF MONTCLAIR SUCCESSOR AGENCY
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimburse City for 12/09/21 Payroll
Initiate Date 12/09/2021
Initiate Time 11:03AM CDT
Initiated By JKULBECK
Completed Date 12/09/2021
Completed Time 11:03AM CDT

Total Number of Book Transfers: 2
Total Amount of Book Transfers: \$7,057.89

--- End of Report ---

**CITY OF MONTCLAIR
HOUSING CORPORATION
TREASURER'S REPORT
FOR THE MONTH ENDING**

December 31, 2021

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SCHEDULE 1 - STATEMENT OF CASH AND INVESTMENTS

CASH AND INVESTMENTS GRAPH

Schedule 1

**CITY OF MONTCLAIR
HOUSING CORPORATION
STATEMENT OF CASH AND INVESTMENTS
December 31, 2021**

| | <u>Interest Rate</u> | <u>Market Value</u> | <u>Book Value</u> |
|-------------------------------------|---------------------------------|--------------------------------|-----------------------------------|
| Checking Account | | | |
| US Bank | | | 582,543.04 |
| Investments | | | |
| LAIF | 0.22% | 1,712,590.20 | <u>1,712,806.60</u> |
| TOTAL CASH & INVESTMENTS | | | <u><u>2,295,349.64</u></u> |

NOTE:

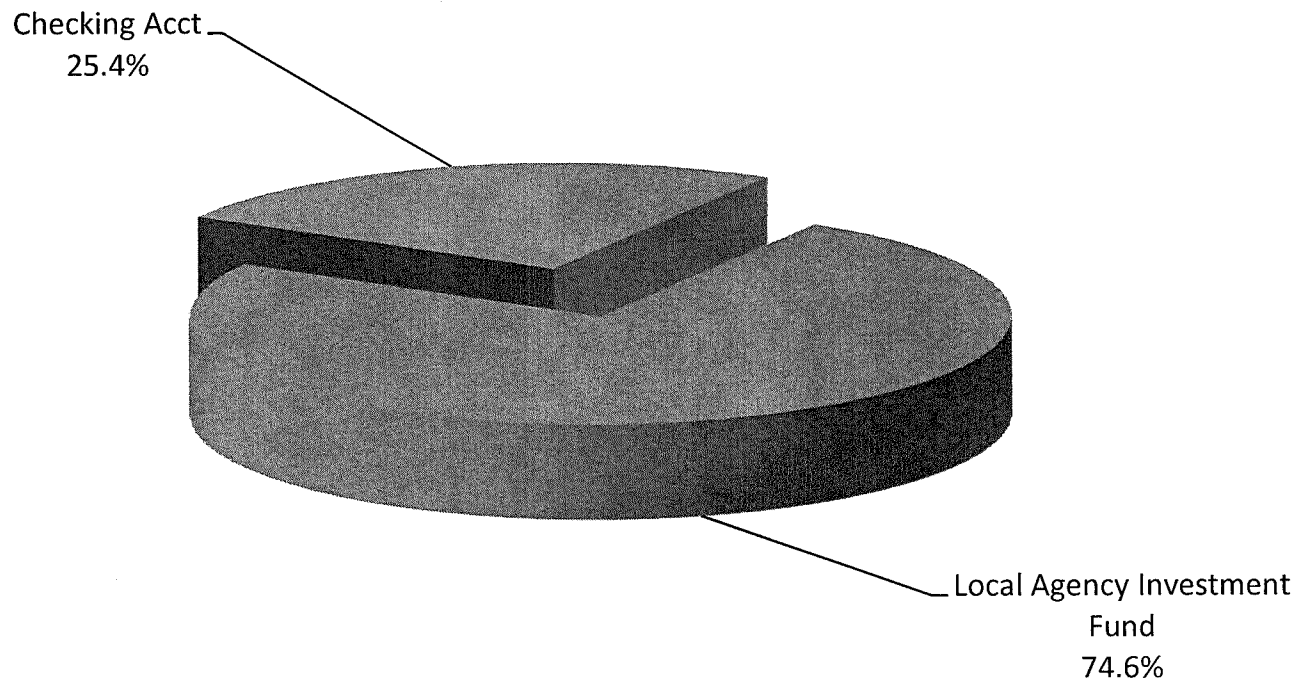
Pursuant to the Corporation's Investment Policy, all moneys are invested in banks, the Local Agency Investment Fund, and in securities with maturities of no greater than three years.

The Corporation has sufficient funds available to meet expenditures during the upcoming six-month period.

The Corporation is in compliance with the internal control procedures set forth in its Investment Policy.

**CITY OF MONTCLAIR
HOUSING CORPORATION
CASH AND INVESTMENTS GRAPH
December 31, 2021**

Total Cash & Investments - \$2,295,349



**CITY OF MONTCLAIR
HOUSING CORPORATION
WARRANT REGISTER**

FOR THE MONTH ENDING

December 31, 2021

City of Montclair
Final Warrant Register
Council Date 01/18/2022
Regular Warrants
Checking Account: MHC

| Warrants | ACH Transfers | Voided Checks | US Bank transfers | Totals |
|-----------|------------------|------------------|----------------------|-----------|
| 15,930.78 | 0.00 | 0.00 | 12,259.90 | 28,190.68 |

December 2021 Total

28,190.68

US Bank transfers:

Reimburse City for 12/9 payroll

Reimburse City for 12/21 payroll

Vice Chair Ruh

Accounts Payable

Checks by Date - Summary by Check Number

User: cramirez
Printed: 1/5/2022 4:04 PM



| Check No | Vendor No | Vendor Name | Check Date | Check Amount |
|--------------------------|-----------|---------------------------------|------------|--------------|
| 5249 | Land012 | Landscape Maintenance Unlimited | 12/09/2021 | 5,623.00 |
| 5250 | Mont074 | Monte Vista Water District | 12/09/2021 | 571.19 |
| 5251 | Buch002 | Buchbinder Maintenance, Inc. | 12/21/2021 | 262.48 |
| 5252 | Mont002 | City of Montclair | 12/21/2021 | 8,797.92 |
| 5253 | Sout018 | Southern California Edison Co | 12/21/2021 | 676.19 |
| Report Total (5 checks): | | | | 15,930.78 |

Book Transfer Daily Activity Detail

CITY OF MONTCLAIR

SinglePoint

Reported Activity From 12/01/2021 To 12/30/2021

Printed on 01/05/2022 at 4:08 PM PST



| Effective Date | Amount | From: Debit Account Number | To: Credit Account Number | Status |
|----------------|-----------|----------------------------|---------------------------|-----------|
| 12/21/2021 | \$5422.98 | 153499275821 | 153499275805 | Completed |

Debit Account Name MONTCLAIR HOUSING CORPORATION
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimburse City for 12/21/21 Payroll
Initiate Date 12/21/2021
Initiate Time 02:31PM CDT
Initiated By JKULBECK
Completed Date 12/21/2021
Completed Time 02:31PM CDT

| Effective Date | Amount | From: Debit Account Number | To: Credit Account Number | Status |
|----------------|-----------|----------------------------|---------------------------|-----------|
| 12/09/2021 | \$6836.92 | 153499275821 | 153499275805 | Completed |

Debit Account Name MONTCLAIR HOUSING CORPORATION
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimburse City for 12/09/21 Payroll
Initiate Date 12/09/2021
Initiate Time 11:03AM CDT
Initiated By JKULBECK
Completed Date 12/09/2021
Completed Time 11:03AM CDT

Total Number of Book Transfers: 2
Total Amount of Book Transfers: \$12,259.90

--- End of Report ---

**CITY OF MONTCLAIR
HOUSING AUTHORITY
TREASURER'S REPORT
FOR THE MONTH ENDING
December 31, 2021**

Schedule 1

**CITY OF MONTCLAIR
HOUSING AUTHORITY
STATEMENT OF CASH
December 31, 2021**

| | <u>Amount</u> |
|-------------------------|---------------------------|
| Checking Account | |
| US Bank | 6,562.16 |
| TOTAL CASH | \$ <u>6,562.16</u> |

NOTE:

During the upcoming month, surplus moneys will be invested in the Local Agency Investment Fund. The MHA has sufficient monies available to meet expenditures during the next six month period.

**CITY OF MONTCLAIR
HOUSING AUTHORITY
WARRANT REGISTER
FOR THE MONTH ENDING
December 31, 2021**

City of Montclair
Final Warrant Register
Council Date 01/18/2022
Regular Warrants
Checking Account: MHA

| Warrants | Voided Checks | US Bank transfers - out. | Totals |
|----------|------------------|-----------------------------|--------|
| 0.00 | 0.00 | 0.00 | 0.00 |

| | |
|---------------------|------|
| December 2021 Total | 0.00 |
|---------------------|------|

Vice Chair Ruh