

CITY OF MONTCLAIR

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

AGENDA

MONDAY, MAY 16, 2022
7:00 p.m.



Mayor

Javier "John" Dutrey

Mayor Pro Tem

Bill Ruh,

Council Members

Tenice Johnson

Corysa Martinez

Benjamin "Ben" Lopez

City Manager

Edward C. Starr

City Attorney

Diane E. Robbins

City Clerk

Andrea M. Myrick

Location

Council Chamber
5111 Benito Street
Montclair, CA 91763

Webinar Link

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

Dial #

1-669-900-6833

Meeting ID

937-1715-0550



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

to be held in the Council Chambers
5111 Benito Street, Montclair, California

Monday, May 16, 2022
7:00 p.m.

Remote Participation Information:

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

*If you want to submit a public comment or speak on an agenda item, including public hearing and closed session items, please complete a Speaker Card in the Council Chambers or online at <https://www.cityofmontclair.org/public-comment/>. The Mayor/Chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate times during the meeting. Those who did not submit a request to speak who are present at the meeting location may raise their hand during Public Comment to request to speak. Those participating remotely may request speak using the "raise hand" function in Zoom or may dial *9 if on the phone, and then *6 to un-mute when called on to speak. 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 emailed to cityclerk@cityofmontclair.org at least one hour before the meeting begins.*

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

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

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

- A. Monte Vista Water District Update on Emergency Conservation Regulations

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 Speaker Card and would like to speak on an item on the **Consent Calendar**, please raise your hand 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

- A. First Reading — Consider Ordinance No. 22-1001 Amending Sections Within Chapters 6.02; Amending Section 6.16.020; Repealing Sections 6.16.025 and 6.16.030; and Adding Chapter 6.17 to the Montclair Municipal Code Establishing a Mandatory Organic Waste Disposal Reduction Program [CC]

Consider Setting a Public Hearing for Monday, June 6, 2022, at 7:00 p.m. in the City Council Chambers to Consider Second Reading and Adoption of Ordinance No. 22-1001 [CC]

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VIII. CONSENT CALENDAR

- A. Approval of Minutes

- 1. Regular Joint Meeting — May 2, 2022 [CC/SA/MHC/MHA/MCF] 259

- B. Administrative Reports

- 1. Consider Receiving and Filing of Treasurer’s Report [CC] 30
- 2. Consider Approval of Warrant Registers & Payroll Documentation [CC] 31
- 3. Consider Receiving and Filing of Treasurer’s Report [SA] 32
- 4. Consider Approval of Warrant Register [SA] 33
- 5. Consider Receiving and Filing of Treasurer’s Report [MHC] 34
- 6. Consider Approval of Warrant Register [MHC] 35
- 7. Consider Receiving and Filing of Treasurer’s Report [MHA] 36
- 8. Consider Approval of Warrant Register [MHA] 37

- 9. Consider Approval of Tract Map No. 20273 Located on the North Side of Arrow Highway Near Fremont Avenue [CC]

Consider Authorizing Tract Map No. 20273 to be Recorded with the Office of the San Bernardino County Recorder Subject to Final Approval by the City Engineer [CC]

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- C. Agreements

- 1. Consider Approval of Agreement No. 22-11 with the San Bernardino County Office of Emergency Services Authorizing the Receipt of \$19,472 from the FY 2020 Homeland Security Grant Program [CC]

Consider Authorizing a \$19,472 Appropriation from the Public Safety Grant Fund to Purchase Communications Equipment for the Command Trailer and a Walk-Through Metal Detector for the Police Station [CC]

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- 2. Consider Authorizing a \$1,076,905 Appropriation from 2021 Lease Revenue Bond Funds for the Preparation of Preliminary Design Plans for Selected Roadways in the North Montclair Downtown Specific Plan (NMDSP) and Montclair Place District Specific Plan (MPDSP) [CC]

Consider Approval of Agreement No. 22-32 with Moule & Polyzoides for the Preparation of Preliminary Design Plans for Selected Roadways in the NMDSP & MPDSP Subject to Any Revisions Deemed Necessary by the City Attorney [CC]

Consider Authorizing the City Manager to Amend the Scope of Services as Necessary for a Contingency Amount Not to Exceed \$133,500 [CC]

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3. Consider Approval of Agreement No. 22-34 with Advanced Creative Concrete to Construct a Concrete Foundation for a Ventilation Training Prop at the Fire Department Training Facility [CC]	84
4. Consider Approval of Agreement Nos. 22-38 and 22-39 with the County of San Bernardino to Provide for the Receipt of Grant Funds from the 2020 and 2021 Justice Assistance Grant Awards [CC] Consider Authorizing City Manager Edward C. Starr to Sign Said Agreements [CC]	92
5. Consider Approval of Agreement No. 22-41 with AppleOne Employment Services to Provide Staffing Services for the Montclair After-School Program [CC]	156
6. Consider Approval of Agreement No. 22-42 with Crafton Hills College Authorizing the Fire Department to Provide Clinical Training for Emergency Medical Students [CC]	159
7. Consider Authorizing the Police Department to Contract with a Reputable Manufacturer for the Purchase of a Tactical Armored Vehicle Defined as Military Equipment Under Assembly Bill 481 [CC] Consider Approval of Agreement No. 22-43 with San Bernardino County to Provide Funding for the Sole Purchase of a Tactical Armored Vehicle, Required Radio Components and Installation, and Graphics, Subject to Any Revisions Deemed Necessary by the City Attorney [CC] Consider Authorizing Receipt of \$336,600 from San Bernardino County for the Sole Purchase of a Tactical Armored Vehicle, Required Radio Components and Installation, and Graphics [CC]	166
8. Consider Approval of Agreement No. 22-45 with ServiceMaster 360 Premier Cleaning to Provide Custodial Services at the Family Resource Center Subject to Any Revisions Deemed Necessary by the City Attorney [CC]	183
9. Consider Approval of Agreement No. 22-46 with Ontario-Montclair School District for Utilization of the Family Resource Center for Case Management Services and to Support Operating Costs of the Facility Subject to Any Revisions Deemed Necessary by the City Attorney [CC]	195
10. Consider Approval of Agreement No. 22-48 with Mt. San Antonio College Authorizing the Fire Department to Provide Clinical Training for Emergency Medical Students [CC]	205
11. Consider Approval of Agreement No. 22-49 with 5060 Montclair Plaza Lane Owner, LLC, a Reimbursement Agreement Related to the Development of Property Generally Located on the Southwest Corner of Central Avenue and Moreno Street Subject to Any Revisions Deemed Necessary by the City Attorney [CC]	217
 D. Resolutions	
1. Consider Adoption of Resolution No. 22-3348 Making Factual Findings in Compliance with AB 361 for the Continuation of Public Meeting Teleconferencing During Public Health Emergencies for the Period of May 16, 2022, through June 15, 2022 [CC]	252

IX. PULLED CONSENT CALENDAR ITEMS

X. BUSINESS ITEMS

- A. Consider Approval of an Extension to the Requirement, as Provided For in Resolution No. 22-3344, for Council Member Benjamin Lopez to Attend City-Approved Sexual Harassment Prevention Training from “within Thirty (30) Calendar Days” to “within Sixty (60) Calendar Days” Following Adoption of Said Resolution [CC]

Consider Authorizing a \$5,000 Transfer From the Contingency Account to City Attorney Program Account No. 1001-4801-52290-400 (Legal Services and Court Costs) to Provide Specialized Sexual Harassment Prevention Training for Council Member Lopez as Required by Resolution No. 22-3344 [CC]

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XI. COMMUNICATIONS

A. Department Reports

1. Human Services — Upcoming Events and Programs

B. City Attorney

1. Request for City Council to Meet in Closed Session Pursuant to Government Code §54956.9(d)(4) Regarding Potential Litigation [CC]

One Potential Case

C. City Manager/Executive Director

D. Mayor/Chairperson

1. Announcement of Vacancies on Community Activities Commission (4)
Apply at www.cityofmontclair.org by May 18, 2022 at 5:30 p.m.
2. Consider Scheduling Meetings for Fiscal Year 2022-23 Preliminary Budget Review Presentation and Budget Adoption, Tentatively Proposed for Wednesday, June 22, 2022, at 6:00 p.m., and Tuesday, June 28, 2022, at 6:00 p.m. in the City Council Chambers [CC/MHC]

E. Council Members/Directors

F. Committee Meeting Minutes (*for informational purposes only*)

1. Personnel Committee Meeting — May 2, 2022 [CC]

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XII. CLOSED SESSION

XIII. CLOSED SESSION ANNOUNCEMENTS

XIV. 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, June 6, 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 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, May 12, 2022.



CITY COUNCIL AGENDA REPORT

DATE: MAY 16, 2022

FILE I.D.: REF020

SECTION: PUBLIC HEARINGS

DEPT.: FINANCE

ITEM NO.: A

PREPARER: J. KULBECK

SUBJECT: FIRST READING — CONSIDER ORDINANCE NO. 22-1001 AMENDING SECTIONS WITHIN CHAPTERS 6.02; AMENDING SECTION 6.16.020; REPEALING SECTIONS 6.16.025 AND 6.16.030; AND ADDING CHAPTER 6.17 TO THE MONTCLAIR MUNICIPAL CODE ESTABLISHING A MANDATORY ORGANIC WASTE DISPOSAL REDUCTION PROGRAM

CONSIDER SETTING A PUBLIC HEARING FOR MONDAY, JUNE 6, 2022, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS TO CONSIDER SECOND READING AND ADOPTION OF ORDINANCE NO. 22-1001

REASON FOR CONSIDERATION: In September 2016, the State Legislature set short-lived climate pollutants reduction targets for California in Senate Bill (SB) 1383 as a statewide effort to reduce emissions of greenhouse gasses (such as methane, a byproduct of organic waste) to combat climate change.

SB 1383 establishes statewide targets to reduce the amount of organic waste disposal in landfills (50 percent reduction by 2020 and 75 percent by 2025). It also set a goal to recover at least 20 percent of edible food that is thrown away by 2025 by donating it to people in need. The State defines “organic waste” as food, landscape and pruning trimmings, lumber, wood, manure, cardboard, paper products, printing and writing paper, and other plant and animal-based products. From 2016–2020, the California Department of Resources, Recycling and Recovery (CalRecycle) worked to develop regulations to achieve the goals of SB 1383. These new regulations were finalized by CalRecycle in November 2020 and took effect in January 2022. In accordance with SB 1383, all jurisdictions must adopt a mandatory organic waste disposal reduction ordinance.

The City Council adopts ordinances to make changes to the Montclair Municipal Code (MMC) and set local regulations. Adopting an ordinance requires two approved readings by the City Council, each held at separate public hearings. An ordinance may be adopted only after the second reading is held at a regular City Council meeting occurring at least five days after the introduction of the proposed ordinance. If substantial changes to the ordinance are approved, the amended ordinance must be re-introduced at a public hearing at least five days prior to conducting the second reading and adopting the ordinance.

The City Council is requested to conduct the first reading of Ordinance No. 22-1001 establishing a mandatory organic waste disposal reduction program, and set a public hearing for the second reading and adoption of the ordinance at its next regular meeting. A copy of the proposed ordinance is attached for City Council’s review and consideration.

BACKGROUND: In September 2016, Governor Brown signed into law SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, directing public agencies to reduce organic waste disposal by 75% and increase edible food recovery by 25 percent, by 2025. SB 1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years.

SB 1383 was enacted to reduce greenhouse gas emissions by diverting organic waste from landfills as the decomposition of such materials emit methane—a climate pollutant 72 times more potent than carbon dioxide. Studies demonstrate that landfills are the third largest producer of methane, and responsible for 21 percent of the state’s anthropogenic (caused by humans) methane emissions.

In accordance with SB 1383, all jurisdictions must adopt a mandatory organic waste disposal reduction ordinance. CalRecycle provided model language for the mandatory SB 1383 ordinance, and cities were advised to adjust the language in the model ordinance based on their respective needs. A draft of the proposed ordinance was shared with the City’s franchise waste hauler, Burrtec. Additionally, SB 1383 mandates that all businesses and residents, as well as multifamily housing developments, have access to recycling programs that capture food scraps, landscaping debris, and other organic waste items.

As defined by SB 1383, organic waste refers to green waste, wood waste, food waste, and fibers such as paper or cardboard. SB 1383 regulations outline specific requirements related to organic collection, edible food recovery, and compliance tracking and monitoring. SB 1383 also mandates significant action by local jurisdictions, residential and commercial organics generators, haulers, and facilities to significantly reduce organics landfill disposal.

The City will be responsible for implementing the following practices to maintain compliance with SB 1383:

- Provide organic waste collection services to all residents and businesses;
- Adopt an ordinance to inspect and enforce compliance with SB 1383;
- Establish an edible food recovery program for local food generators;
- Conduct annual education and outreach to all generators;
- Procure certain levels of recovered organic waste products such as compost, mulch, and renewable natural gas; and
- Maintain records for SB 1383 compliance for annual reporting requirements.

Adopting Ordinance No. 22-1001 will mandate organic waste generators, haulers, and other entities subject to the requirements of SB 1383 to comply with the regulatory requirements. Specific sections in this ordinance include:

- Recycling requirements for single-family generators and commercial businesses;
- Recovery requirements for commercial edible food generators and food recovery organizations;
- Service requirements for haulers;
- Waivers for generators;
- Procurement requirements for city departments, service providers, and vendors; and
- Inspections, investigations, and enforcement.

Although SB 1383 took effect on January 1, 2022, as long as jurisdictions have a plan in place to implement the requirements of SB 1383, CalRecycle will focus on compliance assistance first and dedicate enforcement efforts to serious offenders.

In addition to adoption of an organic waste recycling and food recovery ordinance, SB 1383 requires that the City have ordinances or other enforceable mechanisms in place for compliance with the CALGreen Building Standards Code (“CALGreen”) and a Model Water Efficient Landscaping Ordinance (“MWELO”). The City is already compliant with the aforementioned programs through MMC Chapters 10.30 and 11.60, respectively. However, the CALGreen and MWELO provisions specific to solid waste and recycling

programs are reiterated in this ordinance for clarity and ease of administration and interpretation.

Annual education and outreach to all generators is a requirement of SB 1383. This requirement will be accomplished by utilizing inserts in the City's sewer and trash billings, as well as Burrtec involvement in distributing information at the City's Country Fair Jamboree and National Night Out events. Information regarding compliance for residents and businesses will also be posted on the City's website with links to CalRecycle's web page for more in-depth information.

In addition, SB 1383 requires jurisdictions to procure a targeted amount of organic waste products in the form of compost, mulch, renewable natural gas (RNG), and/or electricity generated from biomass conversion of municipal-solid-waste-derived organic waste. Burrtec will coordinate with the City to assist in meeting our recycled organic waste procurement targets as required by SB 1383 requirements.

SB 1383 also requires the City to procure paper products that are recyclable and contain at least 30 percent of post-consumer recycled content. The City's Purchasing Manual will require an update to comply with these requirements and will be brought to City Council at a later date.

Recordkeeping and reporting to CalRecycle are additional requirements of SB 1383. The City must keep records of all aspects of this program including organic collection services, hauler program, contamination minimization, waivers, education and outreach, edible food recovery program, recycled organic waste procurement, recycled paper procurement, commercial edible food generators, and jurisdiction inspection and enforcement. Burrtec and City staff will utilize a robust database software system designed specifically for tracking efforts as they relate to solid waste services, program compliance, and organics diversion.

Beginning January 1, 2024, the City must begin enforcing SB 1383 regulations and take action against non-compliant entities. Cities are also subject to penalties if found by CalRecycle to be non-compliant.

Compliance with SB 1383 will require an amendment to the City's current franchise agreement with Burrtec, including adjustments to the current residential and commercial refuse rates. City staff is working with Burrtec to bring a resolution to City council in the near future for approval of these amendments.

FISCAL IMPACT: Adoption of Ordinance No. 22-1001 would have no discernable impact to the City's General Fund. Future franchise fee rate adjustments approved by the City must comply with Proposition 218 requirements and are pass-through costs between Burrtec and the rate payer.

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

1. Introduce and conduct the first reading of Ordinance No. 22-1001 amending sections within Chapter 6.02; amending Section 6.16.020; repealing Sections 6.16.025 and 6.16.030; and adding Chapter 6.17 to the Montclair Municipal Code entitled Establishing a Mandatory Organic Waste Disposal Reduction Program.
2. Set a public hearing for Monday, June 6, 2022, at 7:00 p.m. in the City Council Chambers to consider second reading and adoption of Ordinance No. 22-1001.

ORDINANCE NO. 22-1001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTIONS WITHIN CHAPTERS 6.02 (DEFINITIONS); REPEALING SECTIONS 6.16.025 (COMMERCIAL RECYCLING AND ORGANIC WASTE RECYCLING/DIVERSION) AND 6.16.030 (GARBAGE TO BE WRAPPED) OF THE MONTCLAIR MUNICIPAL CODE; AND ADDING CHAPTER 6.17 ESTABLISHING A MANDATORY ORGANIC WASTE DISPOSAL REDUCTION PROGRAM

WHEREAS, a city council may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, Assembly Bill 341 of 2011 places requirements on businesses and multi-family property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires the City to implement a mandatory commercial recycling program; and

WHEREAS, Assembly Bill 1826 of 2014 requires businesses and multi-family property owners that generate a specified threshold amount of solid waste, recycling, and organic waste per week to arrange for recycling services for that waste, requires cities to implement a recycling program to divert organic waste from businesses subject to the law, and requires cities to implement a mandatory commercial organics recycling program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery ("CalRecycle") to develop regulations to reduce organics in landfills as a source of methane. As adopted by CalRecycle, these SB 1383 regulations ("SB 1383 Regulations") place requirements on multiple entities including the City of Montclair, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets; and

WHEREAS, the SB 1383 Regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations, and to reduce community food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, this Ordinance implements the requirements of AB 341, AB 1826, and the SB 1383 Regulations; and

WHEREAS, on May 16, 2022 the City Council conducted a first reading of the proposed Ordinance in consideration of Ordinance No. 22-1001 to amend portions of Chapter 6.02, repeal Sections 6.16.025 and 6.16.030, and add Chapter 6.17; and

WHEREAS, the City Council moved to set a public hearing to consider adoption of Ordinance No. 22-1001 for Monday June 6, 2022; and

WHEREAS, a public hearing was held by the City Council on June 6, 2022, in the Council Chambers located at 5111 Benito Street, Montclair, California. A notice of time, place, and purpose of the public hearing was given in accordance with the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Montclair City Council as follows:

SECTION I. The foregoing Recitals are adopted as findings of the City Council as though set forth in full within the body of this Ordinance.

SECTION II. The Montclair Municipal Code for the City of Montclair (“Code”) shall be amended to add new and replace certain definitions to Chapter 6.02 DEFINITIONS, Section 6.02.010 as follows:

Black Container has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Black Container Waste. Per the definition provided in 14 CCR Section 18982(a)(28), the Black Container may actually be black, or black with a gray lid.

Black Container Waste means Solid Waste that is collected in a Black Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Black Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(65).

Blue Container has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

Brown Container has the same meaning as in 14 CCR Section 18982(a)(5.5) and shall be used for the purpose of storage and collection of Source Separated Food Waste.

CalRecycle means California’s Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing implementing, and enforcing SB 1383 Regulations.

California Code of Regulations or **CCR** means the State of California Code of Regulations. CCR references in Chapter 6.17 are preceded with a number that refers to the relevant title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

City means the City of Montclair, California, within its jurisdictional boundaries.

City Enforcement Official means the City Manager or his/her authorized designee(s) who is/are partially or wholly responsible for enforcing the ordinance.

Commercial Business or **Commercial** means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing Chapter 6.17.

Commercial Edible Food Generator includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein below of this Section 6.02.010 or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

Compliance Review means a review of records by a City to determine compliance with Chapter 6.17.

Community Composting means any activity that Composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or as otherwise defined by 14 CCR Section 18982(a)(8).

Compost has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of Chapter 6.17, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

Compostable Plastics or **Compostable Plastic** means plastic materials that meet the ASTM D6400 standard for Compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2 (a)(1)(C).

Container Contamination or Contaminated Container means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

C&D means construction and demolition debris.

Designee means an entity that a city contracts with or otherwise arranges to carry out any of the City's responsibilities of Chapter 6.17 as authorized in 14 CCR Section 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

Edible Food means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of Chapter 6.17 or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in Chapter 6.17 or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

Enforcement Action means an action of the City to address non-compliance with Chapter 6.17 including but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

Excluded Waste means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its Generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including without limitation: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that, in City's or its Designee's reasonable opinion, would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

Food Distributor means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCRE Section 18982(a)(22).

Food Facility has the same meaning as in Section 113789 of the Health and Safety Code.

Food Recovery means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

Food Recovery Organization means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety code;
2. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety code; and
3. A Food Recovery Organization is not a commercial Edible Food Generator for the purposes of Chapter 6.17 and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to Chapter 6.17.

Food Recovery Service means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization

or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982 (a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of Chapter 6.17 and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

Food Scraps means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, liquids, and grease when such materials are source Separated from other Food Scraps.

Food Service Provider means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

Food-Soiled Paper is Compostable paper material that has come in contact with food or liquid, such as, but not limited to, Compostable paper plates, paper coffee cups, napkins, and pizza boxes.

Food Waste means Food scraps, and Food-Soiled Paper.

Gray Container has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste. For the purpose of Chapter 6.17, Gray Container has the same meaning as Black Container and can be used interchangeably.

Gray Container Waste means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1 (a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). For the purposes of Chapter 6.17, Gray Container Waste has the same meaning as Black Container Waste and can be used interchangeably.

Green Container has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste. No preference or requirement for a "Green Container" made in Chapter 6.17 shall prevent or prohibit the use of additional containers duly authorized by the City and its Designee for purposes of Source Separated Organic Waste to the extent permitted by SB 1383, such as a "brown" container as further authorized by 14 CCR Section 18982(a)(5.5).

Grocery Store means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including without limitation a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

Hauler Route means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

High Diversion Organic Waste Processing Facility means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(35).

Inspection means a site visit where a City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in Chapter 6.17, or as otherwise defined in 14 CCR Section 18982(a)(35).

Large Event means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for

an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to Chapter 6.17.

Large Venue means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of Chapter 6.17 and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purpose of Chapter 6.17 and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to Chapter 6.17.

Local Education Agency means a school district, charter school, or county office of education that is not subject to the control of City or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

Multi-Family Residential Dwelling or **Multi-Family** means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

MWELO refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

Non-Compostable Paper includes but is not limited to paper that is coated in plastic material that will not breakdown in the Composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

Non-Organic Recyclables means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

Notice of Violation (NOV) means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45).

Organic Waste means ~~food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.~~ Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

Organic Waste Generator means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

Paper Products include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

Printing and Writing Papers include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

Prohibited Container Contaminants means the following; (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Brown Container that are not identified as acceptable Source Separated Food Waste for the City's Brown Container; (iii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container

Organic Waste for the City's Green Container; (iv) discarded materials placed in the Black Container that are acceptable Source Separated Recyclable materials and/or Source Separated Green Container Organic Wastes to be placed in City's Green Container and/or Blue Container; and, (v) Excluded Waste placed in any container. Nothing in Chapter 6.17 shall prevent or prohibit the use of additional containers duly authorized by the City and its Designee for purposes of Source Separated materials to the extent permitted by SB 1383, such as a "brown" container as further authorized by 14 CCR Section 18982(a)(5.5).

Recovered Organic Waste Products means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

Recovery means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

Recyclable Materials means those materials that are suitable for recycling, including but not limited to Non-Organic Recyclables, Paper Products, and Printing and Writing Papers.

Recycled-Content Paper means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

Renewable Gas means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

Restaurant means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

Route Review means a visual inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

SB 1383 means Senate Bill 1383 of 2016 approved by the Governor September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

SB 1383 Regulations or **SB 1383 Regulatory** means or refers to, for the purposes of Chapter 6.17, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

Self-Hauler means a commercial generator, approved by the City to haul Solid Waste, Organic Waste or recyclable material he or she has generated to another person using his or her own equipment in accordance with Section 6.17.080. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

Single-Family means of, from, or pertaining to any residential premises with fewer than five (5) units.

Solid Waste has the same meaning defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in the State Public Resources Code Section 40141.
2. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114690) of Part 9 of Division 104 of the State Health and Safety Code.
3. Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

Source Separated means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste Stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials at the point of generation by the Generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Black Container Waste or other Solid Waste for the purposes of collection and processing.

Source Separated Blue Container Organic Waste means Source Separated Organic Waste that can be placed in a Blue Container that (i) is limited to the collections of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(26.7), and (ii) excludes any Prohibited Container Contaminants.

Source Separated Green Container Organic Waste means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the Generator, excluding, but not limited to: Source Separated Blue Container Organic Waste, Non-Compostable Paper, Paper Products, Printing and Writing Paper, and any other Prohibited Container Contaminants.

Source Separated Recyclable Materials means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

State means the State of California.

Supermarket means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

Tier One Commercial Edible Food Generator means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to Chapter 6.17.

Tier Two Commercial Edible Food Generator means a Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venue.
5. Large Event.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to Chapter 6.17.

~~**Waste materials** mean and include but is not limited to paper, cardboard, carpets, rugs, clothing, books, boots, shoes, straw, packing barrels, ashes, discarded building materials and the like, except flammable liquids such as gasoline, kerosene and similar toxic substances shall not be included.~~

Wholesale Food Vendor means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 18982(a)(76).

SECTION III. The Code shall be amended to revise Section 6.16.020(A) as noted below; and to repeal existing Sections 6.16.025 and 6.16.030:

6.16.020 – Receptacle required.

- A. All garbage, rubbish and waste materials as defined in Chapter 6.02 of this title shall be deposited in a ~~single receptacle or receptacles~~ designated container as required, which may be provided by the City or its duly authorized agent. When garbage is deposited with waste material, rubbish or refuse, the receptacle shall be of a plastic or otherwise impervious material with a tight-fitting cover.

SECTION IV. Chapter 6.17 entitled, “MANDATORY ORGANIC WASTE DISPOSAL REDUCTION PROGRAM” shall be added to the code, as follows:

Chapter 6.17 – MANDATORY ORGANIC WASTE DISPOSAL REDUCTION PROGRAM

6.17.010 – Purpose and Findings.

- A. State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their cities to the maximum extent feasible before any incineration or landfill disposal; of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- B. State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate

a specified threshold amount of Solid Waste to arrange for recycling services and requires cities to implement a Mandatory Commercial Recycling program.

- C. State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires cities to implement a Mandatory Commercial Organics Recycling program.
- D. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including cities, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.
- E. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires cities to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

6.17.020 – Requirements for Single-Family Generators.

Single-Family Organic Waste Generators shall subscribe to City's at-least three-container collection service, which includes a Blue Container, Green Container, and Black Container, and shall comply with the following requirements:

- A. Shall subscribe to City's Organic Waste collection services for all Organic Waste generated as described in Section 6.17.020(B). City or its Designee shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust their service level for collection services as requested by the City or its Designee. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- B. Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.
 - 1. Generator shall place Source Separated Green Container Organic Waste, including Food, in the Green Container; Source Separated Recyclable materials in the Blue Container; and Black Container Waste in the Black Container. Generators shall not place materials designated for the Black Container into the Green Container or Blue Container.
 - 2. Nothing in this Chapter shall prevent or prohibit the use of additional containers duly authorized by the City and its Designee for purposes of Source Separated materials to the extent permitted by SB 1383, such as a "brown" container as further authorized by 14 CCR Section 18982(a)(5.5).

6.17.030 – Requirements for Commercial Businesses.

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings of five (5) and more units shall:

- A. Subscribe to City's at-least three-container collection services and comply with requirements of those services as described below in Section 6.17.030(B). City or its Designee shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collections services as requested by the City or its Designee.
- B. Participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below.
 1. Generator shall place Source Separated Green Container Organic Waste in the Green Container; Source Separated Brown Container Food Waste in the Brown Container; Source Separated Recyclable Materials in the Blue Container; and Black Container Waste in the Black Container. Generator shall not place materials designated for the Black Container into the Green Container, Brown Container, or Blue Container.
 - a. Nothing in this Chapter shall prevent or prohibit the use of additional containers duly authorized by the City and its Designee for purposes of Source Separated materials to the extent permitted by SB 1383, such as a "brown" container as further authorized by 14 CCR Section 18982(a)(5.5).
 - b. To comply with subsection B of this section, property owners of multifamily complexes may require its contracted landscapers to recycle the green waste materials and provide satisfactory proof that the materials are being properly recycled in a manner consistent with 14 CCR Sections 18984.1 and 18984.2 or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
 2. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Subsections 3(a) and 3(b) below) for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, Brown Container, and Black Container collection service.
 3. Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste, Source Separated Brown Container Food Waste, and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - a. A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

4. Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirements in Subsection 3(a) or (b) pursuant to 14 CCR Section 18984.9(b).
5. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the City's Blue Container, Green Container, Brown Container, and Black Container collection service.
6. Excluding Multi-Family Residential Dwellings, periodically inspect Blue Containers, Green Containers, Brown Containers, and Black Containers for Prohibited Container Contamination and inform employees if containers are Contaminated and of the requirements to keep Contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
7. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste, Source Separated Brown Container Food Waste, and Source Separated Recyclable Materials.
8. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste, Source Separated Brown Container Food Waste, and Source Separated Recyclable Materials separate from Black Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
9. Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with Section 6.17.120 of this Chapter to confirm compliance with the requirements of this Chapter.
10. Accommodate and cooperate with City's program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented by City at a later date, to evaluate Generator's compliance with this Section 6.17.030(B).
11. At Commercial Business's option and subject to any approval required from the City, implement a program for Inspection of the contents of its Blue Containers, Green Containers, Brown Containers, and Black Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants.
12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 6.17.080 of this Chapter.
13. Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 6.17.050.

6.17.040 - Waivers for Generators.

- A. De Minimis Waivers - City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste Requirements of this Chapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 6.17.040(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:
 1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 6.17.040(A)(2) below.

2. Provide documentation that either:
 - a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 3. Notify City if circumstances change such that Commercial Business' Organic Waste exceeds the threshold required for waiver, in which case the waiver will be rescinded.
 4. De minimis waivers are valid for a period not to exceed 5 years and subject to reverification by the City at any time.
- B. Physical Space Waivers – City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and or Organic Waste collection service requirements if the City has evidence from its own staff, hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 6.17.030. A Commercial Business or property owner may request a physical space waiver through the following process:
1. Submit an application specifying the type(s) of collection services for which they are requesting a compliance waiver.
 2. Provide documentation that the premises lacks adequate space for SB 1383-mandated containers, including documentation from its hauler, licensed architect, or licensed engineer.
 3. Physical space waivers are valid for a period not to exceed 5 years and subject to reverification by the City or Designee at any time.

6.17.050 – Requirements for Commercial Edible Food Generators.

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing July 1, 2022, or other date as set by Resolution of the City Council, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Commercial Edible Food Generators shall comply with the following requirements:
 1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 2. Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

4. Allow City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
6. No later than April 1st of each year commencing no later than April 1, 2023, for Tier One Commercial Edible Food Generators and April 1, 2024, for Tier Two Commercial Edible Food Generators provide an annual Food Recovery report to the City that includes the records listed in Section 6.17.050(C)(5)(c).
- D. Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017, (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

6.17.060 – Requirements for Food Recovery Organizations and Services.

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.54(a)(1).
 1. The name address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. Food Recovery Organizations and Food Recovery Services shall inform Generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).
- D. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the city the Commercial Edible Food Generator is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators the Food Recovery Organizations or Food Recovery Services have established contracts or written agreements with pursuant to 14 CCR Section 18991.3(b) no later than April 1 beginning in 2023.
- E. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

6.17.070 – Requirements for Haulers and Facility Operators.

- A. Exclusive franchised hauler, providing residential, Commercial, or industrial Organic Waste collection services to Generators within the City's boundaries shall meet the following requirements as a condition of approval of a contract, agreement, or similar contractual authorization with the City to Collect Organic Waste:
1. Provide written notice to the City starting July 1, 2022, and annually thereafter pursuant to 14 CCR 18988.1(a)(1) or as facilities change; identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable materials and Source Separated Green Container Organic Waste.
 2. Transport Source Separated Recyclable materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2. Notwithstanding the foregoing, hauler shall not be required to transport any containers with Prohibited Container Contaminants to a facility, operation, activity, or property that recovers Organic Waste.
 3. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 6.17.090 hereof.
 4. The authorization of the exclusive franchised hauler to collect Organic Waste shall comply with any education, equipment, signage, container labeling, container color, contamination, monitoring, and reporting requirements relating to the collection of Organic Waste contained within its franchise agreement with the City.

5. A Hauler is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of this ordinance prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 6. Notwithstanding any of the foregoing, nothing in this Chapter shall restrict or otherwise prohibit Haulers from meeting compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time, or being relieved of, or delaying compliance with such requirement pursuant to SB 619.
- B. Requirements for Facility Operators and Community Composting Operations.
1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
 2. Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the city shall respond within 60 days.

6.17.080 – Self-Hauler Requirements.

- A. Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the City otherwise requires Generators to separate for collection in the City's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be provided to the City quarterly. The records shall include the following information:
 1. Delivery receipts and weight tickets from the entity accepting the waste.
 2. The amount of material in cubic yards or tons transported by the Generator to each entity.
 3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Haulers' vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 6.17.080(C) to the City if requested and within ten (10) days of such request.
- E. A residential Organic Waste Generator that self-hauls Organic Waste, to the extent permitted by this Municipal Code, is not required to record or report information in Section 6.17.080(C).

6.17.090 – Compliance with CALGreen Recycling Requirements.

- A. Persons applying for a permit from the City for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standard Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the city. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply.

Project applicants shall refer to City’s building code for complete CALGreen requirements.

- B. For projects covered by CALGreen or more stringent requirements of the City, the applicants must, as a condition of the City’s permit approval, comply with the following:
1. Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container and Green Container materials, consistent with the at-least three container collection program offered by the city, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 2. New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of materials, consistent with the at-least three container collection program offered by the City, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 3. Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with all written and published City policies, ordinances, and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

6.17.100 – Model Water Efficient Landscaping Ordinance Requirements (MWELO).

- A. Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO, including sections related to use of Compost and mulch as delineated in this Section 6.17.100.
- B. The following Compost and mulch use requirements that are part of the MWELO are also included as requirements of this Chapter. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.
- C. Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 6.17.100(A) above shall:
1. Comply with Sections 492.6 (a)(3)(B), (C), (D), and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:

- a. For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
 - b. For landscape installations, a minimum three- (3-) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - c. Organic mulch materials made from recycled or post-consumer materials meeting procurement requirements under 14 CCR, Division 7, Chapter 12, Article 12, shall (i) take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available, and (ii) comply with 14 CCR, Division 7, Chapter 12, Article 12. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinance.
2. The MWELo compliance items listed in this Section are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in Section 6.17.100(A) shall consult the full MWELo for all requirements.
- D. If, after the adoption of this Chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELo September 15, 2015 requirements in a manner that requires jurisdictions to incorporate the requirements of an updated MWELo in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

6.17.110 – Procurement Requirements for City Departments, Direct Service Providers, and Vendors.

- A. City departments, and direct service providers to the City, as applicable, must comply with the City-adopted procurement policy for Recovered Organic Waste Product Recycled-Content Paper.
- B. All vendors providing Paper Products and Printing and Writing Paper to the City shall:
 1. If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are Available at the same or lesser total cost than non-recycled items.
 2. Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standards as defined in 16 CFR Section 260.12 of Code of Federal Regulations.
 3. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
 4. Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12 of Code of Federal Regulations.

5. Provide records to the City's designated personnel member for purposes of Recovered Organic Waste Product procurement recordkeeping in accordance with the City's Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 6.17.110(B)(3) and (B)(4) of this Chapter for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

6.17.120 – Inspections and Investigations.

- A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and Investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this Chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- B. Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Food Recovery Services, and Food Recovery Organizations shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's personnel or its Designee during such Inspections and Investigations. Such Inspections and Investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this Chapter describe herein. Failure to provide or arrange for: (i) access to an entity's premises, or (ii) access to records for any Inspection or Investigation is a violation of this Chapter and may result in penalties described.
- C. Any records obtained by the City during its Inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act set forth in Government Code Section 6250 et seq.
- D. City representatives/personnel and/or Designee are authorized to conduct any Inspections or other Investigations of Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Food Recovery Services, and Food Recovery Organizations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.
- E. City shall accept written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

6.17.130 – Enforcement.

- A. A violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this Chapter include, but are not limited to, issuance of an administrative citation and assessment of a fine. In addition to the procedures in this section 6.17.130, the City may enforce this Chapter consistent with the procedures in Montclair Municipal Code Chapter 1.04.
- B. Other remedies allowed by law may be used for enforcement, including but not limited to civil action or prosecution as misdemeanor or infraction. The

City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.

C. Responsible Entity for Enforcement.

1. Enforcement pursuant to this Chapter may be undertaken by the City Enforcement Official or his/her designee authorized and legally able to undertake such action.
 - a. The City Enforcement Official or his/her designee will interpret this Chapter; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
 - b. The City Enforcement Official or his/her designee may issue Notices of Violation(s).

D. Process for Enforcement

1. The City Enforcement Official or his/her designee will monitor compliance with this Chapter randomly and through compliance Reviews, Route Reviews, Investigation of complaints, and an Inspection program. Section 6.17.120 establishes City's right to conduct Inspections and Investigations.
2. City may issue an official notification to notify regulated entities of its obligations under the ordinance.
3. Contamination Prevention.
 - a. For incidences of Prohibited Container Contaminants found by City or its Designee in containers, City will issue a Notice of Violation to any Generator found to have Prohibited Container Contamination in a container. Prior to issuance of a Notice of Violation, City's Designee may provide an informal warning(s) or notice(s) of Container Contaminants via cart tag or other similar means including, but not limited to mailings, e-mail, or other electronic messages to the Generator and may include photographic evidence of the violation. Thereafter, any Notice of Violation shall be provided by the City via mail within two (2) days after City determines a violation has occurred with respect to Prohibited Container Contaminants. If the City or its Designee observes Prohibited Container Contaminants in a Generator's containers on more than two (2) occasion(s) in any calendar year starting January 1, the City may assess an administrative fine or penalty on the Generator in accordance with Section 6.17.130(E).
 - b. In addition to 6.17.130(D)(3)(a), Designee may implement through Designee's service rate structure a Contamination service charge for customers committing incidents of Prohibited Container Contaminants. Designee shall provide such customers with written notice and/or cart tags, or such other procedures required under any contract, agreement, or similar contractual authorization between the City and its Designee, prior to levying any contamination service charge. The foregoing Contamination service charges shall not be considered an administrative fine or penalty. Any disputes arising from the assessment of a Contamination service charge shall be adjudicated pursuant to the customer complaint resolution process provided under the terms of any contract, agreement, or similar contractual authorization between the City and its Designee assigned to collect Organic Waste.
4. With the exception of violations of Generator Contamination of container contents addressed under Section 6.17.130(D)(3), City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.

5. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an Enforcement Action to impose penalties, via an administrative citation and fine pursuant to the City's requirements contained in Section 6.17.130(J), Table 1, List of Violations.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collections services, depending upon available information.

- E. **Penalty Amounts for Types of Violations.** The penalty levels for City-issued Notices of Violations are as follows:
 1. For a first violation, the amount of the base penalty shall be \$100 per violation.
 2. For a second violation, the amount of the base penalty shall be \$200 per violation.
 3. For a third violation, the amount of the base penalty shall be \$500 per violation.
- F. **Compliance Deadline Extension Considerations.** The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section 6.17.130 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:
 1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
 2. Delays in obtaining discretionary permits or other governments agency approvals; or,
 3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.
- G. **Appeals Process.** Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to the appeal procedures in Montclair Municipal Code Section 1.08.010.
- H. **Education Period for Non-Compliance.** Beginning on and after January 1, 2022, City will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with this Chapter, and if City determines that Organic Waste Generator, Self-Hauler, hauler Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by July 1, 2022, or other date as set by resolution of the City Council, and that violations may be subject to administrative civil penalties starting on January 1, 2024.
- I. **Civil Penalties for Non-Compliance.** Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service or other entity is not in compliance with this Chapter it shall document that noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section 6.17.130, as needed.
- J. **Enforcement Table - Non-exclusive List of Violations.** Table 1 below provides a non-exclusive list of violations of this Chapter, which may subject an entity to an Enforcement Action pursuant to this Section 6.17.130.

Table 1. List of Violations

REQUIREMENT	DESCRIPTION OF VIOLATION
Commercial Business and Commercial Business Owner Responsibility Requirement Section 6.17.030	Commercial Business fails to provide or arrange for Organic Waste collection services consistent with City requirements and as outlined in this Chapter, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color.
Organic Waste Generator Requirement Sections 6.17.020 and 6.17.030	Organic Waste Generator fails to comply with requirements adopted pursuant to this Chapter for the collection and Recovery of Organic Waste.
Hauler Requirement Section 6.17.070	A hauler providing Residential, Commercial or industrial Organic Waste collection service fails to transport Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as prescribed by this Chapter.
Hauler Requirement Section 6.17.070	A hauler providing Residential, Commercial or industrial Organic Waste collection service fails to obtain applicable approval issued by the City to haul Organic Waste as prescribed by this Chapter.
Hauler Requirement Section 6.17.070	A hauler fails to keep a record of the applicable documentation of its approval by the City, as prescribed by this Chapter.
Self-Hauler Requirement Section 6.17.080	A generator who is a Self-Hauler fails to comply with the requirements of 14 CCR Section 18988.3(b).
Commercial Edible Food Generator Requirement Section 6.17.050	Tier One Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this Section commencing July 1, 2022, or other date as set by Resolution of the City Council.
Commercial Edible Food Generator Requirement Section 6.17.050	Tier Two Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this Section commencing January 1, 2024.
Commercial Edible Food Generator Requirement Section 6.17.050	Tier One or Tier Two Commercial Edible Food Generator intentionally spoils Edible Food that is capable of being recovered by a Food Recovery Organization or Food Recovery Service.
Organic Waste Generator, Commercial Business Owner, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service Sections 6.17.030 and 6.17.050	Failure to provide or arrange for access to an entity's premises for an Inspection or investigation.
Recordkeeping Requirements for Commercial Edible Food Generator Section 6.17.050	Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 6.17.050.

Recordkeeping Requirements for Food Recovery Services and Food Recovery Organizations Section 6.17.060	A Food Recovery Organization or Food Recovery Service that has established a contract or written agreement to collect or receive Edible Food directly from a Commercial Edible Food Generator pursuant to 14 CCR Section 18991.3(b) fails to keep records, as prescribed by section 6.17.060.
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6.17.140 – Coordination and Interpretation in Conjunction With Related Solid Waste Ordinances.

In interpreting this Chapter in conjunction with the City’s general Solid Waste regulations (Montclair Municipal Code Chapter 6.16), in the event of any conflict between this Chapter and Chapter 6.16 that cannot be reasonably harmonized through the application of lawful principles of statutory construction, the provision of this Chapter shall control with respect to all issues specific to the regulation of Organic and Food Waste collection, disposal, enforcement, and penalties.

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

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

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

APPROVED AND ADOPTED this XX day of XX, 2022.

ATTEST:

Mayor

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 22-1001 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2022, and finally passed not less than five (5) days thereafter on the XX day of XX, 2022, by the following vote, to-wit:

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

Andrea M. Myrick
City Clerk



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 April 30, 2022.

BACKGROUND: Included in the City Council's agenda packet is a copy of the Treasurer's Report for the period ending April 30, 2022.

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 April 30, 2022.



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 May 16, 2022, and the Payroll Documentation dated April 24, 2022, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated May 16, 2022, totals \$1,408,005.57.

The Payroll Documentation dated April 24, 2022 totals \$699,954.79 gross, with \$489,222.31 net being the total cash disbursement.

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



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 April 30, 2022, 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 April 30, 2022.

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 April 30, 2022.



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 April 30, 2022, pursuant to state law.

BACKGROUND: Vice Chair Ruh has examined the Successor to the Redevelopment Agency Warrant Register dated 04.01.22-04.30.22 in the amounts of \$20,630.72 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 April 30, 2022.



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 April 30, 2022, 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 April 30, 2022.

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 April 30, 2022.



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 April 30, 2022, pursuant to state law.

BACKGROUND: Vice Chair Ruh has examined the Warrant Register dated 04.01.22-04.30.22 in the amount of \$125,611.24 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 April 30, 2022.



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 April 30, 2022, 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 April 30, 2022.

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 April 30, 2022.



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 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 April 30, 2022, pursuant to state law.

BACKGROUND: Vice Chair Ruh has examined the Warrant Register dated 04.01.22-04.30.22 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 April 30, 2022.



CITY COUNCIL AGENDA REPORT

DATE: MAY 16, 2022 **FILE I.D.:** LDU600
SECTION: CONSENT - ADMIN. REPORTS **DEPT.:** PUBLIC WORKS
ITEM NO.: 9 **PREPARER:** M. HEREDIA

SUBJECT: CONSIDER APPROVAL OF TRACT MAP NO. 20273 LOCATED ON THE NORTH SIDE OF ARROW HIGHWAY NEAR FREMONT AVENUE

CONSIDER AUTHORIZING TRACT MAP NO. 20273 TO BE RECORDED WITH THE OFFICE OF THE SAN BERNARDINO COUNTY RECORDER SUBJECT TO FINAL APPROVAL BY THE CITY ENGINEER

REASON FOR CONSIDERATION: Land subdivisions, including parcel maps and tract maps, are allowed by the Subdivision Map Act, subject to City Council approval. The City Council is requested to consider approval of Tract Map No. 20273, generally located on the north side of Arrow Highway near Fremont Avenue, and authorize staff to record the tract map with the Office of the San Bernardino County Recorder subject to final approval by the City Engineer.

BACKGROUND: On December 7, 2020, the City Council adopted Resolution No. 20-3285 approving Tentative Tract Map No. 20273 located on the north side of Arrow Highway near Fremont Avenue. Tract Map No. 20273, known as *The Village at Montclair*, is within the Station District zoning area of the North Montclair Downtown Specific Plan (NMDSP). The Arrow Station residential community is on the west, Montclair Transcenter on the north, and the Pep Boys auto store and self-serve car wash on the east.

The tract map creates six (6) numbered parcels and Lot “A” designated as a public park (Exhibit “A”). The new lots are arranged around U-shaped public streets that connect at two points to Arrow Highway. The proposed street configuration also includes a street segment extending eastward to the east property line to establish a connection point for a future development on the adjacent parcel.

The public park is located at the center of the site and intended to provide an open space area to be used by future residents for open space, passive recreational activities, and public events. The new park is rectangular in shape, approximately 13,547 square feet (0.311-acres) in size. Park amenities include a tree-lined turf area, a pavilion, water fountain, and seating.

The tract map also includes two (2) public easements located on Parcels 4 and 5. These easements are intended to facilitate public pedestrian access to the site from the west (the Arrow Station community) and from the site to the Montclair Transcenter immediately north of the site across the rail lines.

The parking structure in Parcel 4 is a private structure and is needed to meet parking requirements for the residential portion of the project. A future public parking structure to support commercial uses in the area with short-term parking is located in Parcel 6 as designated by the NMDSP.

FISCAL IMPACT: Approval of Tract Map No. 20273 will create an unknown but positive fiscal impact to the City through increased property values and sales taxes.

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

1. Approve Tract Map No. 20273 located on the north side of Arrow Highway near Fremont Avenue.
2. Authorize Tract Map No. 20273 to be recorded with the Office of the San Bernardino County Recorder subject to final approval by the City Engineer.

TRACT NO. 20273

IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
BEING A SUBDIVISION OF LOT 107 AND THE WEST 2 ACRES OF LOT 108, OF COLLEGE HEIGHTS TRACT,
AS SHOWN BY MAP ON FILE IN BOOK 17, PAGES 77 AND 78 OF MAPS, RECORDS OF SAID COUNTY.

COMMERCIAL DEVELOPMENT RESOURCES MAY 2022

NUMBERED LOTS: 6
LETTERED LOTS: 1
TOTAL GROSS AREA IS: 6.679 ACRES
TOTAL NET AREA IS: 4.986 ACRES

OWNER'S CERTIFICATE

I, HEREBY STATE I AM THE ONLY PARTY HAVING ANY RECORD TITLE INTEREST IN THE LAND SUBDIVIDED AS SHOWN ON THIS TRACT MAP, AND I CONSENT TO THE PREPARATION AND RECORDING OF THIS FINAL MAP.
I HEREBY OFFER TO DEDICATE IN FEE SIMPLE, A 0.311 ACRE PARCEL TO THE CITY OF MONTCLAIR FOR A NEIGHBORHOOD PUBLIC PARK, REFERRED TO HEREON AS "LOT 'A'".
I HEREBY OFFER TO DEDICATE AN EASEMENT FOR PUBLIC ACCESS PURPOSES, TO THE CITY OF MONTCLAIR, ACROSS A PORTION OF PARCELS 4 AND 5, AS SHOWN ON THIS MAP.
I HEREBY OFFER TO DEDICATE AN EASEMENT FOR PUBLIC ROADS AND PUBLIC UTILITY PURPOSES IN, UNDER, OVER, THROUGH AND ACROSS BIRCH STREET, STATION AVENUE, AND FREMONT STREET AND THE NORTHEASTLY PORTION OF ARROW HIGHWAY, AS SHOWN ON THIS MAP.

BY: CREY/VP MONTCLAIR VILLAGE OWNERS, L.L.C. C/O VILLAGE PARTNERS
J. DONALD HENRY
AUTHORIZED SIGNATORY

CITIZENS BANK, N.A., A NATIONAL BANKING ASSOCIATION, AS ADMINISTRATIVE AGENT, BENEFICIARY UNDER THE DEEDS OF TRUST RECORDED DECEMBER 28, 2021 AS DOCUMENT NO. 2021-0576423 OF OFFICIAL RECORDS IN THE COUNTY OF SAN BERNARDINO.

NOTARY ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
ON _____ BEFORE ME, _____ WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME, IN HER AUTHORIZED CAPACITY, AND THAT BY HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH PERSON ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.
I, WITNESS MY HAND AND OFFICIAL SEAL.

PRINT NAME _____ SIGNATURE _____
NOTARY PUBLIC IN AND FOR SAID STATE _____
MY COMMISSION NO.: _____
MY COMMISSION EXPIRES: _____
MY PRINCIPAL PLACE OF BUSINESS IS IN ORANGE COUNTY _____

NOTARY ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
ON _____ BEFORE ME, _____ WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME, IN HER AUTHORIZED CAPACITY, AND THAT BY HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH PERSON ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.
I, WITNESS MY HAND AND OFFICIAL SEAL.

PRINT NAME _____ SIGNATURE _____
NOTARY PUBLIC IN AND FOR SAID STATE _____
MY COMMISSION NO.: _____
MY COMMISSION EXPIRES: _____
MY PRINCIPAL PLACE OF BUSINESS IS IN SAN BERNARDINO COUNTY _____

PLANNING COMMISSION CERTIFICATE

I DO HEREBY CERTIFY THAT THE SUBDIVISION SHOWN ON THE MAP IS IN ACCORDANCE WITH THE TENTATIVE MAP APPROVED AT A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, HELD ON THE _____ DAY OF _____, 2022.

MICHAEL OLIVAZ
SECRETARY OF THE PLANNING COMMISSION
CITY OF MONTCLAIR, CALIFORNIA

DATED _____

AUDITOR'S CERTIFICATE

I, HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THERE ARE NO LIENS AGAINST THE REAL PROPERTY SHOWN UPON THIS MAP FOR UNPAID STATE, COUNTY, MUNICIPAL OR LOCAL TAXES, SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS, NOT YET PAID, ESTIMATED TO BE \$ _____.

ENSEN WASON
COUNTY AUDITOR/CONTROLLER/TREASURER/TAX COLLECTOR
COUNTY OF SAN BERNARDINO

BY: _____ DEPUTY

BOARD OF SUPERVISOR'S CERTIFICATE

I HEREBY CERTIFY THAT A BOND IN THE SUM OF \$ _____ HAS BEEN EXECUTED AND FILED WITH THE BOARD OF SUPERVISORS FOR THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, CONDITIONED UPON PAYMENT OF ALL TAXES, STATE, COUNTY, MUNICIPAL OR LOCAL, AND ALL SPECIAL ASSESSMENTS, COLLECTED AS TAXES, WHICH AT THE SAME TIME OF THIS CERTIFICATE, THE SUBDIVIDER HAS FILED WITH A CERTIFICATE BY THE PROPER OFFICER GIVING HIS ESTIMATE OF THE AMOUNT OF SAID TAXES AND SPECIAL ASSESSMENTS, AND SAID BOND IS HEREBY ACCEPTED.

LYNNA MONELL
CLERK OF THE BOARD OF SUPERVISORS
COUNTY OF SAN BERNARDINO

BY: _____ DEPUTY

SIGNATURE OMISSIONS

THIS SIGNATURES OF THE FOLLOWING PARTIES HAVE BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66438 OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA, AS THEIR INTEREST CANNOT RISE INTO FEE.
HOLDER OF AN EASEMENT FOR MAINTAINING PIPELINES RESERVED IN DOCUMENT RECORDED MAY 28, 1920 IN BOOK 686, PAGE 203 OF DEEDS, BLANKET EASEMENT
HOLDER OF AN EASEMENT FOR PUBLIC UTILITIES TO SOUTHERN CALIFORNIA EDISON COMPANY IN DOCUMENT RECORDED IN BOOK 4164, PAGE 167 OF O.R.
HOLDER OF AN EASEMENT FOR PUBLIC ROAD AND HIGHWAY PURPOSES TO THE FTI OF MONTCLAIR IN DOCUMENT RECORDED APRIL 27, 1970 IN BOOK 7431, PAGE 805 OF O.R.
HOLDER OF AN EASEMENT FOR UTILITIES TO SOUTHERN CALIFORNIA EDISON COMPANY IN DOCUMENT RECORDED APRIL 26, 1972, IN BOOK 7418, PAGE 86 OF O.R.

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF SUSAN KENDALL WAAS, TRUSTEE, OF THE MIRIAM A. KENDALL TRUST ESTABLISHED APRIL 27, 2005, ON JANUARY 12, 2022. I HEREBY CERTIFY THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AND THAT THE MAP AND THIS FINAL MAP WILL BE SET IN THESE POSITIONS WITHIN TWO YEARS OF RECORDATION OF THE MAP AND THIS FINAL MAP MONUMENTS ARE, OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

DATED: 05/09/22


ROBERT J. MCGILL
LAND SURVEYOR NO. PLS 8211
EXPIRES 3-31-23



CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND THAT ALL THE APPLICABLE PROVISIONS OF THE SUBDIVISION MAP ACT AND THE CITY OF MONTCLAIR MUNICIPAL CODE HAVE BEEN COMPLIED WITH, AND THAT THE MAP AND THIS FINAL MAP CONFORM TO ALL THE APPLICABLE PROVISIONS OF THE SUBDIVISION MAP ACT AND THE CITY OF MONTCLAIR MUNICIPAL CODE AND THAT THE MAP AND THIS FINAL MAP CONFORM TO ALL THE APPLICABLE PROVISIONS OF THE SUBDIVISION MAP ACT AND THE CITY OF MONTCLAIR MUNICIPAL CODE AND THAT THE MAP AND THIS FINAL MAP CONFORM TO ALL THE APPLICABLE PROVISIONS OF THE SUBDIVISION MAP ACT AND THE CITY OF MONTCLAIR MUNICIPAL CODE.

DATED _____

MONICA HEREDIA R.C.E. 56547
CITY ENGINEER



I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

REVIEWED FOR THE CITY OF MONTCLAIR BY L.D. KING, INC.

CARLA E. BEARD P.L.S. 7224
L.D. KING, INC.



CITY COUNCIL'S CERTIFICATE

I HEREBY CERTIFY THAT THE CITY COUNCIL OF THE CITY OF MONTCLAIR BY A MOTION DAILY SECONDED AND PASSED, APPROVED THE ATTACHED MAP OF THE _____ DAY OF _____, 2022, AND ACCEPTED ON THE NORTH SIDE OF ARROW HIGHWAY FOR STREET AND PUBLIC UTILITY PURPOSES, AND TO ADDITIONALLY DEDICATED IN FEE SIMPLE, A 0.22 ACRE PARCEL FOR A NEIGHBORHOOD PUBLIC PARK, REFERRED TO HEREIN AS LOT 'A', TO ADDITIONALLY DEDICATE FOR PUBLIC ACCESS PURPOSES, ACROSS A PORTION OF PARCELS 4 AND 5, AS SHOWN ON THIS MAP, AND FREMONT STREET TO THE CITY OF MONTCLAIR FOR PUBLIC STREET AND PUBLIC UTILITY PURPOSES.

TAMARA W. WATLEY, DEPUTY CITY CLERK
OF THE CITY OF MONTCLAIR, CALIFORNIA

SAN BERNARDINO COUNTY RECORDER'S CERTIFICATE

THIS MAP HAS BEEN FILED UNDER DOCUMENT NUMBER _____ OF TRACT MAPS AT THIS _____ DAY OF _____, 2022 AT _____ M. IN BOOK _____ IN THE AMOUNT OF \$ _____

BOB DUTTON
ASSESSOR-RECORDER-CLERK
COUNTY OF SAN BERNARDINO, CALIFORNIA
BY: _____ DEPUTY RECORDER

TRACT NO. 20273

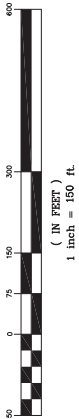
IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
 BEING A SUBDIVISION OF LOT 107 AND THE WEST 2 ACRES OF LOT 108, OF COLLEGE HEIGHTS TRACT,
 AS SHOWN BY MAP ON FILE IN BOOK 17, PAGES 77 AND 78 OF MAPS, RECORDS OF SAID COUNTY.

COMMERCIAL DEVELOPMENT RESOURCES

MAY 2022

NUMBERED LOTS: 6
 LETTERED LOTS: 1
 TOTAL GROSS AREA IS: 6.679 ACRES
 TOTAL NET AREA IS: 4.986 ACRES

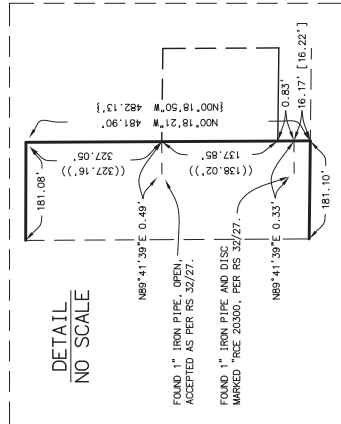
GRAPHIC SCALE



LEGEND

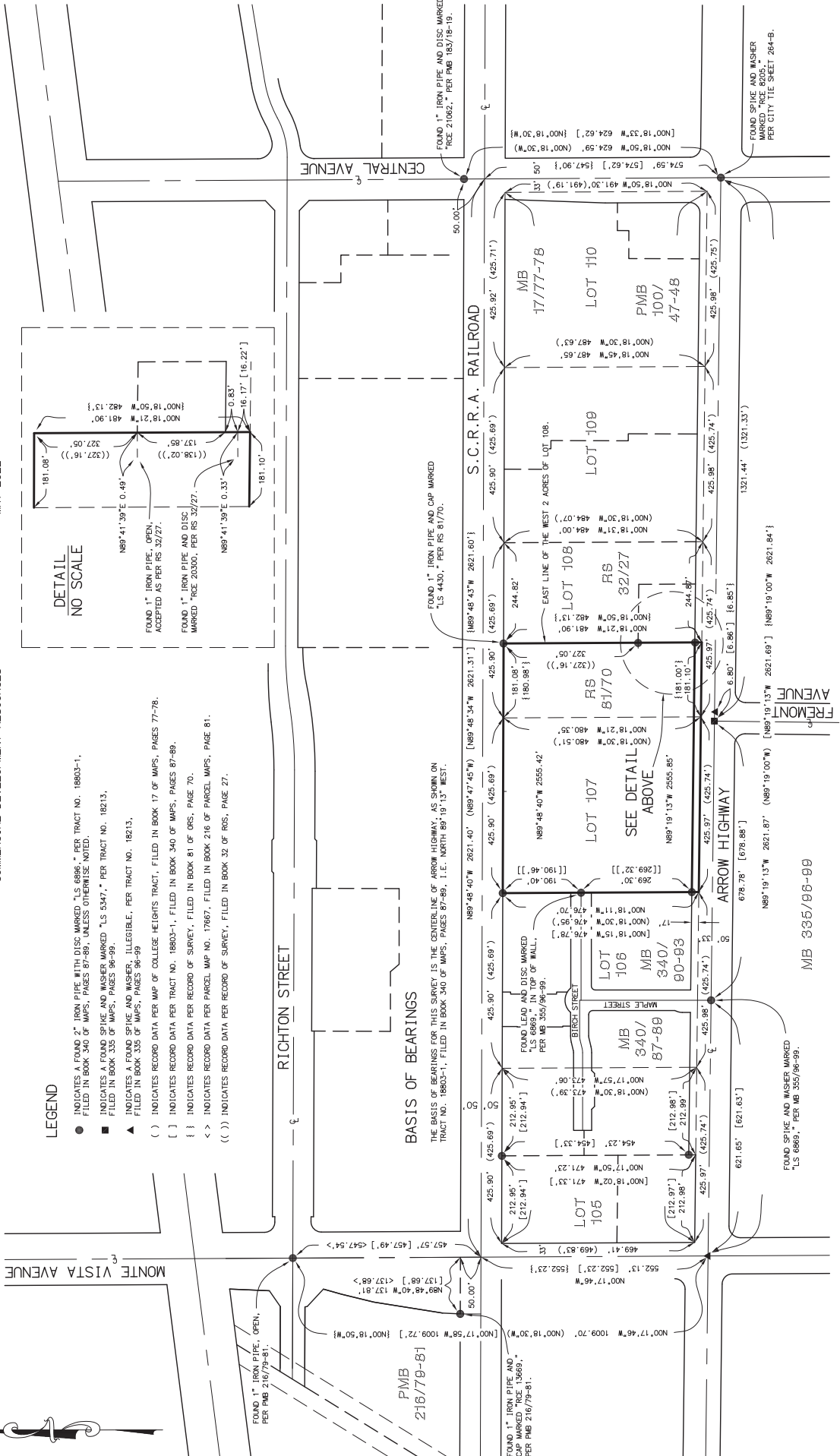
- INDICATES A FOUND 2" IRON PIPE WITH DISC MARKED "LS 6896," PER TRACT NO. 18603-1, FILED IN BOOK 340 OF MAPS, PAGES 87-89, UNLESS OTHERWISE NOTED.
- INDICATES A FOUND SPIKE AND WASHER MARKED "LS 5347," PER TRACT NO. 18213, FILED IN BOOK 335 OF MAPS, PAGES 96-99.
- ▲ INDICATES A FOUND SPIKE AND WASHER, ILLIGIBLE, PER TRACT NO. 18213, FILED IN BOOK 335 OF MAPS, PAGES 96-99.
- () INDICATES RECORD DATA PER MAP OF COLLEGE HEIGHTS TRACT, FILED IN BOOK 17 OF MAPS, PAGES 77-78.
- [] INDICATES RECORD DATA PER TRACT NO. 18603-1, FILED IN BOOK 340 OF MAPS, PAGES 87-89.
- { } INDICATES RECORD DATA PER RECORD OF SURVEY, FILED IN BOOK 81 OF OBS, PAGE 70.
- <> INDICATES RECORD DATA PER PARCEL MAP NO. 17667, FILED IN BOOK 216 OF PARCEL MAPS, PAGE 81.
- (()) INDICATES RECORD DATA PER RECORD OF SURVEY, FILED IN BOOK 32 OF ROS, PAGE 27.

DETAIL
 NO SCALE



BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CENTERLINE OF ARROW HIGHWAY, AS SHOWN ON TRACT NO. 18603-1, FILED IN BOOK 340 OF MAPS, PAGES 87-89, I.E. NORTH 89°19'13" WEST.



TRACT NO. 20273

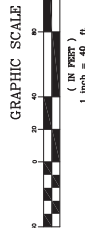
IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
BEING A SUBDIVISION OF LOT 107 AND THE WEST 2 ACRES OF LOT 108, OF COLLEGE HEIGHTS TRACT,
AS SHOWN BY MAP ON FILE IN BOOK 17, PAGES 77 AND 78 OF MAPS, RECORDS OF SAID COUNTY.

COMMERCIAL DEVELOPMENT RESOURCES MAY 2022

S.C.R.R.A. RAILROAD

NUMBERED LOTS: 6
LETTERED LOTS: 1
TOTAL GROSS AREA IS: 6.679 ACRES
TOTAL NET AREA IS: 4.986 ACRES

FOUND 2" IRON PIPE AND TAG
MARKED "LS 6896" PER TRACT
NO. 18803-1 RECORDED AS
M67340-87.



TRACT NO. 18803

- LEGEND**
- SET 2" IRON PIPE WITH DISC MARKED "LS 8211."
 - FOUND MONUMENT AS NOTED
- EASEMENT NOTE**
- ① AN EASEMENT FOR PUBLIC ROAD AND UTILITIES IS SHOWN IN FAVOR OF THE CITY OF MONTCLAIR DEDICATED HEREON.
 - ② PROPOSED 14' WIDE AND 10' HIGH CONCRETE EASEMENT TO CITY OF MONTCLAIR. SEE SHEET 4 FOR SEPARATE AGREEMENT, FOR REFERENCE PURPOSES ONLY.
 - (SEE SHEET 4 FOR DETAILS)

FOUND 1" IRON PIPE AND CAP MARKED "LS 4430" PER ROS 81-70, REPLACED WITH 2" IRON PIPE MARKED "LS8211."

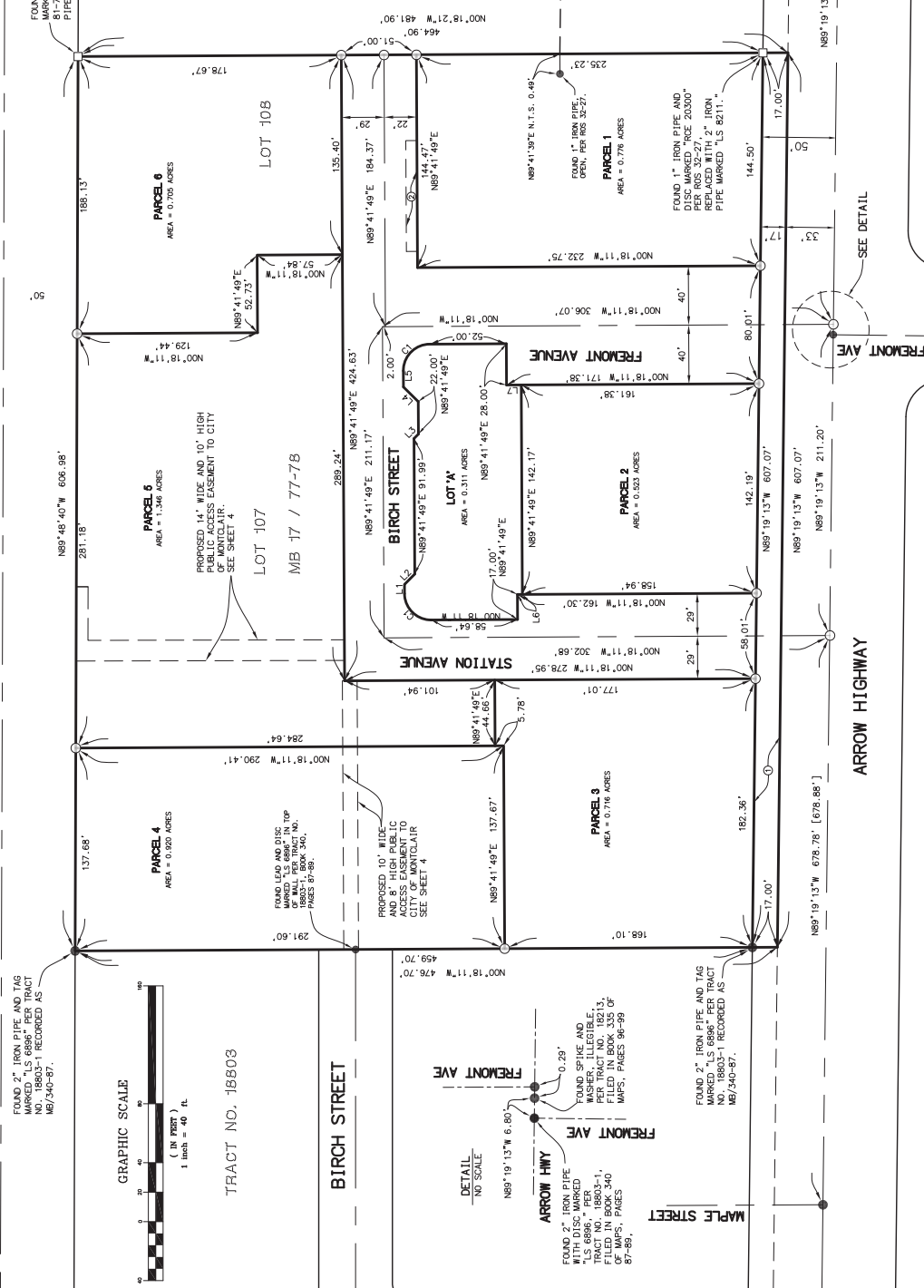
FOUND 1" IRON PIPE AND CAP MARKED "LS 6896" PER TRACT NO. 18803-1 RECORDED AS M67340-87.

FOUND 2" IRON PIPE AND TAG MARKED "LS 6896" PER TRACT NO. 18803-1 RECORDED AS M67340-87.

CURVE DATA
C1 $\Delta=90^{\circ}00'00"$ R=18.00' L=26.27'

LINE DATA
L1 N89°41'49"E 6.19'
L2 N45°18'11"W 4.24'
L3 N89°41'49"E 14.14'
L4 N44°41'49"E 10.99'
L5 N89°41'49"E 10.99'
L6 N89°41'49"E 10.99'
L7 N00°18'11"W 10.00'

NOTE
POINTS OTHERWISE SHOWN AS 1" X 18" IRON PIPE WITH TAG MARKED "LS. 8211 WILL BE SET AT ALL LOT CORNERS, ANGLE POINTS, POINTS OF CURVE AND CENTERLINE LINE ANGLE POINTS. WHERE A PIPE CANNOT BE SET, A LEAD AND TAG MARKED "L.S. 8211" WILL BE SET IN ITS PLACE.



SEE DETAIL

TRACT NO. 20273

IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

BEING A SUBDIVISION OF LOT 107 AND THE WEST 2 ACRES OF LOT 108, OF COLLEGE HEIGHTS TRACT, AS SHOWN BY MAP ON FILE IN BOOK 17, PAGES 77 AND 78 OF MAPS, RECORDS OF SAID COUNTY.

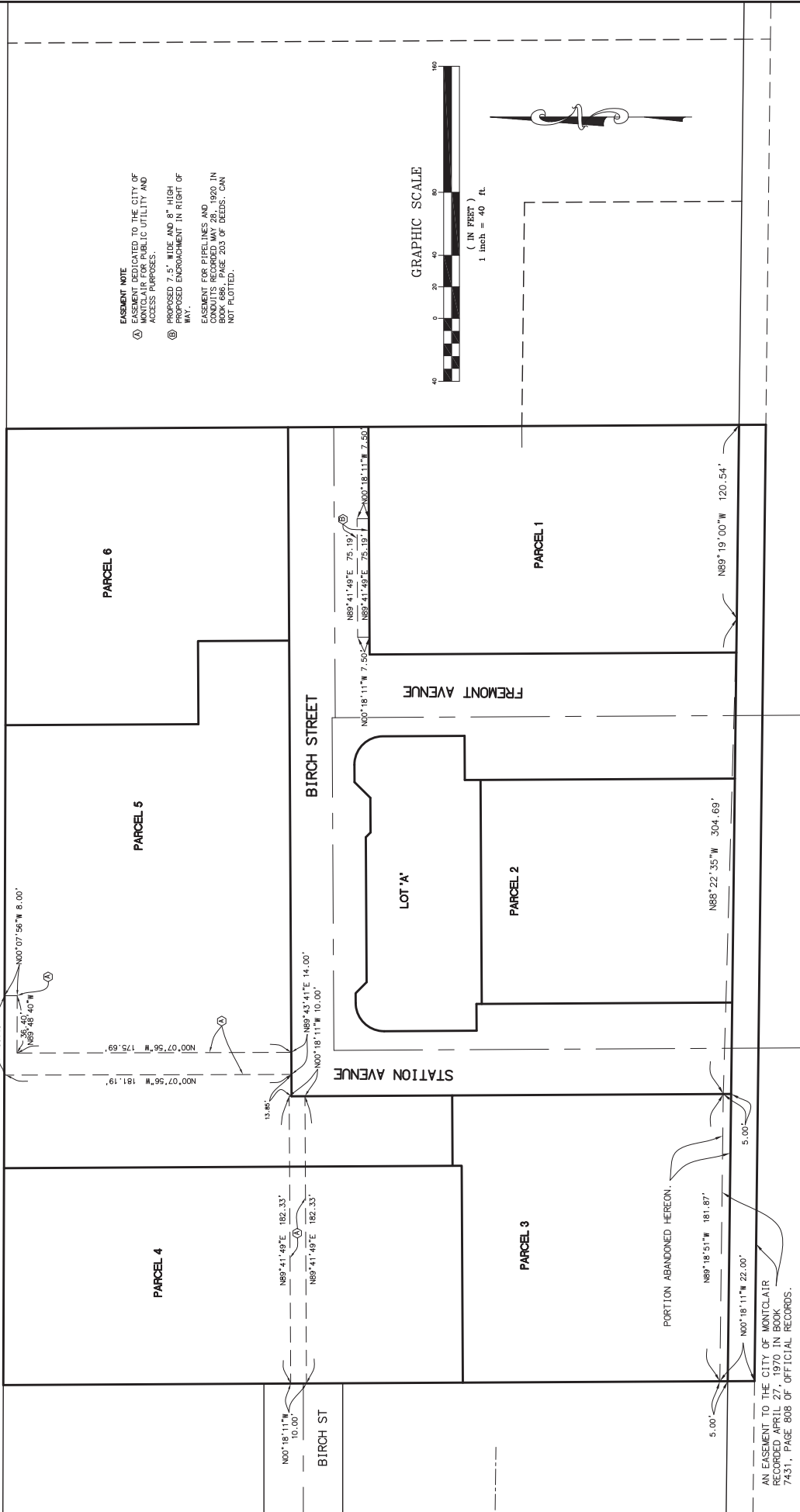
NUMBERED LOTS: 6
LETTERED LOTS: 1
TOTAL GROSS AREA IS: 6.679 ACRES
TOTAL NET AREA IS: 4.986 ACRES

COMMERCIAL DEVELOPMENT RESOURCES

MAY 2022

S.C.R.R.A. RAILROAD

50



AN EASEMENT TO THE CITY OF MONTCLAIR RECORDED APRIL 27, 1970 IN BOOK 7431, PAGE 808 OF OFFICIAL RECORDS.



CITY COUNCIL AGENDA REPORT

DATE: MAY 16, 2022 **FILE I.D.:** PDT362
SECTION: CONSENT - AGREEMENTS **DEPT.:** POLICE
ITEM NO.: 1 **PREPARER:** M. BUTLER
SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 22-11 WITH THE SAN BERNARDINO COUNTY OFFICE OF EMERGENCY SERVICES AUTHORIZING THE RECEIPT OF \$19,472 FROM THE FY 2020 HOMELAND SECURITY GRANT PROGRAM

CONSIDER AUTHORIZING A \$19,472 APPROPRIATION FROM THE PUBLIC SAFETY GRANT FUND TO PURCHASE COMMUNICATIONS EQUIPMENT FOR THE COMMAND TRAILER AND A WALK-THROUGH METAL DETECTOR FOR THE POLICE STATION

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-11 with the San Bernardino County Office of Emergency Services (County OES) authorizing the receipt of \$19,472 from the FY 2020 Homeland Security Grant Program (HSGP), and authorizing a \$19,472 appropriation from the Public Safety Grant Fund to purchase communications equipment for the Command Trailer and a walk-through metal detector for the Police Station. The Public Safety Grant Fund would be fully reimbursed by the FY 2020 HSGP.

A copy of Agreement No. 22-11 with County OES is attached for City Council’s review and consideration.

BACKGROUND: The State HSGP is designed to assist organizations, government agencies, and communities in implementing programs and measures to prevent, prepare for, protect against, mitigate against, respond to, and recover from all terror-related hazards and acts of terrorism. It is administered and funded by the California Governor’s Office of Emergency Services (Cal OES). County OES is a subgrantee of the HSGP and oversees the administration of grant funds for the San Bernardino County Operational Area. In its capacity as subgrantee, County OES is tasked with applying for HSGP funds on behalf of regional jurisdictions. Through this process, on February 7, 2022, the Montclair Police Department was approved to receive \$19,472 in FY 2020 HSGP funds. After procurement of equipment is completed, a request for reimbursement would be submitted to County OES.

The Police Department has received approval to use FY 2020 HSGP funds to procure communications equipment for the Command Trailer to ensure operational communication service to the public and its officers should the Police Department’s Communications Center be declared inoperable or ineffective due to threats, hazards, or other emergency situations. The purpose of the Communications Center is to satisfy the immediate information needs of the Police Department in the course of its normal daily activities as well as during emergencies and to provide assistance to the public. By outfitting the Command Trailer with the necessary equipment, the Police Department would be able to ensure timely communications when the Communications Center is unable to operate in this capacity, which could save lives and protect property and the environment.

County OES approved the following communications equipment for the Command Trailer: two laptops, two laptop docking stations, one laptop transport case, three monitors, three monitor mounts, accessories, two phones, and five, two-factor authentication software licenses. The total approved allocation for this project is \$10,485. The proposed communications equipment would be stored in the Command Trailer allowing for quick activation and would be utilized to maintain operational communications during an emergency.

The Mitel phone hardware would integrate with the Citywide Mitel phone system, allowing non-emergency PSAP phone lines to be redirected to the Command Trailer. The laptop computer docking stations would allow the laptop computers to be easily dropped in place when the Command Trailer is active. When it is not active, the laptops could be removed from the dock and stored securely in the transport case, which would be stored in the trailer. The additional monitors would be installed in the trailer using the monitor mounts and would be connected to the laptop computers via the docking station allowing communications personnel to view computer aided dispatch (CAD), records management system (RMS), and other law enforcement applications on these monitors. The two-factor authentication software would be used to secure network logins to the laptop computers, which would satisfy the multifactor authentication requirement of the Department of Justice (DOJ). Some of the approved accessories include a wireless router, which would be used to connect the Command Trailer computer network into the Police Department’s local network and CAD application, and interface 1B handgrip cables that would allow communications personnel to connect their headsets to a Motorola XTS 5000 handheld radio giving personnel the ability to operate a portable radio in the Command Trailer leaving their hands free to type. The other miscellaneous accessories, such as an antenna, HDMI cable, and surge protector, would all be necessary to ensure proper set up and functionality of the Communications Center in the Command Trailer. Having the capability to effectively transfer the Communications Center’s functionality to the Command Trailer would strengthen and enhance the Police Department’s emergency communications capabilities.

Bid quotations for the purchase of two laptop computers were received from the following vendors:

<u>Vendor</u>	<u>Bid Amount</u>
CDW-G	\$4,233.82
Provantage	\$4,261.90
HP	\$4,344.02

CDW-G is the selected vendor for the purchase of the laptop computers as this vendor has the lowest bid offering competitive pricing and has a proven, reliable track record with the City.

Staff received a quote for \$1,082.75 from RadioMate for three interface 1B handgrip cables. These cables must be custom-built, and there are no other companies to compare quotes for this specialized cable.

The Department also received approval to procure a walk-through metal detector to screen persons entering the non-public areas of the Police Station, which would enhance security and prevent threats through non-intrusive means. The total approved allocation for this project is \$8,987.

Since the dedication of the Department’s new Police Station in 2008, there has not been a system in place to screen personnel for dangerous weapons and/or firearms upon entry into the non-public areas of the police station. The Department’s handheld metal detector wands are outdated and inoperable making invasive physical searches of persons the only alternative procedure for screening. A walk-through metal detector is non-invasive and would enhance the safety of the Department’s officers, staff, and visitors. It would be located at the west entrance that is used to escort victims and subjects to the Department’s interview rooms, which would ensure persons are screened prior to law enforcement contact. The metal detector would provide uniform detection and precise pinpointing capable of identifying multiple target locations precisely from head to toe on the left, center, and right sides of the body. The metal detector would also be portable and have an extended battery module making it easy to quickly move it to alternate locations within the station to scan visitors entering training facilities or attending community events at the station as well as community events held elsewhere in the City. Having a walk-through metal detector would allow the Department to prevent, avoid or stop threats and hazards that could pose a great risk as well as an imminent, threatened or actual act of terrorism.

Bid quotations for the purchase of a walk-through metal detector were received from the following vendors:

<u>Vendor</u>	<u>Bid Amount</u>
Zorpro, LLC	\$4,520
Garrett Electronics Inc.	\$5,792
CEIA-USA	\$5,915

Garrett Electronics Inc. is the selected vendor for the purchase of the walk-through metal detector. This vendor offers a 24-month warranty, and the cost includes assembly, set-up, and training that the other vendors do not offer. Other local law enforcement agencies have used Garrett Electronics Inc. to purchase their walk-through metal detectors and have been satisfied with its product and service.

FISCAL IMPACT: If approved by the City Council, the purchase of communications equipment for the Command Trailer and a walk-through metal detector for the Police Station would result in an appropriation from the Public Safety Grant Fund (1163) in the amount of \$19,472. The City would receive full reimbursement from the FY 2020 HSGP.

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

1. Approve Agreement No. 22-11 with the San Bernardino County Office of Emergency Services authorizing the receipt of \$19,472 from the FY 2020 Homeland Security Grant Program.
2. Authorize a \$19,472 appropriation from the Public Safety Grant Fund to purchase communications equipment for the Command Trailer and a walk-through metal detector for the Police Station.

**County of San Bernardino
FY2020 Homeland Security Grant Program
CFDA 97.067**

**Subrecipient Assurances
Grant No. 2020-0095**

Name of Applicant: Montclair Police Department (hereafter "Applicant" or "Subrecipient")

Address: 4870 Arrow Highway

City: Montclair State: CA Zip Code: 91763

Telephone Number: (909) 448-3600 Fax Number: (909) 626-4892

E-Mail Address: ravels@cityofmontclair.org

The Applicant becomes the Subrecipient after obtaining award authorization and approval of these assurances by both Applicant and the County of San Bernardino (hereafter "County")

As the duly authorized representative of the Applicant, I hereby certify that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management and completion of the project described in this application, within prescribed timelines.

Applicant further acknowledges that it is responsible for reviewing and adhering to all requirements within the:

- a) Applicable Federal Regulations (see below);
- b) Federal Program Notice of Funding Opportunity (NOFO);
- c) Federal Preparedness Grants Manual;
- d) California Supplement to the NOFO; and
- e) Federal and State Grant Program Guidelines
- f) Subrecipient Application Workbook

Federal Regulations

Government cost principles, uniform administrative requirements and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (C.F.R.). Updates are issued by the Office of Management and Budget (OMB) and can be found at <http://www.whitehouse.gov/omb/>.

State and federal grant award requirements are set forth below. The Applicant hereby agrees to comply with the following:

1. Proof of Authority

The Applicant will obtain proof of authorization from the city council, governing board, or authorized body in support of this project. This written authorization must specify that the Applicant and the city council, governing board, or authorized body agree:

- a) To provide all matching funds required (if applicable) for the grant project and that any cash match will be appropriated as required;
- b) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body;
- c) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board or authorized body; and
- d) Applicant is authorized by the city council, governing board, or authorized body to apply for federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay

the non-federal share of project cost, if any) to ensure proper planning, management and completion of the project described in this application; and

- e) The official executing this agreement is authorized by the Applicant.

This Proof of Authority must be maintained on file and readily available upon request.

2. Period of Performance

The period of performance is specified in the Award. The Applicant is only authorized to perform allowable activities approved under the award, within the period of performance.

3. Lobbying and Political Activities

As required by Section 1352, Title 31 of the U.S. Code (U.S.C.), for persons entering into a contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Application certifies that:

- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

The Applicant will also comply with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and §§7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Finally, the Applicant agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation or policy without the express written approval from the California Governor's Office of Emergency Services (Cal OES) or the federal awarding agency.

4. Debarment and Suspension

As required by Executive Orders 12549 and 12689, and 2 C.F.R. §200.213 and codified in 2 C.F.R. Part 180, Debarment and Suspension, the Applicant will provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the federal government. The Applicant certifies that it and its principals, recipients, or subrecipients:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
- d) Have not within a three-year period preceding this application had one or more public transaction (federal, state, or local) terminated for cause or default.

Where the Applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

5. Non-Discrimination and Equal Employment Opportunity

The Applicant will comply with all state and federal statutes relating to non-discrimination, including:

- a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L. 88-352 and 42 U.S.C. §2000d et. Seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on basis of sex in any federally funded educational program or activity;
- c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794), which prohibits discrimination against those disabilities or access and functional needs;
- d) Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. §§12101-12213), which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs;
- e) Age Discrimination Act of 1975, (42 U.S.C §§6101-6107), which prohibits discrimination on the basis of age;
- f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-2); relating to confidentiality of patient records regarding substance abuse treatment;
- g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);
- h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin;
- i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;
- k) DHS policy to ensure the equal treatment of faith-based organizations, under which all applicants and recipients must comply with equal treatment policies and requirements contained in 6 C.F.R Part 19;
- l) The Applicant will comply with California's Fair Employment and Housing Act (FEHA) (California Government Code §§ 12940, 12945, 12945.2), as applicable. FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender

expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave, military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions;

- m) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- n) The requirements of any other nondiscrimination statute(s) which may apply to this application.

6. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Applicant certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

7. Environmental Standards

The Applicant will comply with state and federal environmental standards, including:

- a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000-21177), to include coordination with the city or county planning agency;
- b) CEQA Guidelines (California Code of Regulation, Title 14, Division 6, Chapter 3, §§ 15000-15387);
- c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;
- e) Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;
- f) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- g) Executive Order 11514 which sets forth the national environmental standards;
- h) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- i) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- j) The Endangered Species Act of 1973, (P.L. 93-205);
- k) Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- l) Conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); and
- m) Wild and Scenic Rivers Act of 1968 (16 U.S.C § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

The Applicant shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

8. Audits

For subrecipients expending \$750,000 or more in federal grant funds annually, the Applicant will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

9. Access to Records

In accordance with 2 CFR §200.336, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

10. Conflict of Interest

The Applicant will establish safeguards to prohibit the Applicant's employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

11. Financial Management

False Claims for Payment – The Applicant will comply with 31 U.S.C. §§ 3729-3733 which sets forth that no subgrantee, recipient or subrecipient shall submit a false claim for payment, reimbursement, or advance.

12. Reporting and Accountability

The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), specifically (a) the reporting of subawards obligating \$25,000 or more in federal funds and (b) executive compensation data for first-tier subawards. This includes the provisions of FFATA, which includes requirements for executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information.

13. Whistleblower Protections

The Applicant also must comply with statutory requirements for whistleblower protections at 10 U.S.C. § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. § 4304 and § 4310.

14. Human Trafficking

The Applicant will comply with the requirement of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

15. Labor Standards

The Applicant will comply with the following federal labor standards:

- a) The Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction contracts or subcontracts, and
- b) The Federal Fair Labor Standards Act (29 U.S.C. § 201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

16. Worker's Compensation

The Applicant must comply with provisions which require every employer to be insured to protect workers who may be injured on the job at all times during the performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§ 3700 et seq.

17. Property-Related

If applicable to the type of project funded by this federal award, the Applicant will:

- a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchase;
- b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C §469a-1 et seq.); and
- d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

18. Certifications Applicable Only to Federally-Funded Construction Projects

For all construction projects, the Applicant will:

- a) Not dispose of, modify the use of, or change the terms of the real property title of other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project;
- b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications; and
- c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

19. Use of Cellular Device While Driving is Prohibited

Applicants are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving a motor vehicle while using an electronic wireless communication device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.

20. California Public Records Act and Freedom of Information Act

The Applicant acknowledges that all information submitted in the course of applying for funding under this program, or provided in the course of an entity's grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Act, California Government Code section 6250 et seq. The Applicant should consider these laws and consult its own State and local laws and regulations regarding the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

HOMELAND SECURITY GRANT PROGRAM (HSGP) – PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS

21. Acknowledgment of Federal Funding from DHS

All subrecipients must acknowledge their use of federal funding when issuing statements, press releases, request for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

22. Activities Conducted Abroad

All subrecipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

23. Best Practices for Collection and Use of Personally Identifiable Information (PII)

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All subrecipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Subrecipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template a useful resource respectively.

24. Copyright

All subrecipients must affix the applicable copyright notices of 17 U.S.C §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including award number) to any work first produced under federal financial assistance awards.

25. Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude subrecipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

26. Energy Policy and Conservation Act

All subrecipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

27. Federal Debt Status

All subrecipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefits overpayments. See OMB Circular A-129.

28. Fly America Act of 1974

All subrecipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to the Comptroller General Decision B-138942.

29. Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, all Applicants must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. § 2225a.

30. Non-supplanting Requirement

All subrecipients who receive federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

31. Patents and Intellectual Property Rights

Unless otherwise provided by law, subrecipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All subrecipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14

32. SAFECOM

All subrecipients who receive federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

33. Terrorist Financing

All subrecipients must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Subrecipients are legally responsible to ensure compliance with the Order and laws.

34. Reporting of Matters Related to Recipient Integrity Performance

If the total value of the subrecipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, the subrecipient must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

35. USA Patriot Act 2001

All subrecipients must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c.

36. Use of DHS Seal, Logo and Flags

All subrecipients must obtain permission, from their DHS Financial Assistance Office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

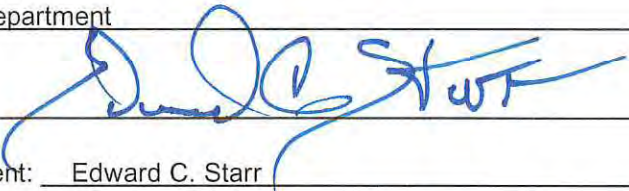
IMPORTANT

The purpose of the assurance is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. The Applicant recognizes and agrees that state financial assistance will be extended based on the representations made in this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, etc. Failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.

All appropriate documentation, as outlined above, must be maintained on file by the Applicant and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both, and the subrecipient may be ineligible for award of any future grants if the Cal OES determines that any of the following has occurred: (1) the subrecipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of language contained within this document must be included in the award documents for all subawards at all tiers. All subrecipients are bound by the Department of Homeland Security Standard Terms and Conditions 2020, Version 10.1, hereby incorporated by reference, which can be found at: <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

The Undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the said Applicant.

Applicant: Montclair Police Department
Signature of Authorized Agent: 
Printed Name of Authorized Agent: Edward C. Starr
Title: City Manager Date: 12/16/2021

The Undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the County. The undersigned is the appropriate contact for all notices and documents to be provided under this agreement.

County of San Bernardino

Signature of Authorized Agent: _____
Printed Name of Authorized Agent: _____
Title: _____ Date: _____



CITY COUNCIL AGENDA REPORT

DATE: MAY 16, 2022

FILE I.D.: LDU462

SECTION: CONSENT - AGREEMENTS

DEPT.: PUBLIC WORKS

ITEM NO.: 2

PREPARER: M. HEREDIA

SUBJECT: CONSIDER AUTHORIZING A \$1,076,905 APPROPRIATION FROM 2021 LEASE REVENUE BOND FUNDS FOR THE PREPARATION OF PRELIMINARY DESIGN PLANS FOR SELECTED ROADWAYS IN THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN (NMDSP) AND MONTCLAIR PLACE DISTRICT SPECIFIC PLAN (MPDSP)

CONSIDER APPROVAL OF AGREEMENT NO. 22-32 WITH MOULE & POLYZOIDES FOR THE PREPARATION OF PRELIMINARY DESIGN PLANS FOR SELECTED ROADWAYS IN THE NMDSP & MPDSP SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY

CONSIDER AUTHORIZING THE CITY MANAGER TO AMEND THE SCOPE OF SERVICES AS NECESSARY FOR A CONTINGENCY AMOUNT NOT TO EXCEED \$133,500

REASON FOR CONSIDERATION: On November 10, 2021, the City Council approved a list of priorities to be funded by Lease Revenue Bond Issue 2021A, including street improvements in the North Montclair Downtown Specific Plan (NMDSP) and Montclair Place District Specific Plan (MPDSP) areas.

The City Council is requested to consider approval of Agreement No. 22-32 with Moule & Polyzoides (M&P), subject to necessary revisions by the City Attorney, and authorize a \$1,076,905 appropriation from 2021 Lease Revenue Bond funds to cover the contract amount and reimbursable expenses. Agreements for professional services are subject to City Council Approval. A copy of proposed Agreement No. 22-32 including Exhibit A is attached for City Council review and consideration.

BACKGROUND: The NMDSP and MPDSP specific plans propose transit-oriented development planned in a pattern of neighborhoods and grids that promote walkability and community. The specific plans attempt to establish residential development patterns that reduce urban sprawl and increase the use of public transportation. Since adoption, staff has actively worked in implementing guidelines in the NMDSP and MPDSP for development projects, including the Paseos, Arrow Station, Kendry Apartments, and The Village at Montclair.

Both specific plans contain ideal street development concepts that are part of the vision for the area, but are too conceptual in nature to provide specific direction. To assist in furthering the goals of the NMDSP and MPDSP, a Street Improvement Master Plan is necessary to convey to the community, property owners, and developers the City's vision and intentions for key streets within the plan areas. Key streets identified for specific attention included Moreno Street, Monte Vista Avenue, Central Avenue, Richton Street, Arrow Highway, Huntington Drive, and the La Rambla at Montclair Place.

To accommodate actual field conditions that might affect the achievement of the ideal street conceptions, language in the specific plans is included to allow for a measure of flexibility when warranted to deal with unusual situations. Moreover, the approved Street Improvement Master Plan would be instrumental in guiding future developers and to seek reimbursement as these roadway improvements are designed and constructed.

Moule & Polyzoides (M&P) was the consultant that developed the specific plans and was selected through a Request for Proposals process. Staff recommends the selection of M&P for this task because of their expertise with transit-oriented developments and extensive knowledge and understanding of the specific plans. Most recently, M&P was the lead in preparing the Arrow Highway and Fremont Avenue Streetscape Project plans. Accordingly, proposals from other firms were not sought, since no other firm has the institutional knowledge gained by participating in both the development of the specific plans and site specific streetscape projects.

The proposed new agreement with M&P to provide preliminary design services is in the best interest of the City and within the City's purchasing guidelines. Phase 1 - Street Improvement Master Plan refines the streetscape of roadways in areas north of the I-10 Freeway. Phase 1 will be led by M&P with support from Fong Hart Schneider + Partners (FHS+P) for Landscape Architecture, Fehr & Peers (F&P) for Transportation Engineering, and KPFF for Civil Engineering. Completion of Phase 1 will also enable the City to convey the City's intentions to various agencies, including Metrolink, Metro, and Caltrans, and provide a basis for procuring funding from these agencies and pursue grant funding. Approval of additional agreements for final design services (Phase 2 - Construction Documents) will be required when Phase 1 is completed.

The City's standard agreement for consulting services has been used as the format for Agreement No. 22-32. The work to be performed by M&P is shown in Exhibit A and is summarized below for each selected road segment:

- Assess and develop three (3) street design concepts
- Provide visuals for different alternative designs
- Prepare memo documenting key issues and strategies to resolve constraints
- Provide preliminary cost estimates of the preferred streetscape scheme
- Community meetings
- Surveying and Geotechnical Analysis
- Mapping of underground utilities
- Intersection Analysis and cost estimating for any potential intersection changes at the following nine intersections: Monte Vista/Richton; Monte Vista/Arrow; Monte Vista/Moreno; Monte Vista/San Jose; Moreno/Fremont; Central/Richton; Central/Arrow; Central/Monte Vista; and Central/Montclair Place entrance.

FISCAL IMPACT: M&P's fee proposal is \$943,405. Staff is requesting an additional \$133,500 as a contingency in the event there is additional work required beyond the scope of services. The preliminary design services for the selected roadway segments in the NMDSP and MPDSP will be funded using 2021 Lease Revenue Bond Funds.

Staff will return to City Council with reimbursement agreements with developers for the design and construction of roadways within their respective developments.

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

1. Authorize a \$1,076,905 appropriation from 2021 Lease Revenue Bond Funds for the preparation of preliminary design plans for selected roadways in the NMDSP and MPDSP;
2. Approve Agreement No. 22-32 with Moule & Polyzoides for the preparation of preliminary design plans for selected roadways in the NMDSP and MPDSP subject to any revisions deemed necessary by the City Attorney ; and
3. Authorize the City Manager to amend the Scope of Services as necessary for a contingency amount not to exceed \$133,500.

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

NORTH MONTCLAIR STREET IMPROVEMENT MASTER PLAN

THIS AGREEMENT is made and effective as of May 16, 2022, between the City of Montclair, a municipal corporation ("City") and Moule & Polyzoides, 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 May 16, 2022 and shall remain and continue in effect for a period of 12 months until tasks described herein are completed, but in no event later than April 18, 2023, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

City's City Manager shall represent City in all matters pertaining to the administration of this Agreement and shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Tasks to be Performed or change Consultant's compensation, subject to Section 5 hereof.

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as 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 above tasks. This amount shall not exceed \$859,805 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed One Hundred Thousand Dollars (\$100,000.00). Any additional work in excess of this amount shall be approved by the City Council.

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the

Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Defense, Indemnity and Hold Harmless. Consultant shall defend, indemnify, and hold harmless the City, its present and former officers, directors, employees, agents, staff, volunteers, mayor, council, boards, committees, and representatives, as broadly interpreted (collectively, the "Indemnified Parties"), of and from all claims, suits, demands, obligations, losses, damages, sums, or any other matters threatened or presently asserted, including but not limited to all legal fees, costs of defense and litigation expenses (including legal fees, expert fees and any other costs or fees,

including those of adverse parties imposed on or sought against the Indemnified Parties), arising directly or indirectly out of any liability or claim of loss or liability for personal injury, bodily injury to persons, contractual liability, errors or omissions, breach, failure to perform, damage to or loss of property, or any other loss, damage, injury or other claim of any kind or nature arising out of the work to be performed by Consultant herein, caused by or arising out of the negligent acts or omissions, or intentional misconduct of Consultant, including its subcontractors, subconsultants, employees, agents, and other persons or entities performing work for Consultant.

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

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

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

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

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

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

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

10. INSURANCE

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

(a) Types of Required Coverages

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

- (1) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$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 Consultant
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 Consultant.

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

(3) Workers' Compensation

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

(c) Notice of Cancellation

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

(d) Waiver of Subrogation

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

(e) Evidence of Insurance

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

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

(f) Deductible or Self-Insured Retention

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

(g) Contractual Liability/Insurance Obligations

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

(h) Failure to Maintain Coverage

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

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

(i) Acceptability of Insurers

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

(j) Claims Made Policies

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

(k) Insurance for Subcontractors

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

11. INDEPENDENT CONTRACTOR

(a) Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control and shall not be construed to be employees of City for any purpose, including eligibility under Public Employees Retirement Law. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner. 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: City Manager
City of Montclair
5111 Benito
Montclair, CA 91763

To Consultant: Stefanos Polyzoides
Moule & Polyzoides
180 East California Blvd.
Pasadena, CA 91105

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. 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.

22. DISCRIMINATION

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

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

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: _____
Stefanos Polyzoides
Moule & Polyzoides

Attest:

By: _____
Andrea M. Myrick
City Clerk

By: _____

Approved as to Form:

By: _____
Diane E. Robbins
City Attorney

EXHIBIT A

EXHIBIT A

626.844.2400 PHONE 626.844.2410 FAX

MOULE & POLYZOIDES

ARCHITECTS AND URBANISTS

10 May 2022

Monica Heredia, P.E., Public Works Director/City Engineer
City of Montclair
5111 Benito Street
Montclair, CA 91763
Via Email: mheredia@cityofmontclair.org

RE: North Montclair Street Improvement Master Plan

Dear Ms. Heredia:

Moule & Polyzoides is pleased to present this proposal to prepare a Street Improvement Master Plan for the following North Montclair streets:

- **Moreno Street between and including the intersections and approach lanes of Central Avenue and Monte Vista Avenue.** The Plan will assess and develop the street design concept proposed in the recently adopted Montclair Place District Specific Plan (MPDSP) and will consist of reducing the vehicular lanes from two in each direction to one, introducing Class II bike lanes, introducing/preserving on-street parking, adjusting the location of the center median, introducing bulb-outs and crosswalks at important intersections, and introducing a streetscape strategy unique to Moreno Street. The project also reduces the right-of-way width, ceding the extra land along the south side of the right-of-way to the adjacent properties. The extent of these proposed improvements will span approximately 0.60 miles (3,168 lf)
- **Monte Vista Avenue between the I-10 Freeway and the City of Montclair's northern boundary.** For the segment between the freeway and Moreno Street, the Plan will assess and develop the street design concept proposed in the MPDSP and will consist of introducing a Class IV protected bikeway along the east side of the street, adjusting the number and width of lanes, introducing on-street parking where practical, introducing bulb-outs and crosswalks where practical, and introducing a streetscape strategy unique to Monte Vista Avenue that incorporates the existing, mature pine trees that line Monte Vista Avenue. For the segment north of Moreno Street, the project will assess and develop the streetscape concepts proposed in the Draft General Plan update with the goal of extending the class IV protected bikeway to Richton Street. These proposed improvements will span approximately 0.90 miles (4,752 lf) of Monte Vista Avenue.
- **Central Avenue between the I-10 Freeway and the City of Montclair's northern boundary.** For the segment between the freeway and Moreno Street, the Plan will develop the street design concepts proposed in the MPDSP and will consist of adjusting the number and/or width of lanes, including the northbound left-turn lanes into the Montclair Place site, adjusting the center median, and introducing a streetscape strategy unique to Central Avenue that incorporates the existing, mature pine trees that line Central Avenue. For the segment north of Moreno Street, the project will assess and develop the streetscape concepts proposed in the Draft General Plan update. The extent of these proposed improvements will span approximately 0.65 miles (3,432 lf).
- **Richton Street between Monte Vista Avenue and Central Avenue.** The Plan will assess and develop the street design concept proposed in the North Montclair Downtown Specific Plan (NMDSP) and will incorporate any station access updates that have occurred since the adoption of the NMDSP, including the connection to the proposed Monte Vista Class IV protected

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bikeway. The proposed improvements will span approximately 0.48 miles (2,535 lf) of Richton Street.

- **Arrow Highway between the San Antonio Creek Channel and Mills Avenue.** The Plan will further develop the preliminary design theme prepared previously under a separate contract for the segment of Arrow Highway between Monte Vista Avenue and Central Avenue. These proposed improvements will extend approximately 0.34 miles (1,790 lf) along Arrow Highway.
- **Huntington Drive between the Vulcan Property and Claremont Boulevard.** The Plan will propose a street design for Huntington Drive between the western boundary of the Vulcan Property and Claremont Boulevard. It is our understanding that this segment of Huntington Drive is within the City of Upland and that the intersection with Claremont Boulevard is in the City of Claremont. The proposed street improvements will span approximately 0.12 miles (654 lf).
- **La Rambla.** The Plan will develop the Rambla street design concept proposed in the MPDSP. The extent of the proposed improvements will span approximately 0.27 miles (1,426 lf).

The Street Improvement Master Plan will enable the City of Montclair to convey to the community and property owners and developers along the subject streets the City's vision and intentions for these streets, and – in the case of Moreno Street, Huntington Drive, and the segments of Central Avenue and Monte Vista Avenue between the freeway and Moreno Street, to facilitate the funding and the near-term implementation of the proposed street improvements. The Master Plan will also enable the City of Montclair to convey the City's intentions to various agencies, including Metrolink, Metro, Caltrans, and the neighboring cities of Claremont and Upland, and provide a basis for procuring funding from these agencies.

The design effort will be led by Moule & Polyzoides (M&P) with support from Fong Hart Schneider + Partners (FHS) for Landscape Architecture, Fehr & Peers (F&P) for Transportation Engineering, and KPFF for Civil Engineering.

The first of two phases, this Street Improvement Master Plan will provide preliminary design alternatives, a preliminary opinion of probable costs, and visualizations for each of the above streets. Construction documents will be prepared in Phase 2 under a separate contract and will be led by KPFF with design oversight by Moule & Polyzoides. In addition, KPFF will prepare a topographic survey.

The anticipated schedule to complete this Street Improvement Master Plan is 6 months.

SCOPE OF WORK

Key components of the scope of work include:

1. Collaborating with the consultant team, managing the design process, and working with City of Montclair staff to coordinate with key City of Montclair departments;
2. Participating in coordination meetings with the cities of Upland and Claremont regarding the portions of Huntington Drive and Arrow Highway that are within the jurisdiction of each respective city;
3. Leading the consultant team in the preparation of preliminary design alternatives for the Moreno Street, Monte Vista Avenue, Central Avenue, Richton Street, Arrow Highway, La Rambla, and Huntington Drive rights-of-way;
4. Participating in community meetings to describe the design concepts to the public;

5. Meeting with property owners and/or developers to discuss the relationship between their properties and the proposed street improvements; and
6. Producing a Street Improvement Master Plan that includes a final set of drawings, consultant recommendations, opinion of probable costs, and phasing strategy that will inform the preparation of the construction documents that will be completed under a separate contract.

Task 1: Kick off, Analysis, and Alternatives Design (May – June 2022)

1. Preparation of Topographic Survey. KPFF will prepare a topographic survey on a limited portion of the above-mentioned project to gather the needed information sufficient for civil engineering design purposes inclusive of grade points 10 feet to 15 feet beyond the right of way, back of walk, face and back of curb, flowline of curb, gutters, sidewalk, street paving, visible utility features (above ground and surface level), and all existing culture throughout the project limits. Streets will be surveyed at 50-foot intervals from 10 feet to 15 feet beyond the right of way on each side of the subject roadway including center median, if present. The flowline of utility lines such as sanitary sewer or storm drains will be measured at the accessible manholes to identify the depths thereof.

Right-of-way lines for subject streets will be shown per record information and developed from found property/survey monumentation. Right-of-way for any cross streets and alleys will be shown per record information. Individual lot lines and ownership information will be shown from available public records and made part of this scope. Road width information and curb cuts/radii will be shown per readily available record maps and assessor's parcel maps without the benefit of a title report and may or may not show current ownership location.

2. Document Collection, Plan Base, Existing Sections: We will work with the consultant team to compile and coordinate a project base drawing in AutoCAD format derived from a current, digital, detailed, ground-edited topographic survey (completed in above Task 1.1) and City-provided "as-built" drawings. M&P will also prepare cross-sections documenting all pertinent right-of-way, travel and bike lane, sidewalk/planter, and median variations along each street.
3. Kick-off meeting with City Staff: M&P and the consultant team will attend a half-day kickoff meeting in Montclair, that will include the following activities:
 - a. An introductory meeting with City staff members to discuss project objectives, opportunities, constraints, and new information that will shape the preliminary design alternatives.
 - b. A tour of the project area to observe and discuss particular, context-related issues.
4. Key Issues Documentation and Resolution: With support from the consultant team and City staff, M&P will prepare a brief memorandum describing existing conditions, outlining project objectives, and identifying technical issues and challenges that may emerge during the existing conditions analysis. The design team will work with City of Montclair to address local storm drainage regulations, including the City's Water Quality Management Plan. Potential issues and challenges include utility conflicts, especially within the right-of-way along Moreno Street that will be ceded to adjacent landowners; City street-sweeping requirements; storm drain catch basin conflicts with proposed bulb-outs; fire truck turn radius limitations; curb to curb and/or lane configuration limitations; street crown/centerline considerations, and La Rambla phasing considerations in relation to the Montclair Place Mall and Moreno Street parking structure. M&P and the consultant team will meet with City staff to review the memo findings and strategize an approach to resolving the identified issues and constraints.
5. Coordination Meeting with Cities of Claremont and Upland. M&P will participate in a meeting with the cities of Claremont and Upland to coordinate the design and alignment of the Huntington Drive

extension between Monte Vista Avenue and Claremont Boulevard and of the portion of Arrow Highway within the jurisdiction of the City of Claremont.

6. Preparation of Preliminary Design Alternatives: M&P, with input from the consultant team, will prepare up to three (3) alternative streetscape and/or lane configuration schemes in plan and section for consideration by the consultant team and client group. The alternatives shall identify the numbers and widths of vehicular lanes, bike lanes, sidewalks, medians, and potential street tree species, and explore any amenity space opportunities within the public realm. The Rambla designs will explore different paving and programing strategies (such as kiosks, seating, angled parking, etc.). F&P will work with City staff and the design team to evaluate the proposed alternatives in regards to lane striping, turning radii, sight distances, intersection design, level of service (LOS), and Manual on Uniform Traffic Control Devices (MUTCD) compliance.
7. Progress/Coordination Meetings: M&P will participate in up to three (3) progress meetings with City staff to discuss the proposed design, support City staff regarding questions or input needed from City of Claremont and Upland staff and/or property owners or developers of adjacent properties; assist the City in coordination with agencies such as Metro and/or Caltrans; and to decide a preferred alternative scheme.

Task 1 Deliverables:

1. Survey files in computer-aided design (CAD) and portable document format (PDF).
2. Analysis of existing conditions in memo and diagram form and summary of key constraints.
3. Background drawings to be used during the design process.
4. Alternative Street Design schemes in PDF.
5. Attendance at a half-day kick-off meeting and site tour.
6. Attendance at a coordination meeting with City of Claremont and Upland staff.
7. Up to three (3) progress meetings.

Task 2: Preferred Street Scheme Development (July – September 2022)

A Preferred Alternative will be chosen from the alternatives prepared under Task 1. It will be developed under the following design steps:

1. Preparation of Preliminary Preferred Alternative: The Design Team will participate in an internal design charrette in M&P's Pasadena office. The primary purpose will be to resolve the basic roadway geometrics and identify the public realm design program and form, prior to proceeding further with the project design. The Preliminary Preferred Alternative will:
 - a. Identify the numbers and widths of vehicular lanes, bike lanes, sidewalks, medians, and other major elements.
 - b. Describe basic street tree and streetlight patterns and spacing, identify a preliminary palette of recommended landscape and hardscape types and materials.
 - c. Identify any amenity space areas within the public realm (most likely along Moreno Street).
 - d. Identify land along the south side of Moreno Street that will be ceded to the adjacent property owners.

F&P will work with the design team to confirm the proposed alternative design in regards to lane striping, turning radii, sight distances, intersection design, level of service (LOS), and Manual on Uniform Traffic Control Devices (MUTCD) compliance, etc.

M&P and the consultant team will meet with City staff to review the Preliminary Preferred Alternative.

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2. Refinement of Preferred Alternative: Based on the input received from City staff, the Design Team will prepare a Preferred Alternative in plan and cross-section including the following details for each street:
 - a. The appropriate number and sizes of lanes to enable traffic, bike, and parking per current engineering standards.
 - b. The appropriately sized sidewalks to enable pedestrian circulation and appropriately sized planting strips and medians to allow for tree planting.
 - c. The design of intersections, including vehicular turn lanes and their relationship to bike lanes, bulb-outs (as practical) and crosswalks at applicable intersections.
 - d. The palette of trees applied to the project right of ways.
 - e. The land area ceded to adjacent private properties along the south side of Moreno Street.
 - f. The preliminary phasing strategy.
 - g. M&P will prepare up to seven (7) electronic perspective eye level vignette drawings or photo transformations, illustrating key moments and issues within the project area, for presentation to the community.

F&P will confirm striping and intersection design concepts to inform the opinion of probable costs (see Task 3.2 below).

3. Community Meetings: M&P and the Design Team will participate in up to two (2) public meetings to present and receive input from the community on the proposed street improvement designs.
4. Progress/Coordination Meetings: M&P will participate in up to four (4) progress meetings with City staff to discuss the proposed design and follow up with City of Claremont and/or Upland staff; assist the City in coordination with agencies such as Metro and/or Caltrans; and to finalize the Preferred Alternative. M&P can also meet with the developers/owners of the properties along the south side of Moreno Street and the developers/designers of the Vulcan site to discuss the proposed street improvement designs.

Task 2 Deliverables:

1. Attendance at internal design charrette in offices of M&P in Pasadena.
2. Presentation drawings for a Streetscape scheme describing the conclusions reached at the end of the design process (PDF).
3. Up to seven (7) electronic perspective eye level vignette drawings to be displayed and described at each of the community meetings (PDF and JPG).
4. Participation in up to two (2) community meetings.
5. Up to four (4) progress meetings.

Task 3: Refinement and Costing (October 2022)

1. Design Development: Based on the input received from the community and the direction of City staff, M&P with input from the consultant team will prepare the design development drawings, on which the Opinion of Probable Costs and the Streetscape Master Plan document will be based.
2. Opinion of Probable Costs: The design team will prepare an opinion of probable costs that includes the cost of general conditions, demolition, sidewalk and pavement replacement and resurfacing, landscape, irrigation, furnishings, and decorative pavement areas, as well as lane striping, signage, and traffic signal modifications.
3. Street Improvement Master Plan Document: M&P will direct all consultants, traffic, civil, and landscape, to comment on the final scheme and offer their final design recommendations and standards for its implementation through a future set of construction documents (not part of this

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contract); Following, we will produce a final Streetscape Master Plan graphic document. Anticipated report components are:

- A brief summary of existing conditions and the project goals.
- Precedent images.
- An overall plan drawing of the entire project area.
- Intersection plans and mid-street cross-sections.
- Renderings showing “before” and “after” views.
- A plant palate, including photos of recommended species.
- Opinion of probable costs
- Implementation, phasing, and priorities.

Task 3 Deliverables:

1. A final Street Improvement Master Plan document (PDF), including drawings and brief written narratives describing the street improvements, streetscape strategy, and general phasing and implementation recommendations; a final CAD file to be delivered to KPFF as the base for the construction documents (to be generated under a separate contract).

ADDITIONAL SCOPE OF WORK INCLUDED AS ALLOWANCES IN BUDGET

1. **Geotechnical Analysis.** Design of the new streets (Huntington and the Rambla) and streets that might receive roadway diets (Richton and Moreno) will require geotechnical analysis. The allowance range (\$70,000 - \$140,000) reflects where soils samples might need to be taken, with the lower range assuming all samples and percolation testing can be done in the landscaped parkways and planters.
2. **Cost Estimating for Signal Modification to Existing Traffic Signals and/or Design of New Signals.** The potential introduction of roadway diets along Moreno and Richton as well as the potential introduction of a Class IV bikeway along Monte Vista may require modifications to existing traffic signals and/or the design of new ones. An allowance of \$9,000 is provided for cost estimating.
3. **Additional Underground Utilities Mapping.** An allowance \$80,000 – \$100,000 is estimated for the utility mapping, and an allowance of \$30,000 - \$60,000 is estimated for surveying pavement markings of the mapped utilities in the public right-of-way and integrating the information with the topographical survey documents.

FEE SUMMARY

Street Improvement Master Plan Fees

Task 1: Kick off, Analysis, and Alternatives Design	\$	176,500
Task 2: Design Review Preferred Street Scheme Development	\$	215,320
Task 3. Refinement and Costing	\$	47,680
Total Moule & Polyzoides Fee	\$	439,500

<i>Landscape Architecture – Fong Hart Schneider</i>	\$	29,400
<i>Transportation Engineering – Fehr and Peers</i>	\$	47,960
<i>Civil Engineer and Cost Estimating – KPFF</i>	\$	69,445
<i>Survey</i>	\$	147,100
<i>Perspectivist - TBD</i>	\$	21,000
Total Consultant Fees	\$	314,905

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Allowance 1: Geotechnical Analysis – TBD	\$ 70,000 – 140,000
Allowance 2: Traffic Signal Cost Estimating – Fehr and Peers	\$ 9,000
Allowance 3: Underground Utilities Mapping and Pavement Markings Survey – TBD	\$ 110,000 – 160,000
Total Allowances	\$ 180,000 – 309,000
Total Street Improvement Master Plan Fee + Allowances	\$ 943,405 – 1,063,405

For the work completed as described above under this contract, the Client shall pay the Moule & Polyzoides team according to the following schedule: \$25,000 will be due as an Initial Payment, upon the signing of the contract. The remaining will be invoiced monthly, according to the progress of the work. Consultants will be paid by you as their work progresses and is confirmed complete by Moule & Polyzoides. Moule & Polyzoides will invoice monthly, according to the progress of the work. Consultants will be paid by the City of Montclair as their work progresses and is confirmed complete by Moule & Polyzoides.

Reimbursable expenses for M&P and the subconsultants – estimated to be \$13,500 – shall be in addition and shall include the costs of the aerial survey, transportation, accommodations, meals, long-distance communications, postage, delivery, reproductions, models, and other costs incurred by the Moule & Polyzoides and the Consultant team in their service to the City of Montclair. Expenses paid directly by Moule & Polyzoides and the Consultant Team shall be billed to the City of Montclair at a multiplier of 1.10 to cover administration and processing. PowerPoint presentation, drawings, memos, and reports will be delivered to the City of Montclair in PDF format. Any work in addition to the scope described above will be paid on an hourly basis according to Moule & Polyzoides’s current hourly fees. Potential additional service and hourly fees are listed in Section 3 below.

It is our intention that after the completion of this contract, the project will continue into the Construction Documents phase through a new contract to be negotiated between the City of Montclair and KPFF with KPFF as the project lead, based on the Phase II fee and scope included with this proposal. This was the process followed during the Fremont & Arrow Highway Streetscape project.

3: ADDITIONAL SERVICES

Before or upon completion of this contract, the Client may choose to retain Moule & Polyzoides for additional services. These services, described below, may be performed in part or in whole.

- Incorporating later major changes to the Streetscape Plan document, beyond typical planning process corrections.
- Reviewing design proposals by architects, landscape architects, and designers for adherence to the Documents.
- Reviewing construction documents and shop drawings.
- Assisting the City of Montclair in the preparation of marketing materials or other presentations
- Further refining and updating the streetscape plan documents.
- Providing Construction Observation services
- Completing any other services mutually agreed upon by the City of Montclair and M&P

Hourly rates for M&P staff are as follows:

Partner	\$340
Principal	\$280

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Senior Associate	\$260
Associate	\$220
Senior Designer	\$160
Junior Designer	\$140

4: NOTICES

All notices or other communications which shall or may be given pursuant to the Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or, if by mail, on the fifth day after being posted or the date of the actual receipt, whichever is earlier:

CLIENT:
Edward Starr, City Manager
City of Montclair
5111 Benito Street
Montclair, CA 9176
Via e-mail: ecstarr@cityofmontclair.org

ARCHITECT/ URBANIST:
Stefanos Polyzoides
Moule & Polyzoides
180 East California Blvd
Pasadena, CA, USA
spolyzoides@mparchitects.com

We are honored to be afforded the opportunity to work with you on such a great project. We are available to begin work as soon as you authorize us to do so.

Sincerely,



Stefanos Polyzoides, Architect & Urbanist

ACCEPTED AND AGREED:

Edward Starr, City Manager

Task	M&P		KPF		FHS+P		Fehr + Peers		Renderer (TBD)		Geotechnical	Utility Mapping/ Pavement Marking Survey	Total Hours	Total Cost
	Subtotal Hours	Subtotal Cost	Subtotal Hours	Subtotal Cost	Subtotal Hours	Subtotal Cost	Subtotal Hours	Subtotal Cost	Subtotal Hours	Subtotal Cost				
Moreno Street (3,168 lf)														
Task 1: Kick-off, Analysis, Alternative Design	139.5	\$30,330	165.3	\$34,694	100	\$1,750	26.0	\$4,530	-	\$0			340.8	\$71,304
Task 2: Preferred Street Scheme Development	203.0	\$40,550	8.5	\$1,395	14.0	\$2,450	25.0	\$4,250	20.0	\$3,000			270.5	\$51,645
Task 3: Refinement and Costing	52.5	\$10,430	3.5	\$620	7.5	\$1,313	6.0	\$970	-	\$0			69.5	\$13,333
Total	395.0	\$81,310	177.3	\$36,709	31.5	\$5,513	57.0	\$9,750	20.0	\$3,000			680.8	\$136,281
Monte Vista Avenue (4,752 lf)														
Task 1: Kick-off, Analysis, Alternative Design	126.5	\$27,170	198.3	\$41,616	6.0	\$1,050	16.5	\$2,970	-	\$0			347.3	\$72,806
Task 2: Preferred Street Scheme Development	185.0	\$36,090	7.3	\$1,193	14.0	\$2,450	17.0	\$2,820	20.0	\$3,000			243.3	\$45,553
Task 3: Refinement and Costing	45.0	\$8,680	3.3	\$558	5.5	\$963	4.5	\$695	-	\$0			58.3	\$10,895
Total	356.5	\$71,940	208.8	\$48,366	25.5	\$4,463	38.0	\$6,485	20.0	\$3,000			648.8	\$129,254
Central Avenue (3,432 lf)														
Task 1: Kick-off, Analysis, Alternative Design	126.5	\$27,170	188.3	\$39,241	6.0	\$1,050	16.0	\$2,830	-	\$0			336.8	\$64,170
Task 2: Preferred Street Scheme Development	185.0	\$36,090	7.3	\$1,193	13.0	\$2,275	17.0	\$2,820	20.0	\$3,000			242.3	\$45,378
Task 3: Refinement and Costing	45.0	\$8,680	3.3	\$558	5.5	\$963	4.5	\$695	-	\$0			58.3	\$10,895
Total	356.5	\$71,940	198.8	\$40,991	24.5	\$4,288	37.5	\$6,345	20.0	\$3,000			637.3	\$126,564
Richton Street (2,535 lf)														
Task 1: Kick-off, Analysis, Alternative Design	78.5	\$16,990	203.0	\$43,475	5.0	\$875	16.0	\$2,830	-	\$0			302.5	\$64,170
Task 2: Preferred Street Scheme Development	110.0	\$21,890	5.8	\$945	11.0	\$1,925	17.0	\$2,820	20.0	\$3,000			163.8	\$30,580
Task 3: Refinement and Costing	28.0	\$5,500	3.3	\$558	5.5	\$963	4.5	\$695	-	\$0			41.3	\$7,715
Total	216.5	\$44,380	212.0	\$44,978	21.5	\$3,763	37.5	\$6,345	20.0	\$3,000			507.5	\$102,465
Arrow Highway (1,790 lf)														
Task 1: Kick-off, Analysis, Alternative Design	103.0	\$22,580	98.8	\$19,976	6.0	\$1,050	16.0	\$2,830	-	\$0			223.8	\$46,436
Task 2: Preferred Street Scheme Development	120.0	\$23,640	7.3	\$1,193	13.0	\$2,275	17.0	\$2,820	20.0	\$3,000			177.3	\$32,928
Task 3: Refinement and Costing	15.0	\$3,280	3.3	\$558	3.5	\$613	4.5	\$695	-	\$0			26.3	\$5,145
Total	238.0	\$49,500	109.3	\$21,726	22.5	\$3,938	37.5	\$6,345	20.0	\$3,000			427.3	\$84,509
Huntington Drive (654 lf)														
Task 1: Kick-off, Analysis, Alternative Design	108.5	\$24,670	76.3	\$14,534	5.0	\$875	16.0	\$2,830	-	\$0			205.8	\$42,909
Task 2: Preferred Street Scheme Development	99.0	\$19,810	5.8	\$945	10.0	\$1,750	17.0	\$2,820	20.0	\$3,000			151.8	\$28,325
Task 3: Refinement and Costing	11.5	\$2,430	2.8	\$465	3.0	\$525	4.5	\$695	-	\$0			21.8	\$4,115
Total	219.0	\$46,910	84.8	\$15,944	18.0	\$3,150	37.5	\$6,345	20.0	\$3,000			379.3	\$75,349
La Rambla (1,426 lf)														
Task 1: Kick-off, Analysis, Alternative Design	127.5	\$27,590	58.8	\$11,669	6.0	\$1,050	16.0	\$2,830	-	\$0			208.3	\$43,139
Task 2: Preferred Street Scheme Development	189.0	\$37,250	4.3	\$698	13.0	\$2,275	17.0	\$2,820	20.0	\$3,000			243.3	\$46,043
Task 3: Refinement and Costing	45.0	\$8,680	2.8	\$465	5.5	\$963	4.5	\$695	-	\$0			57.8	\$10,803
Total	361.5	\$73,520	68.8	\$12,831	24.5	\$4,288	37.5	\$6,345	20.0	\$3,000			509.3	\$99,984
Fee Subtotal	2,143.0	\$439,500	1,056.5	\$216,545	168.0	\$29,400	282.5	\$47,960	140.0	\$21,000			3,790.0	\$754,405
Aerial Survey Expenses		\$2,000		\$1,000		\$0		\$500		\$0				\$3,500
Allowance 1: Geotechnical Analysis								\$9,000			\$140,000			\$149,000
Allowance 2: Traffic Signal Cost Estimate														\$9,000
Allowance 3: Utilities Mapping/Pavement Markings Survey														\$160,000
TOTAL		\$441,500		\$227,545		\$29,400		\$57,460		\$21,000	\$140,000			\$1,076,905



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	FRD215
SECTION:	CONSENT - AGREEMENTS	DEPT.:	FIRE
ITEM NO.:	3	PREPARER:	D. POHL

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 22-34 WITH ADVANCED CREATIVE CONCRETE TO CONSTRUCT A CONCRETE FOUNDATION FOR A VENTILATION TRAINING PROP AT THE FIRE DEPARTMENT TRAINING FACILITY

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-34 with Advanced Creative Concrete construct a concrete foundation for a ventilation training prop at the Fire Department training grounds. Advanced Creative Concrete would remove and dispose of the asphalt; dig, form, and pour concrete footings; and attach brackets supplied by the Fire Department for completion of the ventilation prop. All aspects of the project would be completed according to Fire staff specifications.

A copy of proposed Agreement No. 22-34 with Advanced Creative Concrete is attached for City Council review and consideration.

BACKGROUND: In the Fiscal Year 2021-22 Budget, the Fire Department received approval for the construction of a new, multipurpose ventilation training prop at the Fire training facility. The drawings for this capital outlay project were reviewed by an engineer whose recommendation and requirements came back with an estimate of \$75,000, which would put the project over the approved amount. The decision was made to scale back the project to keep it within the approved budget amount.

The project drawings were sent to three concrete contractors for bids. Once staff received and reviewed the three quotes, a company was selected to complete the project. Upon further review, it was noted that none of the contractors were paying prevailing wage to their employees. Staff requested each company to re-submit their bids utilizing prevailing wage. Only one of the contractors, Advanced Creative Concrete, responded to this request—the other two did not resubmit a bid.

The term of proposed Agreement No. 22-34 would be 30 days from the start of demolition.

FISCAL IMPACT: The cost for installation of the concrete foundation for the new ventilation training prop would be \$22,000. The funds required to complete the concrete foundation have been approved as a capital outlay project in the FY 2021-22 Budget in Account No. 1001-4534-62030-400-00000. The wood framing construction for the completion of the ventilation training prop would be completed by Fire Department personnel with the funding coming from Personnel Development Program Supplies Account No. 1001-4534-51130-400-00000, which is designated for the purchase of such items as lumber, nails, and roofing materials for realistic training exercises.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 22-34 with Advanced Creative Concrete to construct a concrete foundation for a ventilation training prop at the Fire training facility.

KNOW ALL MEN BY THESE PRESENTS: That the following Agreement is made and entered into as of the date executed by the City Clerk and the Mayor, by and between **Advanced Creative Concrete Lic# 975978**, an **LLC**, hereinafter referred to as "CONTRACTOR" and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

A. Recitals.

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

Montclair Fire Department Ventilation Roof Prop

"PROJECT" hereinafter.

B. Resolution.

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

1. GENERAL SCOPE OF WORK: CONTRACTOR shall furnish all necessary labor, tools, materials (with the exception of concrete post bases provided by fire department), appliances, and equipment for and do all work contemplated and embraced for the PROJECT. Said PROJECT to be performed in accordance with requested fire department design to include items shown on CONTRACTOR submitted bid (Addendum 1).
2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The aforesaid specifications are incorporated herein by reference thereto and made a part hereof with like force and effect as if all of said documents were set forth in full herein. Said documents, the Notice Inviting Bids, the Instructions to Bidders, the Proposal and any City-issued addenda, together with this written Agreement, shall constitute the contract between the parties. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by the CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this written Agreement shall control.
3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within thirty (30) calendar days from the date of notice of award of the contract and to complete his portion of PROJECT within the time specified in the Special Provisions. CONTRACTOR agrees further to the assessment of liquidated damages in the amount specified in the Special Provisions or the Standard Specifications, whichever is higher,

AGREEMENT

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

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

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

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

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

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

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

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

AGREEMENT

- (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
 - (6) Automobile - Property Damage \$500,000 each accident.
 - c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
 - (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
 - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
 - d. Each such policy of insurance provided for in paragraph b. shall:
 - (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
 - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
 - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
 - (4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
 - (5) Otherwise be in form satisfactory to CITY.
 - e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.
6. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the

AGREEMENT

materials or other things used or employed in performing the project; or for injury or damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

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

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

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

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

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

9. **CONTRACT PRICE AND PAYMENT:** CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **May 1st, 2022**.

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

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

CONTRACTOR
Advanced Creative Concrete
34544 Yale Drive
Yucaipa, CA 92399

CITY
City of Montclair, California
5111 Benito Street
Montclair, CA 91763

By: _____

Name, Title

Javier "John" Dutrey
Mayor

ATTEST:

By: _____

Name, Title

Andrea M. Myrick
City Clerk

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney

AGREEMENT

Addendum 1

AGREEMENT

Addendum 1

This estimate is for the work to be completed at: 10835 Monte Vista Ave.
Montclair, CA 91763.

Advanced Creative Concrete
Tom Miranda, Owner
License #975978
(909) 496-4964

The total cost for the new "Pilaster Foundation" will be \$22,000.00.

This price will include:

The installation of (21) - 16" to 24" diameter x 12" to 16" tall pilasters recessed into the ground 12" deep. The footing width will be 2' x 2' square with the reinforcement bar in the footing and pilaster monolithically.

Scope of Work:

1. All saw-cutting, removal, and disposal of asphalt and soil.
2. Setting pilaster forms in accordance to the plan provided.
3. Installation of all beam brackets in the concrete pilasters at the measurements provided on the plan.
4. Patch around all new pilasters with concrete.
5. Material, labor (Prevailing wage), and all machinery is included in this estimate.
6. All brackets will be provided by the customer.



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	PDT175/PDT362
SECTION:	CONSENT - AGREEMENTS	DEPT.:	POLICE
ITEM NO.:	4	PREPARER:	M. BUTLER
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NOS. 22-38 AND 22-39 WITH THE COUNTY OF SAN BERNARDINO TO PROVIDE FOR THE RECEIPT OF GRANT FUNDS FROM THE 2020 AND 2021 JUSTICE ASSISTANCE GRANT AWARDS		
	CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO SIGN SAID AGREEMENTS		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement Nos. 22-38 and 22-39 with the County of San Bernardino to provide for the receipt of grant funds from the 2020 and 2021 Justice Assistance Grant (JAG) awards and authorizing City Manager Edward C. Starr to sign said Agreements.

BACKGROUND: The Board of Supervisors of San Bernardino County has accepted grant awards from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance under the 2020 and 2021 Edward Byrne Memorial JAG Program. As a subrecipient, the City has been allocated \$14,572 from JAG 2020 and \$17,609 from JAG 2021. The County, acting in its capacity as JAG Program Administrator, shall disburse appropriate grant allocations, less a 5 percent administrative fee as allowable under JAG guidelines.

Since 2005, the JAG Program has provided funding to state and local governments for support of a broad range of activities intended to prevent and control crime and improve the criminal justice system. Pursuant to the grant requirements, the City entered into Agreement Nos. 20-75 and 22-33 with the County related to distribution of 2020 and 2021 JAG Program Award funds. These Interlocal Agreements, or Memorandums of Understanding, were signed by local jurisdictions identifying the County as the fiscal agent and JAG Program Administrator for these joint funds. These agreements allow the County to release pass-through funds to the towns and cities in accordance with the grant agreement.

The JAG Program further requires participating jurisdictions receiving grant funds to execute sub-award grant agreements in order to acknowledge receipt of the Federal award information and applicable compliance requirements, including special conditions for each Federal sub-award. By entering into proposed sub-award grant Agreement Nos. 22-38 and 22-39, the City agrees to undertake and carry out activities delineated by each grant award, and to the conditions or limitations set forth in each grant award.

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



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

FISCAL IMPACT: Approval of proposed Agreement No. 22-38 would result in a \$13,844 JAG Program fund allocation to the Police Department's budget. The San Bernardino County Board of Supervisors would retain a 5 percent administrative fee of \$728.

Approval of proposed Agreement No. 22-39 would result in a \$16,729 JAG Program fund allocation to the Police Department's budget. The County would retain a 5 percent administrative fee of \$880.

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

1. Approve Agreement Nos. 22-38 and 22-39 with the County of San Bernardino to provide for the receipt of grant funds from the 2020 and 2021 Justice Assistance Grant awards.
2. Authorize City Manager Edward C. Starr to sign said Agreements.

 <p>San Bernardino County 385 North Arrowhead Avenue San Bernardino, CA 92415-0123</p> <p>Law and Justice Group 909-387-5005</p>	<p>Grant Sub-Award</p>	<p>PAGE 1 OF 37</p>
<p>SUBRECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>City of Montclair 5111 Benito Street, PO Box 2308 Montclair, CA 91763-2808</p>	<p>AWARD NUMBER: 2020-DJ-BX-0476</p>	
<p>SUBRECIPIENT IRS/VENDOR NO.</p> <p>95-6005731</p>	<p>SUB-AWARD NUMBER: 2020-DJ-BX-0476-Montclair</p> <p>PROJECT PERIOD: FROM 10/01/2019 TO 09/30/2023</p> <p>BUDGET PERIOD: FROM 10/01/2019 TO 09/30/2023</p>	
<p>SUBRECIPIENT DUNS NO.</p> <p>08-497-6919</p>	<p>AWARD DATE 09/18/2020</p> <p>PREVIOUS AWARD AMOUNT \$0</p>	
<p>PROJECT TITLE</p> <p>FY 20 Local JAG Program</p>	<p>AMOUNT OF THIS AWARD \$13,844</p> <p>TOTAL SUB-AWARD \$13,844</p>	
<p>SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S), WHICH INCLUDE THE AWARD CONTINUATION SHEETS (PAGES 2-32), A SUPPLEMENTAL STATEMENT BY THE COUNTY OF SAN BERNARDINO (1 PAGE), AND THE SUBRECIPIENT MONITORING PROCEDURES FOR THE COUNTY OF SAN BERNARDINO LAW AND JUSTICE GROUP (4 PAGES).</p>		
<p>STATUTORY AUTHORITY FOR GRANT</p> <p>This project is supported under FY20(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10101-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a).</p>		
<p>CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>		
<p style="text-align: center;">GRANTEE APPROVAL SUBRECIPIENT ACCEPTANCE</p>		
<p style="text-align: center;">TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>Robert Wickum, Chair San Bernardino County Law and Justice Group</p> <p style="text-align: center;"> SIGNATURE OF APPROVING OFFICIAL</p> <p style="text-align: center;"><u>12-31-21</u> DATE</p>		<p style="text-align: center;">TYPED NAME AND TITLE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>Edward C. Starr, City Manager City of Montclair</p> <p style="text-align: center;">_____ SIGNATURE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p style="text-align: center;">_____ DATE</p>



Department of Justice (DOJ)
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
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SPECIAL CONDITIONS

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

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

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

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

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

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



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SPECIAL CONDITIONS

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

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

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

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

3. Compliance with DOJ Grants Financial Guide

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

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

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

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



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

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

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

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

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

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

7. Requirement to report potentially duplicative funding

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



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SPECIAL CONDITIONS

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

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

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

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

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



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9. Employment eligibility verification for hiring under the award

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

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

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

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

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

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

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

A. Staff involved in the hiring process

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

B. Employment eligibility confirmation with E-Verify

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

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

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

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

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



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

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

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

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

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

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

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

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

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

18. OJP Training Guiding Principles

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



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19. Effect of failure to address audit issues

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

20. Potential imposition of additional requirements

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

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

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

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

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

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

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

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

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



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24. Restrictions on "lobbying"

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

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

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

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020) The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at <https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

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

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

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



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

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

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

1. In accepting this award, the recipient--

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

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

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

a. it represents that--

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

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

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



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

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

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

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

29. Encouragement of policies to ban text messaging while driving

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

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

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



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31. Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; unallowable costs; notification
1. If the recipient is a "State," a local government, or a "public" institution of higher education:
- A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded wholly or partly with award funds is subject to any "information-communication restriction."
- B. Also, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient, at any tier, described in par. 1.A of this condition) that would be reimbursed wholly or partly with award funds was subject to any information-communication restriction.
- C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) described in par. 1.A of this condition, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: information-communication restrictions; ongoing compliance."
- D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient (at any tier) described in par. 1.A of this condition, may be subject to any information-communication restriction. Also, any subaward (at any tier) to a subrecipient described in paragraph 1.A of this condition must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.
2. Any subaward (at any tier) to a subrecipient described in par. 1.A of this condition must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.
3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "Noninterference ... information-communication restrictions; ongoing compliance" award condition.
4. Rules of Construction
- A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... information-communication restrictions; ongoing compliance" condition.
- B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... information-communication restrictions; ongoing compliance" condition are incorporated by reference as though set forth here in full.



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32. Authority to obligate award funds contingent on no use of funds to interfere with federal law enforcement: information-communication restrictions; unallowable costs; notification

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

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

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient, at any tier, described in paragraph 1.A of this condition) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) described in paragraph 1.A of this condition, is in compliance with the award condition entitled "No use of funds to interfere with federal law enforcement: information-communication restrictions; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient (at any tier) described in paragraph 1.A of this condition, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient described in paragraph 1.A of this condition must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient described in paragraph 1.A of this condition must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "No use of funds to interfere ... information-communication restrictions; ongoing compliance" award condition.

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the "No use of funds to interfere ... information-communication restrictions; ongoing compliance" condition.

B. Both the "Rules of Construction" and the "Important Note" set out in the "No use of funds to interfere ... information-communication restrictions; ongoing compliance" condition are incorporated by reference as though set forth here in full.



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33. Noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; ongoing compliance

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

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

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

4. Rules of Construction

A. For purposes of this condition:

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

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

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

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

(5) "DHS" means the U.S. Department of Homeland Security.

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

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



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34. No use of funds to interfere with federal law enforcement: information-communication restrictions; ongoing compliance

1. Throughout the period of performance, no State or local government entity, -agency, or -official may use funds under this award (including under any subaward, at any tier) to prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status to/from DHS; or (2) a government entity or -agency from sending, requesting or receiving, or exchanging information regarding immigration status to/from/with DHS, or from maintaining such information. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

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

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

4. Rules of Construction

A. For purposes of this condition:

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

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

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

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

(5) "DHS" means the U.S. Department of Homeland Security.

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

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



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

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

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

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

A. For purposes of this condition--

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

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

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

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

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; ongoing compliance" award condition are incorporated by reference as though set forth here in full.



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SPECIAL CONDITIONS

36. No use of funds to interfere with federal law enforcement: No public disclosure of certain law-enforcement-sensitive information

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere: No public disclosure of federal law-enforcement information in order to conceal, harbor, or shield

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

A. For purposes of this condition--

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

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

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

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

B. Both the "Rules of Construction" and the "Important Note" set out in the "No use of funds to interfere with federal law enforcement: information-communication restrictions; ongoing compliance" award condition are incorporated by reference as though set forth here in full.



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SPECIAL CONDITIONS

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

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

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

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

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

B. Applicability

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

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.



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38. No use of funds to interfere with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. No use of funds to interfere with "removal" process: Notice of scheduled release date and time

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

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

B. Applicability

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

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the "No use of funds to interfere with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.



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

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

1. Noninterference with statutory law enforcement access to correctional facilities

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under sec. 101 of the Immigration and Nationality Act (INA) (8 USC 1101(a)(3)), except that, with respect to a juvenile offender, it means "criminal alien."

(2) The term "juvenile offender" means what it means under 28 CFR 31.304(f) (as in effect on Jan. 1, 2020).

(3) The term "criminal alien" means, with respect to a juvenile offender, an alien who is deportable on the basis of-

(a) conviction described in 8 USC 1227(a)(2), or

(b) conduct described in 8 USC 1227(a)(4).

(4) The term "conviction" means what it means under 8 USC 1101(a)(48). (Adjudication of a juvenile as having committed an offense does not constitute "conviction" for purposes of this condition.)

(5) The term "correctional facility" means what it means under 34 USC 10251(a)(7) as of January 1, 2020.

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

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

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



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

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

(9) "Program or activity" means what it means under 42 USC 2000d-4a.

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

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



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40. No use of funds to interfere with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere with statutory law enforcement access to correctional facilities

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (8 USC 1101(a)(3)), except that, with respect to a juvenile offender, it means "criminal alien."

(2) The term "juvenile offender" means what it means under 28 CFR 31.304(f) (as in effect on Jan. 1, 2020).

(3) The term "criminal alien" means, with respect to a juvenile offender, an alien who is deportable on the basis of—

(a) conviction described in 8 USC 1227(a)(2), or

(b) conduct described in 8 USC 1227(a)(4).

(4) The term "conviction" means what it means under 8 USC 1101(a)(48). (Adjudication of a juvenile as having committed an offense does not constitute "conviction" for purposes of this condition.)

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

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

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



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

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

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

(9) "Program or activity" means what it means under 42 USC 2000d-4a.

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

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

41. Requirement to collect certain information from subrecipients

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

42. Cooperating with OJP Monitoring

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



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43. FFATA reporting: Subawards and executive compensation

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

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

44. Required monitoring of subawards

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

45. Use of program income

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

46. Justice Information Sharing

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

47. Avoidance of duplication of networks

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

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

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



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49. Protection of human research subjects

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

50. Confidentiality of data

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

51. Verification and updating of recipient contact information

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

52. Law enforcement task forces - required training

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

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

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

53. Justification of consultant rate

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



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

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

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



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SPECIAL CONDITIONS

55. Compliance with National Environmental Policy Act and related statutes

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

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

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

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

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

56. Establishment of trust fund

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



Department of Justice (DOJ)
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 30 OF 32

PROJECT NUMBER 2020-DJ-BX-0476

AWARD DATE 09/18/2020

SPECIAL CONDITIONS

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

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

58. Certification of body armor "mandatory wear" policies

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

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

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

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

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

61. Reporting requirements

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

62. Required data on law enforcement agency training

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



Department of Justice (DOJ)
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET**
Grant

PAGE 31 OF 32

PROJECT NUMBER 2020-DJ-BX-0476

AWARD DATE 09/18/2020

SPECIAL CONDITIONS

63. Expenditures prohibited without waiver

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

64. JAG FY 2020 - Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2019 [BJA]

Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2019

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2019), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

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

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

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

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

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

66. Encouragement of submission of "success stories"

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



Department of Justice (DOJ)
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**AWARD CONTINUATION
SHEET
Grant**

PAGE 32 OF 32

PROJECT NUMBER 2020-DJ-BX-0476

AWARD DATE 09/18/2020

SPECIAL CONDITIONS

67. Withholding of funds: Memorandum of Understanding

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

68. Withholding of funds: NIBRS set-aside

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

69. Withholding of funds: NIBRS set-aside in Disparate jurisdictions

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and BJA reviews and accepts, documentation of compliance with the required NIBRS 3 percent set-aside by the recipient and each disparate subrecipient, and a Grant Adjustment Notice (GAN) has been issued to remove this condition. For each jurisdiction, including the recipient and disparate subrecipients, such documentation may be either (1) a budget that clearly documents that the jurisdiction has dedicated at least 3 percent of the total amount of their allocation to NIBRS compliance activities, or (2) documentation showing that the jurisdiction has been certified as NIBRS compliant.

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

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

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



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

Grant
 Supplemental
 Statement

RECIPIENT NAME AND ADDRESS (Including Zip Code) San Bernardino County 385 North Arrowhead Avenue San Bernardino, CA 92415-0123	AWARD NUMBER:	2020-DJ-BX-0476
	PROJECT PERIOD:	FROM 10/01/2019 TO 09/30/2023
	BUDGET PERIOD:	FROM 10/01/2019 TO 09/30/2023
GRANTEE IRS/VENDOR NO. 956002748	AWARD DATE	09/18/2020
GRANTEE DUNS NO. 136763120	PREVIOUS AWARD AMOUNT	\$0
	AMOUNT OF THIS AWARD	\$602,729
PROJECT TITLE FY 20 Local JAG Program	TOTAL AWARD	\$602,729

SUPPLEMENTAL STATEMENT

On April 22, 2021, DOJ issued revised guidance regarding conditions on certain Department grants. Consistent with Executive Order 13993, an April 14, 2021 Attorney General memorandum, and relevant grant-making statutes, DOJ informed grant recipients and applicants that they will continue receiving certain Department grants without making certifications related to 8 U.S.C. § 1373 (communication between government agencies and the Immigration and Naturalization Service) and associated matters as a precondition, and that DOJ will cease giving priority consideration to grant applicants that accept conditions similar to those requirements. Special Conditions relating to 8 U.S.C. § 1373 therefore have been stricken from the 2020 Grant Agreement and Sub-award Grant Agreements. San Bernardino County's acceptance of the award for 2020 does not constitute acceptance of the immigration enforcement requirements, including but not limited to paragraphs 31-41 of the 2020 Grant Award Agreement.

CHIEF EXECUTIVE APPROVAL

TYPED NAME AND TITLE OF CHIEF EXECUTIVE
 Leonard X. Hernandez, Chief Executive Officer
 San Bernardino County

[Signature]
 SIGNATURE OF CHIEF EXECUTIVE

12/3/21
 DATE

Robert Wickum, Chair
 Law and Justice Group

CHIEF LEGAL OFFICER APPROVAL

Tom Bunton
 TYPED NAME AND TITLE OF CHIEF LEGAL OFFICER
 Steven O'Neill, Interim County Counsel
 San Bernardino County

Tom Bunton
 SIGNATURE OF CHIEF LEGAL OFFICER

1/11/22
 DATE

DATE

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



Grant Award/Sub-Award Process

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

Grant Revenue

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

Disbursement of Funds to Subrecipients

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

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

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

Subrecipient Monitoring Requirement

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

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

Subrecipient Monitoring Process

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

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

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

On-Site Monitoring

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

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

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

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

Project Accounting and Record Keeping

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

Obligation and Expenditure of Funds

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

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

Reporting Requirements

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

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

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

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

Project Closeout

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

Inventory Control

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

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

Retention Period

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


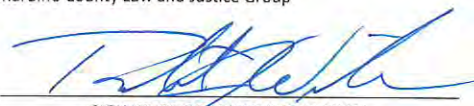
APPROVED BY:



G. Christopher Gardner, Chair
Law and Justice Group

June 1, 2020

Date

 <p>San Bernardino County 385 North Arrowhead Avenue San Bernardino, CA 92415-0123</p> <p>Law and Justice Group 909-387-5005</p>	<p>Grant Sub-Award</p>	<p>PAGE 1 OF 25</p>
<p>SUBRECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>City of Montclair 5111 Benito Street, PO Box 2308 Montclair, CA 91763-2808</p>	<p>AWARD NUMBER: 15PBJA-21-GG-01185-JAGX</p>	
	<p>SUB-AWARD NUMBER: 15PBJA-21-GG-01185-JAGX-Montclair</p>	
<p>SUBRECIPIENT IRS/VENDOR NO.</p> <p>95-6005731</p>	<p>PROJECT PERIOD: FROM 10/01/2020 TO 09/30/2024</p> <p>BUDGET PERIOD: FROM 10/01/2020 TO 09/30/2024</p>	
<p>SUBRECIPIENT DUNS NO.</p> <p>08-497-6919</p>	<p>AWARD DATE 10/08/2021</p> <p>PREVIOUS AWARD AMOUNT \$0</p>	
<p>PROJECT TITLE</p> <p>San Bernardino County and Disparate Jurisdictions 2021 Justice Assistance Grant Projects</p>	<p>AMOUNT OF THIS AWARD \$16,729</p> <p>TOTAL SUB-AWARD \$16,729</p>	
<p>SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S), WHICH INCLUDE THE AWARD CONTINUATION SHEETS (PAGES 2-21), AND THE SUBRECIPIENT MONITORING PROCEDURES FOR THE COUNTY OF SAN BERNARDINO LAW AND JUSTICE GROUP (4 PAGES).</p>		
<p>STATUTORY AUTHORITY FOR GRANT</p> <p>Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151-10158); see also 28 U.S.C. 530C(a).</p>		
<p>CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>		
<p>GRANTEE APPROVAL</p>		<p>SUBRECIPIENT ACCEPTANCE</p>
<p>TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>Robert Wickum, Chair San Bernardino County Law and Justice Group</p>  <p>_____ SIGNATURE OF APPROVING OFFICIAL</p> <p>12-31-21 _____ DATE</p>		<p>TYPED NAME AND TITLE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>Edward C. Starr, City Manager City of Montclair</p> <p>_____ SIGNATURE OF AUTHORIZED SUBRECIPIENT OFFICIAL</p> <p>_____ DATE</p>

Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.



Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2021 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2021 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2021 award.

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

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

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



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

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) - (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

3

Required training for Grant Award Administrator and Financial Manager

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2019, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after January 1, 2019, will satisfy this condition.

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

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

4

Safe policing and law enforcement subrecipients

If this award is a discretionary award, the recipient agrees that it will not make any subawards to State, local, college, or university law enforcement agencies unless such agencies have been certified by an approved independent credentialing body or have started the certification process. To become certified, law enforcement agencies must meet two mandatory conditions: (1) the agency's use of force policies adhere to all applicable federal, state, and local laws; and (2) the agency's use of force policies prohibit chokeholds except in situations where use of deadly force is allowed by law. For detailed information on this certification requirement, see <https://cops.usdoj.gov/SafePolicingEO>.

5

Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly

address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

6

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

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

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

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

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

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

7

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

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

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

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

8

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

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

9

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

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

10

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

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

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

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

11

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

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable

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

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

12

Requirement for data on performance and effectiveness under the award

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

13

Requirements related to "de minimis" indirect cost rate

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

14

Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

15

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

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

16

Compliance with DOJ Grants Financial Guide

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

17

Encouragement of policies to ban text messaging while driving

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

18

Compliance with general appropriations-law restrictions on the use of federal funds (FY 2021)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2021, are set out at <https://ojp.gov/funding/Explore/FY21AppropriationsRestrictions.htm>, and are incorporated by reference here.

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

19

Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this

award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

20

Employment eligibility verification for hiring under the award

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

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

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

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

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

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

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

2. Monitoring

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

3. Allowable costs

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

4. Rules of construction

A. Staff involved in the hiring process

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

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and

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use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

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

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

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

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

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

21

Restrictions and certifications regarding non-disclosure agreements and related matters

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

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

1. In accepting this award, the recipient--

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

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

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

a. it represents that--

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

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

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

22

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

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

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

23

OJP Training Guiding Principles

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

24

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

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

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

25

Requirements related to System for Award Management and Universal Identifier Requirements

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

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

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

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

26

Restrictions on "lobbying"

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

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

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to

contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

27

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

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

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

28

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

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

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

29

Requirement to report potentially duplicative funding

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

30

Reporting potential fraud, waste, and abuse, and similar misconduct

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

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

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

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FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

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Cooperating with OJP Monitoring

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

33

Required monitoring of subawards

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

34

Use of program income

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

35

Justice Information Sharing

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

36

Avoidance of duplication of networks

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

37

Compliance with 28 C.F.R. Part 23

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

38

Protection of human research subjects

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

39

Confidentiality of data

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

40

Law enforcement task forces - required training

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

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

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

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Justification of consultant rate

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

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[Per OJP, this Special Condition only applies to State Administering Agencies.]

"Methods of Administration" - monitoring compliance with civil rights laws and nondiscrimination provisions

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with applicable federal civil rights laws and nondiscrimination provisions. Within 90 days of the date of award acceptance, the recipient must submit to OJP's Office for Civil Rights (at CivilRightsMOA@usdoj.gov) written Methods of Administration ("MOA") for subrecipient monitoring with respect to civil rights requirements. In addition, upon request by OJP (or by another authorized federal agency), the recipient must make associated documentation available for review.

The details of the recipient's obligations related to Methods of Administration are posted on the OJP web site at <https://ojp.gov/funding/Explore/StateMethodsAdmin-FY2017update.htm> (Award condition: "Methods of Administration" - Requirements applicable to States (FY 2017 Update)), and are incorporated by reference here.

43

The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

44

Compliance with National Environmental Policy Act and related statutes

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

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

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

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

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

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

45

Establishment of trust fund

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

46

All State and Local JAG recipients must submit quarterly Federal Financial Reports (SF-425). Additionally, State JAG and Local JAG Category Two (\$25K or more) must submit semi-annual performance reports through JustGrants and Local JAG Category One (Less than \$25K) must submit annual performance reports through JustGrants. Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

47

Required data on law enforcement agency training

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

48

Expenditures prohibited without waiver

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

49

Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2020

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2020), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via an Award Condition Modification (ACM)). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

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

50

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS. Booking agencies should work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

51

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

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other

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records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

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

52

Prohibition on use of award funds for match under BVP program

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

53

Certification of body armor "mandatory wear" policies

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

54

Body armor - compliance with NIJ standards and other requirements

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

55

Body armor - impact on eligibility for other program funds

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

56

BJA- JAG - Withholding of Funds for Application Attachment

Recipient may not expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has received and approved the required application attachment(s) and has issued an Award Condition Modification (ACM) releasing this award condition.

57

BJA- JAG - Withholding of funds for budget documentation

Withholding of funds: Budget narrative or information

The recipient may not expend or draw down any award funds until the recipient submits, and OJP reviews and accepts, the required budget information or narrative for the award, and an Award Condition Modification has been issued to remove this condition.

58

BJA- JAG - Withholding of Funds for Chief Executive Certification

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

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

59

BJA- JAG - Withholding of Funds for MOU

Withholding of funds: Memorandum of Understanding

The recipient may not expend or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and an Award Condition Modification has been issued to remove this condition.

60

BJA- JAG Withholding for NIBRS 3 Percent set-aside - DISPARATE

Withholding of funds: NIBRS set-aside in Disparate jurisdictions

The recipient may not expend or draw down any award funds until the recipient submits, and BJA reviews and accepts, documentation of compliance with the required NIBRS 3 percent set-aside by the recipient and each disparate subrecipient, and an Award Condition Modification has been issued to remove this condition. For each jurisdiction, including the recipient and disparate subrecipients, such documentation may be either (1) a budget that clearly documents that the jurisdiction has dedicated at least 3 percent of the total amount of their allocation to NIBRS compliance activities, or (2) documentation showing that the jurisdiction has been certified as NIBRS compliant.

61

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

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

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

I have read and understand the information presented in this section of the Federal Award Instrument.

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



Grant Award/Sub-Award Process

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

Grant Revenue

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

Disbursement of Funds to Subrecipients

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

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

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

Subrecipient Monitoring Requirement

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

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

Subrecipient Monitoring Process

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

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

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

On-Site Monitoring

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

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

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

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

Project Accounting and Record Keeping

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

Obligation and Expenditure of Funds

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

Reporting Requirements

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

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

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

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

Project Closeout

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

Inventory Control

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

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

Retention Period

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

APPROVED BY:



G. Christopher Gardner, Chair
Law and Justice Group

June 1, 2020

Date



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	HSV030
SECTION:	CONSENT - AGREEMENTS	DEPT.:	HUMAN SVCS.
ITEM NO.:	5	PREPARER:	A. COLUNGA
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 22-41 WITH APPLEONE EMPLOYMENT SERVICES TO PROVIDE STAFFING SERVICES FOR THE MONTCLAIR AFTER-SCHOOL PROGRAM		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-41 with AppleOne Employment Services to provide staffing services for the Montclair After-School Program (MAP). Agreement No. 22-41 is attached for the City Council's review and consideration.

BACKGROUND: Since 1999, the Human Services Department has delivered after-school programs. MAP currently serves eleven school sites. The goal of MAP is to promote after-school enrichment to enhance children's educational and learning capabilities. Funding for this program comes from the After-School Education and Safety (ASES) grants made available to local education authorities, such as Ontario-Montclair School District (OMSD), to provide communities with enhanced community-based school services in an effort to strengthen healthy child development.

It has become increasingly difficult to recruit staff for the program, with recent years proving to be the most challenging. The current City hiring process does not allow for the type of rapid hiring needed to fully staff MAP. The City of Montclair has partnered with AppleOne since 2019 and the Human Services Department would like to continue the partnership to recruit for After-School program staff. If approved, AppleOne will recruit MAP staff as needed and the City will only be required to pay for the number of recruitments that result in successful hires.

FISCAL IMPACT: If approved, this agreement would be funded with the Human Services Department's existing Montclair After-School Program grant budget. The City will pay a flat fee of \$2,250 per hire recruited by AppleOne through grant funds. The total amount of funding required is dependent on the number of staff hired. There will be no adverse impact to the City's General Fund associated with the City Council's approval of Agreement No. 22-41. The term of the agreement is from May 16, 2022 through May 3, 2024.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 22-41 with AppleOne Employment Services to provide staffing services for the Montclair After-School Program.



May 3, 2022

City of Montclair
5111 Benito Street
Montclair, CA 91763

The Act1 Group of Companies DBA AppleOne Employment Services, appreciates the opportunity to lock in our rates with **CITY OF MONTCLAIR**. This letter will serve as written confirmation of rates being offered to **CITY OF MONTCLAIR** through our Temporary and Full Time/Direct Hire division. These reduced rates will be available to **CITY OF MONTCLAIR** until **May 3, 2024**.

TALENT ACQUISITION PROGRAM RATES:

FLAT FEE: \$2250.00 WITH 45 DAY FREE REPLACEMENT:

This pricing is exclusively for After School Department

45 Calendar Days – Free Replacement or Full Refund:

Upon termination or resignation of the original candidate within the first 45 calendar days of employment, AppleOne will provide either a one-time free replacement for the same position or a full refund of the Direct Hire Fee paid for the original candidate.

*Payment due upon receipt of invoice

Direct Hire Replacement Guarantees will be satisfied when AppleOne presents up to a maximum of five (5) replacement candidates to Client who AppleOne has determined meet the original job specifications of the original position. Once AppleOne has made those five (5) presentations, its obligations under the guarantee are met, whether the company/employer chooses to hire one of the candidates presented or not.

Direct Hire Guarantees are not available in the event of employee termination or resignation due to a relocation of place of employment, a significant change in compensation or other benefits of employment, unlawful conduct of the employer, harassment of the employee, or other conditions or events not in keeping with a professional and reasonable working environment.

DEDICATED HIRING ADVISOR

Melissa Lira, an experienced staffing professional from our **AppleOne-Upland** office has been selected to manage the partnership with **CITY OF MONTCLAIR** and will be responsible for establishing consistent guidelines, maintaining effective communication, and providing comprehensive usage reporting capabilities.



Melissa Lira will tour your facility to fully comprehend the culture and environment at **CITY OF MONTCLAIR**, thus, enabling our office to recruit, screen, evaluate, and qualify candidates who possess the tangible and intangible skills required to be productive at your company. **AppleOne** will be available to **CITY OF MONTCLAIR** 24 hours a day, seven days a week by calling either the branch during our normal business hours of 7:30 AM to 5:30 PM Monday through Friday, or the emergency line. By signing below, you are authorizing agreement to our Direct Hire, Temporary, Temp to Hire Conversion Schedule, as well as our Holiday Pay terms.

Our commitment to find, understand and fulfill the needs of another has allowed AppleOne to effectively place temporary associates for over fifty years, creating a successful partnership between both our client companies and our temporary associates. We look forward to continuing to develop our partnership with you and **CITY OF MONTCLAIR**. If you have any questions or if I can be of immediate assistance please do not hesitate to call.

Sincerely,

Melissa Lira
Branch Manager

Cole Beebe
Area Manager

JAVIER JOHN DUTREY
MAYOR
CITY OF MONTCLAIR

DATE



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	FRD245
SECTION:	CONSENT - AGREEMENTS	DEPT.:	FIRE
ITEM NO.:	6	PREPARER:	T. DOWSER
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 22-42 WITH CRAFTON HILLS COLLEGE AUTHORIZING THE FIRE DEPARTMENT TO PROVIDE CLINICAL TRAINING FOR EMERGENCY MEDICAL STUDENTS		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-42 with Crafton Hills College authorizing the Fire Department to provide clinical training for emergency medical students. Proposed Agreement No. 22-42 is attached for the City Council's review and consideration.

BACKGROUND: As an agency with a paramedic program, the City has been approached with another opportunity to provide field training to emergency medical students. Crafton Hills College has an established Emergency Medical Technician/Paramedic (EMT-P) Program and desires to contract with the Montclair Fire Department to provide field training to some of its EMT-P students.

Paramedics who satisfactorily complete the required training to become clinical preceptors may provide field training to EMT-P students/interns. The Fire Department currently has two paramedics who are certified as preceptors. The Fire Department is currently serving as a preceptor for a Mt. San Antonio College paramedic student and has determined that serving as a field-training agency continues to be beneficial to the City's paramedic program.

As a field-training agency, the preceptors are obligated to practice and maintain advanced life-support skills. As a training agency, the City's paramedic program continually receives updated advanced life-support information and practices changing medical protocols.

The term of proposed Agreement No. 22-42 is from December 16, 2021, through June 30, 2026.

FISCAL IMPACT: There would be no fiscal impact to the City of Montclair should the City Council approve proposed Agreement No. 22-42 with Crafton Hills College. There is no overtime associated with this program.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 22-42 with Crafton Hills College authorizing the Fire Department to provide clinical training for emergency medical students.

**AGREEMENT
EMERGENCY MEDICAL SERVICES
CLINICAL/FIELD INTERNSHIP**

THIS AGREEMENT is made and entered into on December 16, 2021 by and between **Montclair Fire Department** hereinafter called the **Agency** and the **San Bernardino Community College District (Crafton Hills College)** hereinafter called the **District**.

PART I BASIS AND PURPOSE OF AGREEMENT

WITNESSETH:

WHEREAS, the District and Agency acknowledge a public obligation to contribute to Emergency Medical Services education for the benefit of students and to meet community needs;

WHEREAS, the District provides approved programs in Emergency Medical Services education which require clinical/field externship experience for students enrolled in these programs;

WHEREAS, the Agency has facilities suitable for the clinical/field externship needs of the District programs in Emergency Medical Services;

WHEREAS, it is to the benefit of both District and Agency that Emergency Medical Services students have opportunities for clinical/field externship experience to enhance their capabilities as practitioners;

NOW, THEREFORE, the District and Agency do covenant and agree as follows:

PART II GENERAL RESPONSIBILITIES AND PRIVILEGES OF THE DISTRICT

- A. For the Program in General
1. District is committed to the achievement of equal educational opportunity. Decisions related to admission, participation, student's employment, and financing will not be influenced by race, religion, sex, age, disability, or national origin.
 2. The District assumes full responsibility for offering Emergency Medical Services education programs eligible for accreditation by any appropriate State Board involved.

3. District faculty members may be invited by Agency to serve as voluntary resource persons to the Agency staff by serving on Emergency Medical Services committees, by sharing knowledge as clinical experts, and by participation in other matters dealing with the quality of patient care.
4. The District agrees to provide liability insurance for District employees while participating in activities relating to the instructional program.
5. Malpractice coverage for Emergency Medical Services students is, and throughout the term of the Agreement will be, carried by the individual student.
6. District will defend, hold harmless, and indemnify the Agency against all claims, demands, suits, judgments, expenses, and costs of any and every kind on account of the injury to or death of persons or loss of/or damage to property arising in any manner out of the performance of this Agreement.

B. For Program Planning

1. District will initiate the development of mutually acceptable clinical/field externship instruction plans for using the Agency's clinical/field externship areas to meet the educational goals of Emergency Medical Services curricula. These plans will be made available to the Agency at a mutually agreed upon time and subject to revision in instances of conflict with hospital patient care responsibilities or District interests.

C. For Clinical/Field Externship Instructors

1. District will provide faculty members who are both qualified and competent teachers and licensed health care practitioners for all academic areas.
2. District faculty will be responsible for learning and observing the regulations of both District and Agency as they apply to the circumstances of clinical/field externship teaching.
3. District has the privilege of regularly scheduled meetings at mutually agreed upon times at the Agency with Agency staff, including both selected personnel and administrative level representatives, for the purpose of interpreting, discussing, and evaluating the educational program involved.

D. For Emergency Medical Services

1. District faculty shall be responsible for instructing in regard to patient and institution confidentiality.
2. District faculty shall inform the students that they must be able to provide a record of immunizations and physical examination, if requested.
3. Emergency Medical Services students shall have the status of students and shall not be considered to be Agency employees, nor shall they replace Agency staff. Clinical/field externship experience will be conducted as a laboratory learning experience.
4. Emergency Medical Services students are subject to the authority, policies, and regulations of the District. They are also subject, during clinical/field externship assignment, to applicable Agency regulations and must conform to the same standards as are set for Agency employees and other students and learners in matters relating to the welfare of patients and general Agency operation.
5. District will be responsible for assuring that the Emergency Medical Services students assigned to the Agency for clinical/field externship instruction comply with all applicable provisions of this Agreement and meet both District and Agency academic and clinical/field externship standards and rules and regulations of conduct.

PART III GENERAL RESPONSIBILITIES AND PRIVILEGES OF THE AGENCY

A. For the Program in General

1. Agency will maintain the standards which make it eligible for approval as a clinical/field externship area for instruction in Emergency Medical Services programs.
2. Agency staff may participate in the education program on request of the District. This may be as resource persons, clinical/field externship experts, or assistants in the planning and implementation of aspects of clinical/field externship education. Such participation shall be voluntary and shall not interfere with assigned Agency duties.

3. Agency will designate a staff member who will function as Education Coordinator for Emergency Medical Services for education usage of the Agency facilities, including joint planning with representatives of all involved Emergency Medical Services programs.
4. Agency will permit the faculty and students of the District to use its patient service facilities for clinical/field externship education according to the approved curricula, provided they comply with all applicable rules and regulations of the Agency.

B. For Services and Facilities

1. Agency will permit use of the following facilities and services by District Emergency Medical Services students and faculty at such times and to the degrees considered feasible by the Agency:
 - a. Parking areas,
 - b. First aid treatment provided appropriate written consent is given,
 - c. Access to sources of information for educational purposes, such as:
 1. Kardex files;
 2. Procedure guides, policy manuals;
 3. Medical dictionaries, pharmacology references, and other references suitable to the clinical/field externship area;
 4. Books and periodicals in the Medical Library.

C. For Control of District Personnel

1. Agency may without notice or hearing refuse access to its clinical/field externship areas to Emergency Medical Services students or District faculty who do not meet its employee standards for safety, health, cooperation, or ethical behavior or any other applicable rules and regulations. An investigation and resolution of any such matter by the Agency and the District shall take place within sixty (60) days thereafter.

PART IV JOINT RESPONSIBILITIES AND PRIVILEGES

A. For Publications

1. Publication by District faculty or Agency staff members of any material relative to their clinical/field externship experience that has not been approved for release by the District and Agency is prohibited.

B. Assurance of Non-Discrimination

2. The District and the Agency, in compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, and Section 505 of the Rehabilitation Act of 1973, do not discriminate on the basis of race, color, national origin, religion, sex, age, or handicap in any policies, procedures, or practices.

C. Liability Status of the Contracting Agencies

1. MONTCLAIR FIRE DEPARTMENT hereby agrees to save and hold harmless SAN BERNARDINO COMMUNITY COLLEGE DISTRICT and its department, agencies, officers, or employees from all sums which SAN BERNARDINO COMMUNITY COLLEGE DISTRICT or any of its departments, agencies, officers, or employees may be obligated to pay by reason of any liability imposed on them for damages arising out of the performance of the services rendered by MONTCLAIR FIRE DEPARTMENT and cause by any error, omission or act of MONTCLAIR FIRE DEPARTMENT or any person employed by him or her or any others for whose acts MONTCLAIR FIRE DEPARTMENT is legally liable. Said sums shall include, in the event of legal action, court costs, expenses of litigation, and reasonable attorney's fees.
2. SAN BERNARDINO COMMUNITY COLLEGE DISTRICT hereby agrees to save and hold harmless MONTCLAIR FIRE DEPARTMENT and its department, agencies, officers, or employees from all sums which MONTCLAIR FIRE DEPARTMENT or any of its departments, agencies, officers, or employees may be obligated to pay by reason of any liability imposed on them for damages arising out of the performance of the services rendered by SAN BERNARDINO COMMUNITY COLLEGE DISTRICT and cause by any error, omission, or act of SAN BERNARDINO COMMUNITY COLLEGE DISTRICT or any person employed by him or her or any others for whose acts SAN BERNARDINO COMMUNITY COLLEGE DISTRICT is legally liable. Said sums shall include, in the event of

legal action, court costs, expenses of litigation, and reasonable attorney's fees.

PART V PERIOD OF AGREEMENT

A. This agreement shall be effective as of the date signed and shall continue in effect until terminated by written notice of either party not to exceed five years, terminating on June 30th of the fifth year. This agreement may be terminated by either party by written notice and may be terminated at any time:

1. Upon written mutual consent by the District and the Agency, or
2. In the event of any substantial default hereunder.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have executed this agreement as of the last date written below.

APPROVED BY THE AGENCY
Montclair Fire Department
8901 Monte Vista Ave.
Montclair, CA 91763

APPROVED BY THE DISTRICT
San Bernardino Community College District
550 E. Hospitality Lane #200
San Bernardino, CA 92408

Steven Sutorus, Business Manager

Date

Date

AGENCY CONTACT

Name

Title

Address

Phone



CITY COUNCIL AGENDA REPORT

DATE: MAY 16, 2022

FILE I.D.: PDT362

SECTION: CONSENT - AGREEMENTS

DEPT.: POLICE

ITEM NO.: 7

PREPARER: J. MICHEL

SUBJECT: CONSIDER AUTHORIZING THE POLICE DEPARTMENT TO CONTRACT WITH A REPUTABLE MANUFACTURER FOR THE PURCHASE OF A TACTICAL ARMORED VEHICLE DEFINED AS MILITARY EQUIPMENT UNDER ASSEMBLY BILL 481

CONSIDER APPROVAL OF AGREEMENT NO. 22-43 WITH SAN BERNARDINO COUNTY TO PROVIDE FUNDING FOR THE SOLE PURCHASE OF A TACTICAL ARMORED VEHICLE, REQUIRED RADIO COMPONENTS AND INSTALLATION, AND GRAPHICS, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY

CONSIDER AUTHORIZING RECEIPT OF \$336,600 FROM SAN BERNARDINO COUNTY FOR THE SOLE PURCHASE OF A TACTICAL ARMORED VEHICLE, REQUIRED RADIO COMPONENTS AND INSTALLATION, AND GRAPHICS

REASON FOR CONSIDERATION: The Police Department's Military Equipment Policy Section 707 and Montclair Ordinance No. 22-1000 were approved by the City Council on March 21, 2022. The Police Department currently possesses a tactical armored vehicle, a 1980 Cadillac Gage Peacekeeper, which is defined as military equipment and is in need of replacement. If approved by the City Council, the Department would receive funding from San Bernardino County to purchase a new tactical armored vehicle.

The City Council is requested to authorize the Police Department to contract with a reputable manufacturer for the purchase of a tactical armored vehicle defined as military equipment under AB 481; approve Agreement No. 22-43 with San Bernardino County to provide funding for the sole purchase of a tactical armored vehicle, required radio components and installation, and graphics, subject to any revisions deemed necessary by the City Attorney; and authorize the receipt of \$336,600 from San Bernardino County for the sole purchase of a tactical armored vehicle, required radio components and installation, and graphics. Proposed Agreement No. 22-43 is attached for the City Council's review and consideration.

BACKGROUND: The Police Department's current armored vehicle, a 1980 Cadillac Gage Peacekeeper, was obtained in 2002 through the California State Agency for Surplus Property. This vehicle, built in 1980, was originally received in non-operable condition and was refurbished through donations from various local vendors. The lighting equipment on the vehicle is now over 15 years old; the door locks are obsolete, rendering the vehicle and any equipment inside unsecured; the air conditioning system is inoperable; and the vehicle has cooling issues causing it to overheat frequently. In addition, this armored vehicle cannot consistently idle and has stalled on numerous occasions, making it unreliable, which causes a significant challenge in the Police Department's ability to prepare and effectively respond to a critical incident where the vehicle's use would be warranted.

Over the years, the Department has relied on the use of its current armored vehicle to assist officers in meeting many of the challenges they face while serving the community, and in response to requests within San Bernardino County. Grant funding proposals for

a specialized armored vehicle were submitted to the Riverside Urban Area Security Initiative (UASI) Program in 2017, 2018, and 2019—none of which were successful.

Police Department Military Equipment Policy 707, Adopted Ordinance No. 22-1000, and Assembly Bill 481

The Police Department’s Military Equipment Policy Section 707 and Montclair Ordinance No. 22-1000 were approved by the City Council on March 21, 2022, and include a description of all military equipment currently used by the Police Department. This includes the Police Department’s Peacekeeper. AB 481, enacted under the Government Code commencing with Section 7070, defines the Police Department’s Peacekeeper as a “Category 2” armored personnel carrier.

The prospective tactical armored vehicle is categorized under Government Code 7070(c) as a “Category 2 and 3,” which reads in part:

“(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers...”

and

“(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached...”

An estimated cost of a tactical armored vehicle meeting the above criteria was obtained from a reputable manufacturer, Lenco Armored Vehicles. The Lenco BearCat is an armored vehicle built on a Ford F550 frame and is manufactured for law enforcement purposes. The purpose of the BearCat armored vehicle is to provide ballistic protection to officers and citizens from gunfire. The armored vehicle stops rifle-rated rounds including .50 caliber, available commercially, which exceed the protection level of handheld shields and personal body armor possessed by the Police Department. It would be used in response to critical incidents to enhance officer and community safety, to improve scene containment and stabilization, to assist in resolving critical incidents, and for display at community events. This type of vehicle has proven its effectiveness while deployed to many high-profile critical incidents by either shielding first responders from gunfire and/or by transporting those rescued to safe locations.

Request of Funding from San Bernardino County

On August 25, 2021, the Police Department submitted a request for procurement funding from San Bernardino County for the sole purchase of a tactical armored vehicle. Additional costs for radio components and installation through Motorola were provided, including an estimate for the application of graphics. Procuring these funds to purchase a specialized armored vehicle would improve the Department’s capability to respond to volatile situations involving critical incidents and high-risk operations. Officers would be able to perform their duties safely and with confidence in a tactical armored vehicle that could easily traverse and respond to the affected area. With its capability to withstand high-powered projectiles and other weaponry, this vehicle would enable first responders to implement tactics to protect lives and infrastructure, which would not be possible otherwise. It would also be made available for regional needs and be deployed to surrounding jurisdictions when requested.

On April 19, 2022, San Bernardino County provided a proposed contract (Agreement No. 22-43) which, if approved by the City Council, would fund the Police Department's purchase of a tactical armored vehicle. Following final approval by the San Bernardino County Board of Supervisors, the City would receive a lump sum payment for the sole purchase of a tactical armored vehicle with required radio components and graphics.

Proposed Agreement No. 22-43 details the terms of funding provided by San Bernardino County, which has a completion date of May 9, 2024. This date is based on the estimated time it will take to complete and fully fund the acquisition of a tactical armored vehicle with radio component installation and applied graphics.

FISCAL IMPACT: If authorized by the City Council and approved by San Bernardino County, the City would receive a one-time payment in the amount of \$336,600 for the sole purchase of a fully functional tactical armored vehicle, required radio components and installation, and graphics.

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

1. Authorize the Police Department to contract with a reputable manufacturer for the purchase of a tactical armored vehicle defined as military equipment under AB 481.
2. Approve Agreement No. 22-43 with San Bernardino County to provide funding for the sole purchase of a tactical armored vehicle, required radio components and installation, and graphics, subject to any revisions deemed necessary by the City Attorney.
3. Authorize the receipt of \$336,600 from San Bernardino County for the sole purchase of a tactical armored vehicle, required radio components and installation, and graphics.



Contract Number

SAP Number

AGREEMENT NO. 22-43

Board of Supervisors

Department Contract Representative	Sofia Almeida
Telephone Number	387-4919
Contractor	City of Montclair
Contractor Representative	Lieutenant James Michel
Telephone Number	909-626-8571
Contract Term	5/24/22-5/23/24
Original Contract Amount	\$336,600
Amendment Amount	
Total Contract Amount	\$336,600
Cost Center	1024001000

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, it is the policy of the Board of Supervisors (Board) to work with community partners through services provided by San Bernardino County (County) and contractual agreements to identify programs, projects, and initiatives, that support the mission of the County, and to provide services to citizens that promote health, safety, economic well-being, education, recreation, and other public services that enhance quality of life, and meet the needs of the County’s citizens; and

WHEREAS, under Government Code sections 26224 and 26227 the Board may contract with certain entities to provide certain services to County residents; and,

WHEREAS, on September 21, 2021 (Item No. 18), the Board approved the Board of Supervisors Discretionary Fund – District Specific Priorities Program (Priorities Program) and allocated \$4 million to each of the five supervisorial districts; and

WHEREAS, on November 16, 2021 (Item No. 33), the Board approved an additional allocation of \$7 million to each of the five supervisorial districts under the Priorities Program; and

WHEREAS, San Bernardino County (County) desires to provide funding for the purchase of a tactical armored vehicle, including the purchase and installation of radio communications equipment and identifying graphics, to

be used for responding to incidents throughout the City of Montclair and San Bernardino County, to help provide for the health, public safety and law enforcement of County residents and first responders; and

WHEREAS, the County would like the City of Montclair (Contractor) through its Police Department to provide these services; and

WHEREAS, the County finds Contractor qualified to purchase a tactical armored vehicle, including the purchase and installation of radio communications equipment and identifying graphics, to be used for responding to incidents throughout the City of Montclair and San Bernardino County; and

WHEREAS, providing funding to Contractor serves the public purpose of providing for the health, public safety and law enforcement needs of County residents; and

WHEREAS, the County residents of Montclair and the surrounding communities of the Fourth District will be served by the purchase of the tactical armored vehicle and necessary equipment; and

WHEREAS, the County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below.

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

A. PURPOSE OF CONTRACT

This Contract is made for the purpose of providing funding to support Contractor in purchasing a tactical armored vehicle, including the purchase and installation of radio communications equipment and identifying graphics, to meet the needs of the residents of Montclair and surrounding communities.

B. CONTRACTOR RESPONSIBILITIES AND SCOPE OF SERVICES

B.1 Funding arising out of this Contract will be used for a Scope of Services to assist Contractor with purchasing a tactical armored vehicle including the purchase and installation of radio communications equipment and identifying graphics, to provide for the health, public safety and law enforcement needs of County residents and first responders. This vehicle will be used to respond to incidents throughout the City of Montclair and San Bernardino County, and surrounding jurisdictions for mutual-aid response, and will be able to withstand high-power projectiles and other weaponry, enabling first responders to implement tactics to save lives.

B.2 Contractor shall allow the County, its officers, agents and employees the privilege and right to on-site inspection of the City of Montclair - Montclair Police Department for the duration of this Contract. Contractor will ensure that its employees or agents furnish any information that in the judgment of the County, may be relevant to a question of compliance with contractual conditions, or the effectiveness, legality, and achievements of the program.

B.3 Contractor shall provide the County all documentation regarding the scope of services covered by this Contract that the County requests from Contractor within 10 days of County's request unless a different time is agreed to by the County.

B.4 Contractor shall provide the County with documentation supporting completion of the project within 60 days of project completion.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

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

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

C.3 Contract Assignability

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part. Any attempt by Contractor to assign any performance of the terms of this Contract shall be null and void and shall constitute a material breach of this Contract.

C.4 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

C.5 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.6 Background Checks for Contractor Personnel

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

C.7 Change of Address

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

C.8 Choice of Law

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

C. 9 Compliance with County Policy

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

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

C.10 Confidentiality

Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

C.11 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Internship Initiative

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

C.13 County Representative

The Fourth District Supervisor or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

C.14 Damage to County Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

C. 15 Debarment and Suspension

Contractor certifies that neither it nor its principals or subcontracts is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>).

Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.16 Drug and Alcohol Free Workplace

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

- C.16.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.16.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.16.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

C.17 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.18 Employment Discrimination

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.19 Environmental Requirements

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

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor must also be able to report on environmentally

preferable goods and materials used in the provision of their service to the County, utilizing a County approved form.

C.20 Improper Influence

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

C.21 Improper Consideration

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

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

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

C.22 Informal Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.23 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.24 Licenses, Permits and/or Certifications

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

C.25 Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

C.26 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of “good faith” and “fair dealing”.

C.27 Nondisclosure

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

C.28 Notice of Delays

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

C.29 Ownership of Documents

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

C.30 RESERVED.

C.31 Air, Water Pollution Control, Safety and Health

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

C.32 Records

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

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

C.33 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.34 Release of Information

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

C.35 Representation of the County

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County.

C.36 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.37 Subcontracting

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

For any subcontractor, Contractor shall:

- 37.1** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- 37.2** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- 37.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

C. 38 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

C.39 Termination for Convenience

The County and the Contractor each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination.

Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

County may immediately terminate this Contract upon the termination, suspension, discontinuation or substantial reduction in County funding for the Contract activity or if for any reason the timely completion of the scope of work described in Section A or B under this Contract is rendered improbable, infeasible or impossible.

Upon Contract termination, Contractor shall immediately transfer to County all County Funds on hand at the time of expiration and any accounts receivable attributable to the use of County Funds.

C.40 Time of the Essence

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

C.41 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

C.42 Conflict of Interest

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

C.43 Former County Administrative Officials

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

C.44 Disclosure of Criminal and Civil Procedures

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also

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

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

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

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

C.45 Copyright

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

C.46 Artwork, Proofs and Negatives

All artwork, proofs, and/or negatives in either print or digital format for anything produced under the terms of this Contract are the property of the County. These items must be returned to the County within ten (10) days, upon written notification to the Contractor. In the event of a failure to return the documents, the County is entitled to pursue any available legal remedies. In addition, the Contractor will be barred from all future solicitations, for a period of at least six (6) months.

D. TERM OF CONTRACT

The services to be provided by Contractor shall commence on May 24, 2022 and shall be completed by May 23, 2024 but may be terminated earlier in accordance with provisions of this Contract.

The County Chief Executive Officer may extend the term of the Contract, in writing, to allow Contractor to complete all requirements in the Contract under the following conditions:

- a. In aggregate all extensions do not exceed twelve (12) calendar months;

- b. Are specifically requested by Contractor;
- c. Will not change the project goals or scope of services;
- d. Are in the best interests of County and Contractor in performing the scope of services under this Contract; and
- e. Do not alter the amount of compensation under this Contract.

E. RESERVED.

F. FISCAL PROVISIONS

F.1 The maximum amount of payment under this Contract shall not exceed \$336,600, and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.

F.2 Any costs in excess of the amount available in this section shall be the sole responsibility of Contractor. This condition however, does not preclude County from providing additional funding at its sole discretion. For the purpose of this Contract, County shall disburse compensation and monitor the Contractor's performance in satisfying the scope of work obligations under the terms of this Contract.

Disbursement of funds to Contractor shall be made in one lump sum. Upon review/approval by County, County shall make payment to Contractor within thirty (30) working days after receipt of invoice or the resolution of any billing dispute. Contractor shall email County the Contractor's invoice requesting one lump sum payment. The invoice(s) shall reflect the Entity Payable To Name and Address, Invoice Date, Invoice Number, Project Name, Contract Number, County-Issued Purchase Order (if applicable), the text "Final Invoice", amount due, in a format acceptable to the County for services performed under this Contract. Contractor shall email invoice to County Administrative Office-Finance and Administration (County Finance) and shall include in the Subject Line: BOS – ENTITY NAME – PROJECT NAME – CONTRACT NUMBER – PO # [PURCHASE ORDER NUMBER]" (i.e. BOS-SAN BERNARDINO COUNTY-EDUCATION PROGRAM — 21-NNN – PO 4100NNNNN.).

Contractor shall submit a final expenditure report documented with "audit ready" supportive evidence of each expenditure and proof of payment until all funds have been justified 60 days after project completion. Documentation shall be submitted electronically, and Contractor shall supply hard copies upon request by County. Supportive evidence shall include, but is not limited to, copy of County's approval email to Contractor, quotes, copy(ies) of purchase order, packing slips, **a copy** of the invoice submitted by Contractor requesting one lump sum payment from County, invoices paid by the Contractor for this project, proof of payment, etc., to County Finance. Email to County Finance shall include in the Subject Line: BOS – ENTITY NAME – PROJECT NAME – CONTRACT NUMBER – PO # [PURCHASE ORDER NUMBER]"-SUPPORTIVE DOCUMENTS.

F.3 Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

F.4 County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.

F.5 Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.

- F.6** Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- F.7** Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.
- F.8** Contractor understands and agrees that any and all legal fees or costs associated with lawsuits concerning this Contract against the County shall be the Contractor's sole expense and shall not be charged as a cost under this Contract.
- F.9** If the Contractor does not use the County funds provided under this Contract to pay appropriate costs associated with the Scope of Services by the termination date of this Contract, the Contractor shall return the County funds, or any unused portion thereof, to the County in accordance with any directions issued by County staff, within 60 days of written demand for the return of the County funds.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

G.2 Insurance Requirements

County and Contractor are authorized self-insurance public entities for purposes of Professional Liability, General Liability, Automobile Liability, Workers' Compensation and Property Damage and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the term, conditions or obligations of this Contract.

H. RIGHT TO MONITOR AND AUDIT

H.1 The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.

H.2 All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of

three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

I. CORRECTION OF PERFORMANCE DEFICIENCIES

I.1 Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

I.2 In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
- b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
- c. Withhold funds pending duration of the breach; and/or
- d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
- e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

J. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County
CAO – Finance and Administration
385 N. Arrowhead Ave., Fourth Floor
San Bernardino, CA 92415
Attn: BOS Finance Analyst

City of Montclair
5111 Benito St.
PO Box 2308
Montclair, CA 91763
Attn: Lieutenant James Michel

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

K. ENTIRE AGREEMENT

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

L. CONTRACT EXECUTION

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

IN WITNESS WHEREOF, the San Bernardino County and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

CITY OF MONTCLAIR

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

►

Curt Hagman, Chairman, Board of Supervisors

By ►

(Authorized signature - sign in blue ink)

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

Name **Javier John Dutrey**
(Print or type name of person signing contract)

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

Title **Mayor**
(Print or Type)

By _____
Deputy

Dated: _____

Address **5111 Benito Street**
Montclair, CA 91763

ATTEST

By ► _____

Name: **Andrea Myrick**

Title: **City Clerk**

APPROVED AS TO FORM

By ► _____

Name: **Diane Robbins**

Title: **City Attorney**

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► _____ Julie Surber, Principal Assistant County Counsel	► _____	► _____
Date _____	Date _____	Date _____



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	HSV043
SECTION:	CONSENT - AGREEMENTS	DEPT.:	HUMAN SVCS.
ITEM NO.:	8	PREPARER:	A. COLUNGA
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 22-45 WITH SERVICEMASTER 360 PREMIER CLEANING TO PROVIDE CUSTODIAL SERVICES AT THE FAMILY RESOURCE CENTER SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-45 with ServiceMaster 360 Premier Cleaning to provide custodial services for the Family Resource Center (FRC).

A copy of proposed Agreement No. 22-45 with ServiceMaster 360 Premier Cleaning is attached for City Council review and consideration.

BACKGROUND: The Montclair Community Collaborative (MCC) was organized in 1996 to collectively strengthen the community. The mission of MCC is "to guarantee a progressive quality community for all by working together as diverse, committed individuals and organizations."

Through the MCC partnership, Ontario-Montclair School District (OMSD) has used the FRC, located at 9916 Central Avenue, since 2011 to provide case management services, parenting classes, and counseling for OMSD students and their families. OMSD requested cleaning services at FRC; however, the City's current custodial staff is not able to take on this additional task at this time. Estimated overtime costs for City Staff to clean the FRC at one day per week for 12 months is \$22,000; whereas, the cost of ServiceMaster 360 Premier Cleaning Service at five days per week is \$20,706 per year.

FISCAL IMPACT: OMSD's use of the FRC from July 1, 2022 through June 30, 2023 is on the current council agenda for consideration under Agreement No. 22-45. Funds received from OMSD through Agreement No. 22-45 will pay for the cleaning service at \$1,725.51 per month, and there will be no impact to the City's General Fund.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 22-45 with ServiceMaster 360 Premier Cleaning to provide custodial services at the Family Resource Center subject to any revisions deemed necessary by the City Attorney.

JANITORIAL SERVICES PROPOSAL



Respectfully Submitted to:

Alyssa Colunga
5111 Benito St. or
P.O. Box 2308
Montclair, CA
Phone: (909) 625-9459
acolunga@cityofmontclair.org

Respectfully Submitted by:

Pete Santos Jr
ServiceMaster 360 Premier Cleaning
17096 Sequoia # 123
Hesperia, CA 92345
760-947-9962
Fax 760-948-4108
Pete@sm360pc.com



May 6, 2022

Alyssa Colunga
5111 Benito St or
P.O. Box 2308
Montclair, CA

Dear Alyssa,

Thank you for the opportunity to Re-submit this ServiceMaster Clean Proposal for Environmental services at your facilities located in Montclair California for the 2022-2023 year.

The following pages contain detailed exhibits for each segment of this proposal:

Description

- **Task Schedule** • **Pricing Analysis** • **Agreement**

It was great talking with you and discussing your facilities needs. I want to ensure you that with our service you will get an extraordinary clean and dependability. One of our top priorities is to maintain communication and quality.

We have plans and steps put into place to ensure your facility is being maintained properly. There will be monthly quality inspections and communication log on site. You will also have direct contact with me by phone day or night.

We fully understand the importance of having a quality individual to clean your facility. All of our employees receive background checks and drug screening. Our number one concern is to provide a safe environment for your staff and our employees.

We also offer Emergency Service. What is your plan when a pipe burst flooding your facility, or your facility has smoke damage from a fire? ServiceMaster Clean can help you strategize a solution to ensure that your facility is back up and running in no time and also help to limit the damage to your facility and cost of repair. Please call me if you are interested in getting an Emergency Service Plan together.

Please look over the task schedule and let me know if there is anything else that might need to be added or changed. This task schedule will be place in the communication log on site to ensure that it is being followed.

I again, thank you for the opportunity to summit this proposal. We look forward to the opportunity to serve you. We are prepared to begin a partnership with your company that

will provide you with “the cleaning you expect and the service you deserve,” allowing you to focus your energy in your other areas of responsibility.

If you have any concerns or questions with the proposal, please call me.

Sincerely,

Pete Santos Jr
ServiceMaster 360 Premier Cleaning

COMMITMENT AND GUARANTEE

At ServiceMaster Clean, we are committed to providing you with excellent service that we guarantee it. Our 5-Point ServiceMaster Guarantee states:

- We will answer your call anytime, day or night
- We will respond to your service needs within 12 hours after receiving your call
- We will provide open communication on a daily basis
- We will perform all services as agreed upon in our contract
- We will show we care by our professional appearance and manner, and by the products and procedures we use.

STATEMENT OF CONFIDENTIALITY

The data herein and any data accompanying this document or made available to Montclair human services department in connection with this request for proposal are confidential and proprietary to ServiceMaster Residential/Commercial Services LP (ServiceMaster 360 Premier Cleaning)

Disclosure to Customer is solely for the purpose of soliciting a Service Proposal or Contract from your company. The Customer shall treat the information contained in this document and all accompanying materials as confidential. Accordingly, the Customer shall not copy, distribute, or otherwise disclose the information contained in this document to any party other than its employees and advisors with a need to know in order to provide Customer with the information contained in this document.

Exception will be made where the information is available in the public domain through no breach of confidence by the Customer or where it is available from some source other than ServiceMaster Clean without a breach of confidentiality with Customer.

CLEANING TASK SCHEDULE
Human Services Department City of Montclair
5111 Benito St 5x week service
Facility approx. 1,024 sq. ft.

Offices and General Areas	
Empty Trash & spot Clean	5 x a Week
Spot Clean walls by trash can	5 x a Week
Dust Horizontal surfaces with vacuum dust wand	5 x a Week
Dusting of Blinds	1x a Week
Spot Clean All doors, door jams and windowsills	5 x a Week
Spot Clean Vents	5 x a Week
High Dust with wand	5 x a Week
Low dust with wand	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Vacuum Traffic Lanes	5 x a Week
Vacuum carpet mats	5 x a Week
Mop floor	5 x a Week
Inspect	5 x a Week
Restrooms	
Sweep floor	5 x a Week
Refill dispensers	When needed
Empty trash	5 x a Week
Clean mirrors	5 x a Week
Clean sinks	5 x a Week
Clean flushable	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Mop floor	5 x a Week
Inspect	5 x a Week
Wipe Down Walls	5 x a Week
Interior Windows	
Clean	1x a Month

CLEANING TASK SCHEDULE
Human Services Department City of Montclair
9916 Central Ave 5x week service
 Facility approx. 1,250 sq. ft.

Offices and General Areas	
Empty Trash & spot Clean	5 x a Week
Spot Clean walls by trash can	5 x a Week
Dust Horizontal surfaces with vacuum dust wand	5 x a Week
Dusting of Blinds	5 x a Week
Spot Clean All doors, door jams and windowsills	5 x a Week
Spot Clean Vents	5 x a Week
High Dust with wand	5 x a Week
Low dust with wand	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Vacuum Traffic Lanes	5 x a Week
Vacuum carpet mats	5 x a Week
Mop Hard Surface flooring	5 x a Week
Inspect	5 x a Week
Restrooms	
Sweep floor	5 x a Week
Refill dispensers	When needed
Empty trash	5 x a Week
Clean mirrors	5 x a Week
Clean sinks	5 x a Week
Clean flushable	5 x a Week
Vacuum wall to wall with sidewinder	5 x a Week
Mop floor	5 x a Week
Inspect	5 x a Week
Wipe Down Walls	5 x a Week
Interior Windows	
Clean	1x a Month

GENERAL CLEANING

ServiceMaster personnel will notify building contact of any irregularities such as defective plumbing, unlocked doors, and lights left on.

ServiceMaster personnel will turn off all lights except those to be left on, close windows and secure building

Daily review/check communication log

Monthly customer visit by Account Manager

SERVICEMASTER CLEAN PRICING
Human Services Department City of Montclair

Option #1

5 Days a week cleaning
*(2.5 hours allotted per Day
Mon-Friday)*

\$1,725.51/Monthly

FLOOR MAINTENANCE PROGRAM

Our prices included all labor, cleaning materials, equipment, taxes, insurance, and supervision necessary to perform contracted services. Services will be billed at the beginning of service agreement and are due 14 days after receiving invoice.

All paper products, trash container liners, and hand soaps are agreed by both parties to be supplied under the following terms: *Customer Supplied or ServiceMaster Supplied*

A Certificate of Insurance will be provided upon request. This quote will expire on July 16, 2022.

ServiceMaster Clean
Contract Cleaning Services Agreement

THIS AGREEMENT made this 16th day May 2022, by and between ServiceMaster 360 Premier Cleaning (“ServiceMaster Clean”) and the City of Montclair (“City”).

Whereas, ServiceMaster conducts a janitorial service rendered on an individual basis in commercial facilities, office buildings, schools, stores and other locations, as an independent business licensed by ServiceMaster Residential/Commercial Services L.P., DBA ServiceMaster Clean (“Franchisor”) and not an agent or partner of its Franchisor.

Whereas, City desires ServiceMaster to supply contract-cleaning services to the properties commonly known as:

Human Services Department
City of Montclair
5111 Benito St. or
P.O. Box 2308
Montclair, CA 91763

NOW THEREFORE, the parties agree as follows:

1. Task Schedule. Beginning on July 1, 2022 ServiceMaster Clean will provide contract cleaning services for the area to be serviced described in the “Task Schedules,” a true and accurate copy of which is attached to this agreement. ServiceMaster Clean agrees that the janitorial services to be provided shall be conducted according to the guidelines agreed upon between the City and ServiceMaster Clean. ServiceMaster Clean guarantees they will respond to service needs within (12) twelve hours after being contacted and will perform all services as agreed upon in the contact. ServiceMaster Clean guarantees to maintain professional appearance and manner, and by the products and procedures used.
2. Personnel. All personnel furnished by ServiceMaster Clean are employees of ServiceMaster Clean, and ServiceMaster Clean will pay all salaries and expenses of, and all applicable federal and state taxes relating to, such personnel. For all purposes of this contract, ServiceMaster Clean will be considered an independent contractor of the City, and will not act as an agent, servant or employee of the City, or make any commitments or incur any obligations on behalf of the City without its express written consent. City may request the removal of any ServiceMaster Clean employee whose conduct is unsatisfactory to City.
3. Covenants. During the term of this agreement and for one (1) year thereafter, the City shall not directly or indirectly hire any person employed by ServiceMaster Clean. City shall not, at any time, disclose to a competitor any pricing or bid information designated as confidential by ServiceMaster Clean.

Initials: City _____

Initials: ServiceMaster Clean _____

4. Terms. The terms of the task schedule or of the price stated in paragraph 5, may be modified at any time by mutual execution of written change orders by the Parties on the form prescribed by the “Change Order” attached hereto. All executed change orders shall become part of this agreement. ServiceMaster Clean will give the City thirty (30) days prior notice of any price change for services rendered pursuant to the Task Schedule. City will notify ServiceMaster Clean of any changes in service times, any alterations to the furnishings, floor, wall or ceiling surfaces at the City premises, or any other change that affects the Task Schedule and consequently the contract price. This agreement shall continue in effect from the date services are to begin, for a period of Twelve months (12), last day of this contract will be June 30th at which point services will revert back to original contract pricing and task schedule unless terminated.

5. Payment. The City shall make payment to ServiceMaster Clean for services rendered at the rate of \$1,725.51 per month. The First billing will be made on the first day services are rendered and shall be payable in fourteen (14) days. Subsequent billings and due dates will be net 15. City’s failure to pay the full amount due within thirty (30) days of any invoice shall, at the election of ServiceMaster Clean, be deemed to be a default and termination without notice by City. A late charge calculated at 1½ % per month will be charged to City on any overdue unpaid balance. City shall pay ServiceMaster Clean its costs and expenses, including reasonable attorney’s fees paid or incurred in enforcing terms of this Agreement.

6. Services. ServiceMaster Clean will perform all services required under this Agreement, except when prevented by strike, lockout, act of God, accident or other circumstances beyond its control.

7. Insurance. ServiceMaster Clean shall provide the insurance coverage set forth below and deliver to City certificates of insurance upon request.

8. “To the full extent permitted by Law, ServiceMaster Clean shall indemnify, defend and hold harmless City, and its employees, officials, and agents any liability, claims, actions, loss, expense or cost of any kind, including attorney fees, court cost and expert witness fees, arising out of the performance of this Agreement by ServiceMaster Clean, its officers, employees, agents or subcontractors.”

Comprehensive Liability:

Bodily Injury Liability: \$1,000,000.00 per person and \$1,000,000.00 per occurrence. Property

Damage Liability: \$1,000,000.00 per occurrence and \$2,000,000.00 aggregates Workers

Compensation Coverage: \$1,000,000.00 or as required by law. Bond: \$10,000 per occurrence

Initials: City _____

Initials: ServiceMaster Clean _____

9. Termination. This Agreement may be terminated by either party by giving thirty (30) days notice by certified mail, return receipt requested, addressed to the other party at the address indicated below. In the event thirty (30) days notice is not given, or if City is deemed to have terminated by default by failing to tender payment when due, or by City's conduct, which makes ServiceMaster Cleans' performance impossible (including a demand for the return of all City's keys) then ServiceMaster Clean shall have no obligation to continue its performance, and City shall pay ServiceMaster Clean an amount equal to an additional thirty (30) days of billing as liquidated damages. This additional thirty (30) days of billing shall be calculated from a) the date upon which Contract Service are last performed; or b) the last date of the billing period during which any default or un proper termination occurs, whichever is later. ***If ServiceMaster Clean breaches the terms of the task Schedule, for any reason deemed applicable by the City, the City may terminate ServiceMaster Clean Immediately.**

10. This Agreement contains all of the convents between the parties, and may not be modified except in writing, signed by both parties

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written.

**Client: Human Services Department
City of Montclair**

**ServiceMaster Clean DBA:
ServiceMaster 360 Premier
Cleaning**

Signed _____

Signed _____

Printed Javier John Dutrey, Mayor

Printed _____

Date _____

Date _____

ATTEST:

Andrea Myrick, City Clerk



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	HSV044
SECTION:	CONSENT - AGREEMENTS	DEPT.:	HUMAN SVCS.
ITEM NO.:	9	PREPARER:	A. COLUNGA
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 22-46 WITH ONTARIO-MONTCLAIR SCHOOL DISTRICT FOR UTILIZATION OF THE FAMILY RESOURCE CENTER FOR CASE MANAGEMENT SERVICES AND TO SUPPORT OPERATING COSTS OF THE FACILITY SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-46 with the Ontario-Montclair School District (OMSD) for utilization of the Family Resource Center (FRC) for case management services and to support operating costs of the facility.

A copy of proposed Agreement No. 22-46 with OMSD is attached for the City Council's review and consideration.

BACKGROUND: The Montclair Community Collaborative (MCC) was organized in 1996 to collectively strengthen the community. The mission of MCC is "to guarantee a progressive quality community for all by working together as diverse, committed individuals and organizations." MCC identifies resources and develops services for children, youth, and adults.

Continuing the MCC partnership, OMSD has used the FRC located at 9916 Central Avenue since 2011 to provide case management services, parenting classes, and counseling for students and their families. Proposed Agreement No. 22-46 would continue OMSD's use of the FRC and assist in paying for operation costs including utilities, maintenance, and cleaning.

FISCAL IMPACT: Should the City Council approve Agreement No. 22-46, OMSD will provide the City with \$28,500 for operating costs including utilities, maintenance, and cleaning at the Family Resource Center from July 1, 2022 through June 30, 2023.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 22-46 with OMSD to utilize the Family Resource Center for case management services and to support operating costs of the facility subject to any revisions deemed necessary by the City Attorney.



AGREEMENT FOR SERVICES ONTARIO-MONTCLAIR SCHOOL DISTRICT

950 WEST "D" STREET • ONTARIO, CALIFORNIA 91762 • (909) 459-2500

THIS AGREEMENT is made and entered into this 1st day of July 2022 by and between the **Ontario-Montclair School District**, hereinafter referred to as the "**DISTRICT**," and **City of Montclair**, hereinafter referred to as the "**CONSULTANT**."

1. SERVICES TO BE PERFORMED BY CONSULTANT

- a) **CONSULTANT** agrees to perform the following services on the dates and times herein stated in accordance with directions stipulated to by **DISTRICT** (provide attachment if necessary):

Services to be provided as stated on Appendix A in support of delivery of mental health services.

- b) **CONSULTANT** may, at **CONSULTANT**'s own expense, employ such assistants as **CONSULTANT** deems necessary to perform the services required of **CONSULTANT** by this Agreement. **DISTRICT** will not train, control, direct, or supervise **CONSULTANT**'s assistants or employees in the performance of those services.
- c) **CONSULTANT** is, and shall at all times be deemed to be, an independent contractor and shall be responsible for determining the sequence, method, details and manner in which it performs those services required under the terms of this Agreement. Nothing herein contained shall be construed as creating a relationship of employer and employee, or principal and agent, between **DISTRICT** and **CONSULTANT** or any of **CONSULTANT**'s agents or employees. **CONSULTANT** assumes exclusive responsibility for the acts of its employees or agents as they relate to services to be provided during the course and scope of their employment. **CONSULTANT**, its agents and employees, shall not be entitled to any rights and/or privileges of **DISTRICT**'s employees and shall not be considered in any manner to be **DISTRICT**'s employees.
- d) If **CONSULTANT** is a regular employee of a public entity, all services which **CONSULTANT** renders under this Agreement will be performed at times other than **CONSULTANT**'s regular assigned work day for said entity or during periods of vacation or leave of absence from said entity, using **CONSULTANT**'s own resources.

2. COMPENSATION

- a) **Compensation for Services**

Except as otherwise provided in this Agreement, **DISTRICT** agrees to compensate **CONSULTANT** for services rendered under this Agreement as follows:

\$28,500.00 for the duration of this agreement.

Travel Expenses

DISTRICT will pay no additional amount for travel or other expenses of **CONSULTANT** under this Agreement unless specified below. Should travel or other expenses be specified below, **CONSULTANT** shall be entitled to the lesser amount of

1. The not to exceed amount stated, or

2. The actual amount expended. Supporting documentation for the authorized travel or other expenses shall be attached to this Agreement.

NONE

Summary of Compensation

Services: \$28,500.00

Travel Expense: NONE

Total contract amount not to exceed (services + travel) \$28,500.00

- b) If this Agreement is with an individual consultant, **CONSULTANT** shall notify the **DISTRICT** whether or not **CONSULTANT** is a retired member of the California State Teacher's Retirement System (STRS) or the California Public Employees Retirement System (PERS).
- c) **DISTRICT** will not withhold any federal or state income tax for payment made pursuant to this Agreement but, if applicable, will provide **CONSULTANT** with a statement of earnings at the end of each calendar year. **CONSULTANT** is hereby advised that such statement of earnings shall, if required, be provided to the Internal Revenue Service and the State Franchise Tax Board.
- d) Unless specified below, payment for services and travel shall be made by **DISTRICT** to **CONSULTANT** after services/travel has been completed and consultant submits documentation for payment (e.g. consultant invoice).

3. TERM OF AGREEMENT

The term of this Agreement is from July 1, 2022 through June 30, 2023, unless sooner terminated pursuant to the provisions of Section 6 of this Agreement. **DISTRICT** and **CONSULTANT** may mutually agree in writing to extend the term of this Agreement provided, however, **DISTRICT** shall not be obligated to pay **CONSULTANT** any additional consideration unless **CONSULTANT** undertakes additional services, in which instance the consideration shall be increased as **DISTRICT** and **CONSULTANT** shall agree in writing.

4. OBLIGATIONS OF CONSULTANT

- a) During the term of this Agreement, **CONSULTANT** agrees to diligently prosecute the work specified in the "Services to be Performed by Consultant" to completion. **CONSULTANT** may represent, perform services for, and be employed by such additional clients, persons, or companies as **CONSULTANT**, in **CONSULTANT**'s sole discretion, sees fit.
- b) **CONSULTANT** will provide all space, materials, tools, and instrumentalities required to perform the services under this Agreement at **CONSULTANT**'s expense, and shall not be entitled to reimbursement. **CONSULTANT** shall not be entitled to any benefits the **DISTRICT** may make available to its employees, including, but not limited to, office or business equipment, office space, supplies, group health, life insurance, vacation or retirement benefits.
- c) At all times during the term of this Agreement, **CONSULTANT** agrees to provide workers' compensation insurance for **CONSULTANT**'s employees and agents as required by law. The policy shall include Employers' Liability including Occupational Disease with limits not less than \$1,000,000 per person per accident.
- d) **CONSULTANT** shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.
- e) **CONSULTANT** shall comply with the requirements of Education Code section 45125.1 with respect to fingerprinting of employees who may have any contact with the **DISTRICT**'s pupils if **CONSULTANT** provides any of the following services: school and classroom janitorial; school

site administrative; school site grounds and landscape maintenance; pupil transportation; school site food-related; tutoring, mentoring services. If at any time during the term of this Agreement **CONSULTANT** is either notified by the Department of Justice or otherwise becomes aware that any employee of **CONSULTANT** performing services under this Agreement has been arrested or convicted of a violent or serious felony listed in Penal Code section 667.5(c) or Penal Code section 1192.7, respectively, **CONSULTANT** agrees immediately to notify the **DISTRICT** and remove said employee from performing services on this Agreement. **CONSULTANT** shall certify in writing to the **DISTRICT** that neither the **CONSULTANT** nor any of its employees who are required by this section to submit or have their fingerprints submitted to the Department of Justice and who may come in contact with pupils have been convicted of a felony as defined in Education Code section 45122.1

- f) **CONSULTANT** shall indemnify, pay for the defense of, and hold harmless **DISTRICT** and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of **CONSULTANT**'s negligent or willful acts and/or omissions in rendering any services hereunder, including but not limited to the negligent or willful acts and/or omissions of **CONSULTANT**'s employees and agents. **CONSULTANT** shall assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning **CONSULTANT** or any employee/agent of **CONSULTANT** and shall further indemnify, pay for the defense of, and hold harmless **DISTRICT** of and from any such payment or liability arising out of or in any manner connected with **CONSULTANT**'s performance under this Agreement.
- g) During the entire term of this Agreement, **CONSULTANT** shall procure, pay for and keep in full force and effect the following types of insurance:
 - 1. Comprehensive general liability insurance, including owned and non-owned automobile (vehicle) liability insurance with respect to the services provided by, or on behalf of, **CONSULTANT** under this Agreement. All insurance policies shall state the name of the insurance carrier and name **DISTRICT** as an additional insured. Liability insurance for death, bodily injury and property damage shall be for no less than One Million dollars (\$1,000,000) per occurrence.
 - 2. The policies of insurance described in Paragraph (g) 1. above shall be carried with responsible and solvent insurance companies authorized to do business in the State of California. True and correct copies of all certificates of insurance reflecting the coverage required in Paragraph (g) 1. above are attached hereto. **CONSULTANT** agrees that it shall not cancel or change the coverage provided by the policies of insurance described in Paragraph (g) 1. above without first giving the **DISTRICT**'s Chief Business Official, thirty (30) days prior written notice. Should any such policy of insurance be canceled or changed, **CONSULTANT** agrees to immediately provide **DISTRICT** true and correct copies of all new or revised certificates of insurance.
- h) Neither this Agreement nor any duties or obligations under this Agreement may be assigned by **CONSULTANT** without the prior written consent of **DISTRICT**.

5. OBLIGATIONS OF DISTRICT

- a) **DISTRICT** agrees to comply with all reasonable requests by **CONSULTANT** and to provide access to all documents reasonably necessary for the performance of **CONSULTANT**'s duties under this Agreement.

- b) **DISTRICT** shall defend, indemnify and hold **CONSULTANT** and its Council Members, officers, employees, agents, and staff harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), claims from injury or damages arising out of the performance of or in connection with this agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the improper conduct and/or negligence or intentional acts or omissions of **DISTRICT**, its officer, employees, agent, or staff.

6. TERMINATION OF AGREEMENT

- a) Unless otherwise terminated as provided below, this Agreement shall continue in force during the term of the Agreement, or until the services provided for herein have been fully and completely performed, whichever shall occur first, and shall thereupon terminate.
 - b) Should **CONSULTANT** default in the performance of this Agreement or breach any of its provisions, **DISTRICT** may terminate this Agreement by giving written notification to **CONSULTANT**.
 - c) If at any time during the performance of this Agreement **DISTRICT** determines, at its sole discretion, to suspend indefinitely or abandon the work under this Agreement, **DISTRICT** shall have the right to terminate the performance of **CONSULTANT**'s services hereunder by giving written notification to **CONSULTANT** of its intention to terminate.
 - d) In the event that **DISTRICT** terminates this Agreement under paragraph (b) or (c) of this Section, **CONSULTANT** shall only be paid for those services rendered to the date of termination. All cash deposits made by **DISTRICT** to **CONSULTANT**, if any, shall be refundable to **DISTRICT** in full upon termination of this Agreement unless specified to the contrary below.
- N/A

7. GENERAL PROVISIONS

- a) Any notices to be given hereunder by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices shall be deemed given and served upon delivery personally, or three (3) days after depositing in the United States Mail. Mailed notices shall be addressed to the parties at the addresses set forth in this Agreement for **DISTRICT** and **CONSULTANT**. The foregoing addresses may be changed by written notice to the other party as provided herein.
- b) This Agreement supersedes any and all agreements either oral or written, between the parties hereto with respect to the rendering of services by **CONSULTANT** and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed by both parties, except **DISTRICT** may unilaterally amend the Agreement to accomplish the changes listed below:
 - 1. Increase dollar amounts;
 - 2. Administrative changes; and
 - 3. Changes as required by law.

- c) If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- d) This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- e) Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records and files of **DISTRICT**, **CONSULTANT**, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the State Auditor General of the State of California, at the request of the **DISTRICT** or as a part of any audit of **DISTRICT**, for a period of three (3) years after final payment is made under this Agreement. **CONSULTANT** shall preserve and cause to be preserved such books, records and files for the audit period.
- f) **CONSULTANT** warrants that he or she has the authority to so execute this Agreement and that no further approval of any kind is necessary to bind it hereto. This Agreement shall not become binding upon the **DISTRICT** until it has been duly approved or ratified by the Board of Trustees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written.

"DISTRICT"

"CONSULTANT"

By: _____
 Signature

 Phil Hillman
 Printed Name

 Chief Business Official
 Title

 950 W D Street
 Address

 Ontario, CA 91762
 City, State, Zip

 (909) 459-2500
 Telephone Number

 Date of Board of Trustees Approval

 Signature

 Printed Name

 Title

 5111 Benito St.
 Address

 Montclair, CA 91763
 City, State, Zip

 (909) 625-8571
 Telephone Number

 ATTEST:

 Signature

 Title

 Date

Certification of Compliance with California Education Code Section 45125.1

I hereby certify that all employees and representatives of **CITY OF MONTCLAIR** (“CONSULTANT”) who may come in contact with pupils and are required by California Education Code Section 45125.1 to submit or have their fingerprints submitted to the Department of Justice have now done so, that I have received and reviewed the report and that none of the foregoing have been convicted of a felony as defined in California Education Code Section 45122.1. The Ontario-Montclair School District is entitled to rely upon this representation. **CONSULTANT** hereby agrees to indemnify Ontario-Montclair School District for any and all claims, damages, suits and liability that arise out of, relate to or is associated with a failure of **CONSULTANT** to comply with California Education Code Section 45125.1 or with a failure to exercise reasonable care with respect to proper selection and/or supervision of **CONSULTANT**’s employees who may come in contact with pupils.

“CONSULTANT”

Signature

Javier John Dutrey

Printed Name

Title

Mayor

Title

Address

5111 Benito St.

Address

City, State, Zip

Montclair, CA 91763

City, State, Zip

Telephone Number

(909) 625-8571

Telephone Number

ATTEST:

ATTEST:

Signature

Andrea Myrick

Printed Name

Title

City Clerk

Title

Date

Date

END OF AGREEMENT FOR CONSULTANT SERVICES

OMSD Agreement for Consultant Services

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Appendix A

Ontario-Montclair Family Resource Center Network City of Montclair Human Services Division and the Ontario-Montclair School District

The County of San Bernardino Department of Behavioral Health's Family Resource Center Program is part of the Prevention and Early Intervention component of the Mental Health Services Act. The Ontario-Montclair School District is serving as the lead fiscal agency for the Family Resource Center (FRC) program whose goal is to improve the overall mental health of families, youth, and adults by reducing stigma and providing community access to behavioral health prevention and early intervention services at the neighborhood level. This effort will be designated as the Ontario-Montclair Family Resource Center Network.

I. Purpose: The intent of this appendix is to 1) Document the existing partnership between City of Montclair Human Services Division (City) and the Ontario-Montclair School District (OMSD); 2) Establish the terms and conditions under which the City will provide leadership and oversight for the Ontario-Montclair FRC Network; 3) Demonstrate City's commitment to the project.

The City and OMSD were co-founders of the Montclair Community Collaborative in 1996 and since that time the City has been a core partner with OMSD on many projects. Improving the mental health outcomes for City residents in need would greatly contribute to the health of the community and mission and collaborative. City of Montclair children, youth, families, and older adults would greatly benefit from prevention efforts and accessible nearby mental health services since there are no public or nonprofit mental health agencies located in the community.

The City has facilitated the community-health education program, Por La Vida, since 1997. Por La Vida now has an extensive network of Latinas in the community who disseminate health information at the grassroots level by teaching classes and who serve as leaders who network with neighbors and other community members.

The City offers a full range of services from early childhood education to senior services and offers evening and Saturday hours for many services. In addition to traditional recreation programs, the City has operated a free and low-cost medical clinic for children and adults without access to health care for over 30 years. Many of the clinic clients are working poor who do not qualify for government coverage.

The City serves over 100 seniors a day through its lunch meal program at the City's Senior Center. Older adults also participate in social activity groups, arts and crafts, health fairs, and other support services at the Center.

The City operates after school programs at all elementary and middle school and summer recreation programs. Many of the City's recreation participants are in the Transitional Age Youth range (between the ages of 16-25 years old), and would benefit from the proposed Family Resource Center.

The City is fully committed to being a partner in OMSD's ongoing operation of its FRCs as "on-stop" centers and regional network of partners to reduce stigma and help increase access to mental health supports for trauma exposed individuals, individuals experiencing onset of serious psychiatric illness, children and transitional age youth (TAY) in stressed families, children and TAY at risk of school failure, and children and TAY at risk of or experiencing involvement with the juvenile justice system.

- II. Responsibilities:** The City will make client referrals to community counseling services and other FRC resources for residents needing supports in a community setting. The City will:
- Disseminate mental wellness and stigma reduction information through Por La Vida Promotoras (Leaders) and promote FRC partner community mental health workshops to residents.
 - Make referrals to FRC services through the City Medical Clinic and have staff and volunteers participate in stigma reduction and cultural competency related mental health trainings.
 - Make referrals to FRC services for seniors at the Montclair Senior Center.
 - Disseminate mental wellness and stigma reduction information at the youth Activity center, make referrals to FRC services for youth through the Center, and support the FRC community/service learning projects.
 - Provide the City's Central Avenue facility as a Family Resource Center for mental health resource services, case management, community counseling, parent education, and community mental health workshops.
 - Through a subcontract of \$9,000 per year the City of Montclair will provide access to the City owned FRC on Central Avenue. It is understood that any subcontracting agency will be approved by the County of San Bernardino Department of Behavioral Health (DBH), and shall be subject to all applicable provisions of the contract between OMSD and DBH, and that OMSD will be fully responsible for any performance of this subcontracting agency.

City of Montclair

Subcontractor Budget FY 2022-2023

San Bernardino Department of Behavioral Health

Prevention and Early Intervention Family Resource Center

CATEGORY	Expenses
Janitorial/Custodial Services	\$ 20,706.00
Utilities/Internet/Security	\$ 7,794.00
Total Operating Expenses	\$ 28,500.00



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	FRD245
SECTION:	CONSENT - AGREEMENTS	DEPT.:	FIRE
ITEM NO.:	10	PREPARER:	T. DOWSER
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 22-48 WITH MT. SAN ANTONIO COLLEGE AUTHORIZING THE FIRE DEPARTMENT TO PROVIDE CLINICAL TRAINING FOR EMERGENCY MEDICAL STUDENTS		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 22-48 with Mt. San Antonio College authorizing the Fire Department to provide clinical training for emergency medical students. Proposed Agreement No. 22-48 is attached for the City Council's review and consideration.

BACKGROUND: As an agency with a paramedic program, the City has been approached with another opportunity to provide field training to emergency medical students. Mt. San Antonio College has an established Emergency Medical Technician/Paramedic (EMT-P) Program and desires to contract with the Montclair Fire Department to provide field training to some of its EMT-P students.

Paramedics who satisfactorily complete the required training to become clinical preceptors may provide field training to EMT-P students/interns. The Fire Department currently has two paramedics who are certified as preceptors. The Fire Department is currently serving as a preceptor for a Mt. San Antonio College paramedic student under a previous agreement and has determined that serving as a field-training agency continues to be beneficial to the City's paramedic program.

As a field-training agency, the preceptors are obligated to practice and maintain advanced life-support skills. As a training agency, the City's paramedic program continually receives updated advanced life-support information and practices changing medical protocols.

The term of proposed Agreement No. 22-48 is from May 31, 2022, through May 31, 2024.

FISCAL IMPACT: There would be no fiscal impact to the City of Montclair should the City Council approve proposed Agreement No. 22-48 with Mt. San Antonio College. There is no overtime associated with this program.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 22-48 with Mt. San Antonio College authorizing the Fire Department to provide clinical training for emergency medical students.



**AFFILIATION
AGREEMENT BETWEEN
MT. SAN ANTONIO COLLEGE
AND
Montclair Fire Department**

THIS AFFILIATION AGREEMENT is made and entered into by and between MT. SAN ANTONIO COLLEGE (hereinafter referred to as "*Program*"), 1100 N. Grand Avenue, Walnut, CA 91789, and **Montclair Fire Department** (hereinafter referred to as "*Affiliate*"), with reference to the following facts:

RECITALS:

WHEREAS, Program conducts training and instruction programs for students leading to certification and licensure as EMT-Paramedics in the State of California (hereinafter collectively referred to as "Trainees"); and

WHEREAS, said training requires a 480-hour internship for Trainees to obtain broader clinical learning experiences in a location providing primary 911 service; and

WHEREAS, Affiliate maintains facilities which can be used to furnish clinical experience to Trainees and is an approved emergency medical services provider, and Affiliate desires to have their facilities so used; and

WHEREAS, it is in the mutual interest and benefit of the parties that Trainees obtain their clinical experience at Affiliate's facilities.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth below, the parties agree as follows:

- I. RESPONSIBILITIES OF PROGRAM. Program agrees that it shall:
- A. Establish the educational goals and objectives of the paramedic education program in a manner consistent with the standards and requirements set forth by Affiliate. Such goals and objectives shall reflect Program's commitment to providing education and training programs to Trainees.
 - B. Designate a member of Program's staff to provide coordination, oversight and direction of Trainee's educational activities and assignments during the field internship with Affiliate. Such person shall be the Clinical Coordinator and shall also act as liaison with Affiliate.
 - C. Provide each Trainee with a pre-assigned health assessment, which shall include a history of immunizations, proof of Hepatitis B vaccination or immunization, proof of MMR vaccination, proof of negative TB test, and proof of varicella titer.
 - D. Educate trainees regarding compliance with all required OSHA regulations including, but not limited to, Blood-borne Pathogen Standards.
 - E. Furnish each Trainee with a clinical experience manual or materials that describe the goals, policies, and procedures of the Program. Affiliate shall have the opportunity to review and comment on these materials.
 - F. Development and implement a mechanism for determining evaluation of the performance of Trainees to include, where appropriate, input from Affiliate.
 - G. Maintain records and reports concerning the education of Trainees, which shall include the Trainee's licensure/certification, pre-assignment health assessment record, and history of immunizations.
 - H. Maintain medical malpractice insurance for Trainees during the field internship with Affiliate.
 - I. Program recognizes that Trainees are NOT covered by Affiliate's Workers' Compensation Insurance or Self-Insured Program. Program represents and warrants that it will maintain or ensure that its Trainees are covered under Program's Workers' Compensation Insurance should any Trainee be injured or become ill during their clinical internship. Program will provide Affiliate with a written verification of insurance coverage in the form of a certificate of insurance prior to the commencement of the program.

- J. Require assigned Trainees to:
 - 1. Comply with Affiliate’s applicable policies, procedures and guidelines, and applicable state and federal laws and regulations, including those concerning the confidentiality of patient care and patient care records; and
 - 2. Have all required personal protective equipment including, but not limited to, safety goggles and an appropriate uniform.

II. RESPONSIBILITIES OF AFFILIATE. Affiliate agrees that it shall:

- A. Maintain adequate staff and equipment to meet the educational goals and objectives of the Program in a manner consistent with the standards and requirements established by Program and Affiliate.
- B. Assign each Trainee a preceptor with appropriate training and experience to supervise the Trainee during each clinical assignment. The preceptor shall monitor the Trainee’s progress and evaluate the Trainee at the end of each shift on forms provided by the Program.
- C. Designate, after consultation with Program, a person to coordinate Trainees’ schedules and activities while working with Affiliate. Such person shall be the Program Coordinator and shall act as liaison with Program. The name of Affiliate’s Program Coordinator shall be provided to Program’s Clinical Coordinator.
- D. Implement schedules for Trainees in conjunction with the Clinical Coordinator and in accordance with Program’s educational goals and objectives. Affiliate shall determine the number of Trainees permitted to rotate through the field internship. Affiliate must ensure that Trainees are provided appropriate supervision. Trainees are not to be used to replace staff of Affiliate and Affiliate is ultimately responsible for patient care.
- E. Protect the health and safety of Trainees on rotation with Affiliate by providing each Trainee with the following:
 - 1. A brief orientation of the clinical area where Trainee will be working, and information about Affiliate’s security measures, fire safety and disaster protocols, and any additional recommended personnel safety and security precautions;

2. Instruction in Affiliate’s policies and procedures for infection control, including the handling and disposal of needles and other sharp objects, and in Affiliate’s protocols for on-the-job injuries, including those resulting from needlestick injuries and other exposures to blood or body fluids or airborne contaminants;
 3. First aid and other emergency treatment on-site, including, but not limited to, immediate evaluation for risk of infection and appropriate follow-up care of Trainee in the event of a needlestick injury to or other exposure of Trainee to blood or body fluids or airborne contaminants. In the case of suspected or confirmed exposure to the human immunodeficiency virus (HIV) or hepatitis, such follow-up care shall be consistent with the current guidelines of the Centers for Disease Control (“CDC”) and the community’s standard of care. Information regarding the CDC may be obtained by calling (800-342-2437). The initial care and administration of testing and prophylactic therapy shall be paid for by Program.
 4. Access to any of Affiliate’s applicable reference materials.
- F. Maintain its approval as an emergency medical service provider and comply with all applicable laws, regulations, and Program requirements. Affiliate shall notify Program within five days of receipt of notice that Affiliate is not in compliance with any such laws, regulations, or Program requirements.
- G. Permit inspection of its clinical and related facilities by the Clinical Coordinator or other Program faculty and staff to evaluate Trainee performance.
- H. With respect to any professional services performed by Trainees under this Agreement, Affiliate agrees to inform Program and its Clinical Coordinator as follows:
1. Immediately upon initiation of an investigation into the conduct of a Trainee;
 2. Within five days after receipt of service of a complaint, summons or notice of a claim naming a Trainee; or

3. Prior to making or accepting a settlement offer in any lawsuit or legal claim in which a Trainee has been named or in which a settlement is being proposed on their behalf.

III. DISCRIMINATION – PROHIBITION.

Program and Affiliate agree not to discriminate in the selection or acceptance of any Trainee pursuant to this Agreement because of race, color, national origin, religion, sex, sexual orientation, mental or physical disability, age, veteran’s status, medical condition (cancer related) as defined in section 12926 of the California Government Code, ancestry, marital status, or citizenship, within the limits imposed by law or Program policy.

IV. TERM.

This Agreement shall commence on **May 31, 2022** and terminate on **May 31, 2024**

V. TERMINATION.

Notwithstanding any other provisions to the contrary, this Agreement may be terminated with or without cause at any time by either party upon ninety (90) days’ prior written notice to the other party or upon completion of the rotations of all currently enrolled trainees.

VI. INSURANCE.

A. As a condition precedent to the effectiveness of this Agreement, Program shall maintain insurance or self-insure its activities in connection with this Agreement by maintaining programs of self-insurance as follows:

1. Professional Medical Liability self-insurance with limits of one million dollars (\$1,000,000) per occurrence, with no annual aggregate limit. If such insurance is written on a claims-made form, it shall continue for five years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement and a deductible of no more than five hundred thousand dollars (\$500,000). If a claims-made policy is

canceled or non-renewed, then the Affiliate shall obtain extended reporting (tail) coverage for the remainder of the five (5) year period.

2. General Liability Self-Insurance Program with a limit of one million dollars (\$1,000,000) per occurrence and no annual aggregate limit. If such insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement.
3. Workers' Compensation Self-Insurance Program covering Program's full liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.
4. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the parties against other insurable risks relating to performance.

It should be expressly understood, however, that the coverages required under this Section VI.A.1 and 2 shall not in any way limit the liability of the Program.

The coverages referred to under paragraph 2 of this Section VI.A. shall include Affiliate as an additional named insured. Such a provision, however, shall only apply in proportion to and to the extent of the negligent acts or omissions of Program, its officers, agents, Trainees, and/or employees. Program, upon the execution of this Agreement, shall furnish Affiliate with Certificates of Self-Insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days' advance written notice to Affiliate of any modification, change or cancellation of any of the above self-insurance coverages.

VII. INDEMNIFICATION.

- A. Affiliate shall defend, indemnify and hold Program, its officers, employees, Board, volunteers, agents, and Trainees harmless from and against any and all liabilities, losses, expenses (including reasonable attorneys' fees), damages, actions, or claims for injury arising out of the

performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, damage, action, or claim for injury are caused by or result from the negligent or intentional acts or omissions of Affiliate, its officers, employees, or agents.

- B. Program shall defend, indemnify and hold Affiliate, its officers, employees, Board, volunteers, and agents harmless from and against any and all liabilities, losses, expenses (including reasonable attorneys' fees), damages, actions, or claims for injury arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, damage, action, or claim for injury are caused by or result from the negligent or intentional acts or omissions of Program, its officers, employees, Board, volunteers, agents, or Trainees.

VIII. COOPERATION IN DISPOSITION OF CLAIMS.

Affiliate and Program agree to cooperate with each other in the timely investigation and disposition of audits, peer review matters, disciplinary actions and third-party liability claims arising out of any services provided under this Agreement or in the operation of the Program. The parties shall notify one another as soon as possible of any adverse event which may result in liability to the other party. It is the intention of the parties to fully cooperate in the disposition of all such audits, actions or claims. Such cooperation may include, but is not limited to, timely notice, joint investigation, defense, disposition of claims of third parties arising from services performed under this Agreement and making witnesses available. Program shall be responsible for discipline of Trainees in accordance with Program's applicable policies and procedures.

To the extent allowed by law, Affiliate and program shall have reasonable and timely access to the medical records, charts, and/or quality assurance data of the other party relating to any claim or investigation related to services provided pursuant to this Agreement; provided, however, that nothing shall require either Affiliate or Program to disclose any peer review documents, records or communications which are privileged under Section 1157 of the California Evidence Code, under the Attorney-Client Privilege or under the Attorney Work-Product Privilege.

IX. PATIENT RECORDS.

Any and all of Affiliate's medical records and charts created at Affiliate's facilities as a result of performance under this Agreement shall be and shall remain the property of Affiliate. Both during and after the term of this Agreement, Program shall be permitted to inspect and/or duplicate, at Program's expense, any individual charts or records which are: (1) necessary to assist in the defense of any malpractice or similar claim; (2) relevant to any disciplinary action; and/or (3) for educational or research purposes. Such inspection and/or duplication shall be permitted and conducted pursuant to commonly accepted standards of patient confidentiality in accordance with applicable federal, state, and local laws.

X. INTERRUPTION OF SERVICE.

Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, labor disputes, riots, earthquakes, or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. In the event the interruption of a party's services continues for a period in excess of thirty (30) days, the other party shall have the right to terminate this Agreement upon ten (10) days' prior written notice to the other party.

XI. ATTORNEYS' FEES.

Except as expressly provided for in this Agreement, or as authorized by law, neither the District nor the Contractor shall recover from the other any attorneys' fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of this Agreement or the performance of either the District or the Contractor thereunder.

XII. ASSIGNMENT.

Neither Affiliate nor Program shall assign their rights, duties, or obligations under this Agreement, either in whole or in part, without the prior written consent of the other.

XIII. SEVERABILITY.

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been a part of the Agreement, and the remaining provisions shall remain in full force and effective unaffected by such severance, provided that the severed provision(s) are not material to the overall purpose and operation of this Agreement.

XIV. WAIVER.

Waiver by either party of any breach of any provision of this Agreement or warranty of representation herein set forth shall not be construed as a waiver of any subsequent breach of the same or any other provision. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided for herein are cumulative.

XV. EXHIBITS.

Any and all exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.

XVI. MODIFICATIONS AND AMENDMENTS.

This agreement may be amended or modified at any time by mutual written consent of the authorized representatives of both parties. Affiliate and Program agree to amend this Agreement to the extent amendment is required by an applicable regulatory authority and the amendment does not materially affect the provisions of this Agreement.

XVII. USE OF NAME.

Neither party shall use the name of the other, including the name of Mt. San Antonio College, without the prior written consent of an authorized representative of the party.

XVIII. ENTIRE AGREEMENT.

This Agreement contains all the terms and conditions agreed upon by the parties regarding the subject matter of this Agreement and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter.

XIX. GOVERNING LAW.

This Agreement shall be governed in all respects by the laws of the State of California.

XX. NOTICES.

All notices required under this Agreement shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage paid, certified mail, return receipt requested, and addressed as follows:

TO PROGRAM: Mt. San Antonio College
1100 N. Grand Avenue
Walnut, CA 91789
Attn: Sam Agdasi
Dean, Technology & Health Division

TO AFFILIATE: Montclair Fire Department
8901 Monte Vista Ave.
Montclair, Ca. 91763
Attn: Deputy Chief David Pohl

The parties have executed this Agreement as set forth below.

MT. SAN ANTONIO COLLEGE

By: _____
Name: Irene Malmgren, Ed.D.
Title: Acting Vice President, Instruction

Date: _____

By: _____
Name: Sam Agdasi
Title: Dean, Technology & Health Division

Date: _____

Montclair Fire Department

By: _____
Name: Javier John Dutrey
Title: Mayor

Date: _____

Attest:

By: _____
Name: Andrea Myrick
Title: City Clerk

Date: _____

(paramedic agreement.docx 052019)



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	LDU325
SECTION:	CONSENT - AGREEMENTS	DEPT.:	ECONOMIC DEV.
ITEM NO.:	11	PREPARER:	M. FUENTES
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 22-49 WITH 5060 MONTCLAIR PLAZA LANE OWNER, LLC, A REIMBURSEMENT AGREEMENT RELATED TO THE DEVELOPMENT OF PROPERTY GENERALLY LOCATED ON THE SOUTHWEST CORNER OF CENTRAL AVENUE AND MORENO STREET SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

REASON FOR CONSIDERATION: The Montclair Place District Specific Plan (MPDSP) calls for architectural review of all proposed development projects within the boundaries of the specific plan by the City's architectural and land use consultant. In addition, all proposed development projects within the boundaries of the Specific Plan require that developers enter into a reimbursement agreement with the City of Montclair pertaining to peer review, legal review, environmental review etc. This implementation efforts within the MPDSP ensures new developments have a limited negative impact on the City's General Fund and positively enhance quality-of-life issues in the community.

Staff was recently approached by 5060 Montclair Plaza Lane Owner, LLC (CIM Group) regarding the development of a site on their property pursuant to the intent of the Specific Plan. In order to contemplate the development of the proposed site to the standards set in the MPDSP, the project will need to comply with the Specific Plan and require related compliance and architectural review by the City's Architectural Consultant.

A copy of proposed Agreement No. 22-49 with Montclair Plaza Lane Owner, LLC is attached for City Council review and consideration.

BACKGROUND: CIM Group is considering the development of property generally located at the southwest corner of Central Avenue and Moreno Street. The property consists of an area of approximately seven gross acres in size. The property is located within the boundaries of the Montclair Place District Specific Plan (MPDSP) approved by the City Council on October 5, 2020, pursuant to Ordinance No. 20-992. CIM Group will develop the site in accordance with the provisions of the MPDSP. The project will consist of construction of approximately 500 residential units and 40,000 square feet of commercial space.

Proposed Agreement No. 22-49 will require CIM Group to reimburse the City for certain costs incurred by the City associated with the development of the proposed project site in accordance with the MPDSP. CIM Group has agreed to enter into the reimbursement agreement with the City for costs and expenses related to environmental review by Dudek, legal advice and review by Best Best & Krieger (BBK), formation of a communities facilities district (CFD) by David Taussig & Associates Inc. (DTA), and planning and architectural review by Moule & Polyzoides (M&P). Requiring developers to cover costs to the City under reimbursement agreements ensures that the City has the necessary resources to diligently and efficiently process certain conditions related to the projects.

In order for CIM Group to begin utilizing the services of the City's consultants, Dudek, BBK, DTA, and M&P, it is necessary for the City to enter into reimbursement agreement with the developer. Proposed Agreement No. 22-49 contains the terms of the CIM Group's reimbursement of certain City-incurred costs associated with environmental review, legal advice and review, formation of a CFD, and architectural and design review of the proposed project as well as scope of work to be completed by the City's consultants. A synopsis of the proposed agreements include the following points:

- The consultants would be contractors exclusively of the City and not of the developer. The work products produced by the consultants, subject to financial reimbursement by the developer, would be photocopied for information to the developers, unless that work would be considered privileged or confidential under law.
- The City will retain the services of Dudek to prepare documentation in compliance with California Environmental Quality Act (CEQA). Dudek proposes to prepare a CEQA Section 15162 Consistency Evaluation (15162 Consistency Evaluation) for the proposed project that would determine if conditions specified in the CEQA Guidelines Section 15162 would require preparation of additional CEQA review for the proposed project. The 15162 Consistency Evaluation would also determine if the proposed project is consistent with the analysis in the Montclair Place District Specific Plan (MPDSP) Final Environmental Impact Report (EIR). The estimated total cost associated with the environmental review is approximately \$20,360 for the project.
- The City will retain the services of BBK to provide legal services related to (1) documents, advice, and review for creation of CFDs; (2) provide documents, advice and review regarding the development process for the proposed projects, including compliance with the CEQA; and, (3) advice and/or review of Operating Agreements, Covenants, Conditions and Restrictions, Parking Management Agreements and/or other documents that may be needed for the project. The estimated total costs associated with legal review and advice are approximately \$75,000 for the project.
- The City will retain the services of DTA related to the formation of the CFDs to finance certain annual services related to maintenance costs and public safety costs and to provide administrative overview for the projects. The estimated total costs associated with formation of a CFD is approximately \$35,000 for the project.
- The City will retain the services of M&P for architectural and design review. M&P will review the site plan submitted for conformance with the MPDSP and prepare a conceptual parti-sketch that conveys the intent of the MPDSP and the City's expectations. M&P will also participate in a meeting with CIM Group and their architect to provide feedback and suggestions. M&P will share the design suggestions with City staff for input and to confirm the proposed design direction. M&P will review the follow-up site plan and meet with CIM Group and their architect to provide comments and final direction. The estimated total cost associated with the architectural and design review is approximately \$26,430 for the project.
- The City would not exceed the estimated \$156,790 of costs for the project without first informing the developer in writing regarding the need for additional services. The City would be required to provide the developer with appropriate documentation of the reason for the excess costs so the developer may reasonably evaluate such costs. The City would also be required to inform the developer in writing prior to amending the scope of work to be conducted by the consultant. Once the City has provided such notice to the developer, the developer would be obligated to pay the

excess cost in the same manner as the estimated costs. However, if the developer objects to the excess costs, the developer must provide the City with a written objection no later than five days after receipt of the City’s written notice. The City and developer would communicate in an attempt to resolve the objection. If the parties are unable to resolve the objection, the developer will have the sole and exclusive right to terminate the agreement and reimburse the City for all costs incurred to the date of termination.

- The City would be required to maintain accurate records of invoices received from, and payments made to, the consultants. The City would be required to provide a payment summary to the developer within a reasonable time upon request.
- The term of the Agreements would commence on May 16, 2022, and would terminate once all services required for the projects by the consultants have been completed to the City’s reasonable satisfaction. The developer’s obligation to reimburse the City would survive the termination of the Agreements.
- The City would be able to terminate the Agreements prior to the terms set forth above, without cost or liability, upon 30 days’ written notice to the developer in the event the developer fails to satisfy any material obligation of the agreement or fails to prosecute its applications for the project. The developer would be able to terminate the Agreements upon 30 days’ prior written notice provided that the developer gives the City written notice withdrawing its application for the project and the developer would be obligated to satisfy all of its obligations under the Agreements through the effective date of the termination.
- The Agreements would not be assignable by either party without the prior written consent of the other party.

FISCAL IMPACT: Through proposed Agreement No. 22-49, the developer would be required to pay all costs associated with environmental review by Dudek, legal advice and review by BBK, formation of a CFD with the assistance of DTA, and planning and architectural review by M&P. The estimated total cost of the reimbursement by the developer for the project would be \$156,790. A breakdown of the costs is shown as follows:

<u>Reimbursement Agreements</u>	<u>Fees</u>
<u>Montclair Place Project Site</u>	
Dudek	\$20,360
BBK	\$75,000
DTA	\$35,000
M&P	\$26,430
<u>Estimated Total Fees</u>	<u>\$156,790</u>

It should be noted that the implementation efforts within the MPDSP area are seen as a method to ensure new development has a limited negative impact on the City’s General Fund and has aesthetics that positively enhance quality of life issues in the community.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 22-49 with 5060 Montclair Plaza Lane, LLC, a reimbursement agreement related to the development of property generally located on the southwest corner of Central Avenue and Moreno Street subject to any revisions deemed necessary by the City Attorney.

AGREEMENT NO. 22-49

A REIMBURSEMENT AGREEMENT

Between

**CITY OF MONTCLAIR
a California Municipal Corporation**

and

**5060 MONTCLAIR PLAZA LANE OWNER, LLC
A Delaware limited liability company**

REIMBURSEMENT AGREEMENT

This Reimbursement Agreement ("Agreement") is made this XX day of XX, 2022, by and between the CITY OF MONTCLAIR, a California Municipal Corporation (the "City"), and 5060 Montclair Plaza Lane Owner LLC, a Delaware limited partnership (the "Applicant").

RECITALS

This Agreement is made with respect to the following facts.

A. The Applicant is the owner of that certain real property ("Property") located within the City of Montclair, County of San Bernardino, California. The Property is more particularly described as an area of approximately 7 gross acres in size and is located on the southwest corner of Central Avenue and Moreno Street, Montclair, CA. The Property is further described in Exhibit "A" attached hereto and incorporated herein by reference.

B. The Property is located within the boundaries of the Montclair Place District Specific Plan approved by the City Council on October 5, 2020 by Ordinance No. 20-992 ("Specific Plan"). The Applicant is contemplating the development of the Property and would like to develop the site in accordance with the provisions of the Montclair Place District Specific Plan ("the Project"). The project will consist of construction of approximately 500 residential units and 40,000 square feet of commercial space.

C. In order to contemplate development of the proposed project pursuant to the standards in the Montclair Place District Specific Plan, the Project will need to comply with the specific plan and require related compliance review. The review of compliance to the Specific Plan shall be referred to collectively as the "Project."

D. To provide the City with the needed expertise and information necessary for the City's approval of a Precise Plan of Design, preparation of a Maintenance & Operations Regulatory Agreement, and establishment of Community Facilities District concerning the Project, it is or may become necessary for the City to access the services of certain outside planning, architecture, legal, financial, and other experts for the Project ("Consultants").

E. The Applicant has agreed to reimburse the City for Consultant's costs and expenses related to the Applicant's Project in the manner and amounts set forth in this Agreement. The Applicant's reimbursement to City under this Agreement will ensure that the City has the necessary resources to diligently and efficiently process certain conditions related to the Applicant's Project.

TERMS

NOW, THEREFORE, in consideration of the following mutual promises and agreements, City and Applicant agree as follows:

1. Incorporation of Recitals. The parties agree that the Recitals constitute the factual basis upon which the City and the Applicant have entered into this Agreement. The City and the Applicant each acknowledge the accuracy of the Recitals and agree that the Recitals are incorporated into this Agreement as though fully set forth at length.

2. City to Retain Consultants. As a necessary and indispensable part of the Conditions of Approval of Applicant's proposed Project and use of the Property, the City shall retain the services of Consultants as set forth in Section 4 of this Agreement to provide advice as the City may deem necessary in its reasonable and sole discretion. The contemplated general scope of work of the Consultants for the Project are attached hereto as Exhibit "B" and incorporated herein by reference, but the City reserves the right, in its reasonable and sole discretion, to amend the scope of work as it deems necessary and appropriate to the City's proper review and consideration of the Applicant's Project. However, if such amendment will cause, or will be likely to cause, the Estimated Costs (as defined in Section 5) to be exceeded, the City shall promptly notify Applicant thereof in writing (and in no event, less than five (5) business days after the City becomes aware of such information).

The Applicant agrees that, notwithstanding the Applicant's reimbursement obligations under this Agreement, Consultants shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law, including, without limitation, the Public Records Act, all conversations, notes, memoranda, correspondence and other forms of communication by and between the City and its Consultants which are deemed under law to be privileged and confidential shall not be subject to disclosure to the Applicant. The Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work product produced by the Consultants which is privileged or confidential under law; provided, however, the Applicant shall be provided with photocopies of all such documents or work product for which it has reimbursed the City which are not so privileged or confidential under law.

3. Applicant to Cooperate with Consultants. The Applicant agrees to cooperate in good faith with the Consultants. The Applicant agrees that it will instruct its agents, employees, consultants, contractors and attorneys to reasonably cooperate with the Consultants and to provide all necessary documents or information reasonably requested of them by the City and/or the Consultants; provided, however, that the foregoing shall not require the disclosure of any documents or information of the Applicant which by law is privileged, proprietary, confidential, and exempt from disclosure under the Public Records Act.

4. City's Selection of Consultants. The City proposes to retain the following as Consultants pursuant to Section 2 of this Agreement, but shall have the right to retain any additional consultants or sub-consultants pursuant to this Agreement: (1) Dudek (Environmental), (2) Best Best Kreiger, Attorneys at Law (BBK) (legal advisors on environmental and Community Facilities District), (3) David Taussig & Associates (Community Facilities District), and (4) Moule & Polyzoides, Urbanists and Architects (Land Use Consultants-related to applicants Project only). If and when the City determines to retain such additional consultants or subconsultants, it shall first so inform the Applicant of its intent to do so, and include with such information the terms and conditions (including fees) upon which such parties will be retained. The Applicant shall have five (5) business days in which to review and approve or disapprove the retention of such parties (approval shall not be unreasonably withheld or conditioned). Provided that the Applicant has not notified the City of its disapproval as to the retention of any such parties on or prior to the expiration of such five (5) business day period, the City may thereafter retain such parties upon the terms and conditions submitted to the Applicant. In the event that the Applicant reasonably objects to any such retention, the Applicant's objection shall state the reasons for its objection in sufficient detail that the City shall be able to address, and potentially remedy, such objection if the City so determines. The City and the Applicant shall promptly (but in no event later than five (5) calendar days after such objection) communicate in order to resolve any such objection, but if the parties are unable to resolve such objection, and if the City thereafter retains the disputed party, the Applicant shall have the sole and exclusive right to terminate this Agreement pursuant to Section 8 of this Agreement, subject to the Applicant's obligation to reimburse the City for all Costs incurred by the City prior to the date of termination, whether or not yet paid by the City to any Consultants.

5. Applicant's Reimbursement of Fees, Costs and Expenditures. The Applicant shall reimburse the City the actual fees, costs and other expenditures incurred by the City relative to the Consultants costs ("Costs") related to the Applicant's Project, subject to the terms and conditions of this Agreement. Applicant further understands and agrees that Costs are based upon the rates provided by Consultants attached hereto as Exhibit "C" to this Agreement.

The City has preliminarily reviewed the scope of work required and has estimated the aggregate Costs for all consultants to be approximately One Hundred Forty Eight Thousand Dollars (\$156,790) ("Estimated Costs"). Upon the execution of this Agreement and before May 30, 2022, the Applicant shall submit a deposit in the amount of Fifty Thousand (\$50,000) as the initial amount to cover the Estimated Costs, which amount the City shall separately account for in a Project deposit account ("Deposit Account").

At any time that the Deposit Account drops below Twenty Thousand Dollars (\$20,000), the City may make written demand on Applicant to replenish the Deposit Account to Fifty Thousand Dollars (\$50,000), and Applicant shall submit the required amount of funds to the Deposit Account within ten (10) calendar days. In the event Applicant fails to make any required deposit, City shall so notify Applicant in writing and Applicant shall have ten (10) additional calendar days to replenish the Deposit Account.

Thereafter, City shall have the right to consider Applicant's Project applications as withdrawn and cease processing such applications.

The City shall not exceed the Estimated Costs without first informing the Applicant in writing regarding the need for additional services which cause the Costs to exceed the Estimated Costs ("Excess Costs") and shall provide appropriate documentation of such Excess Costs in sufficient detail that the Applicant shall be able to reasonably evaluate such costs. Notwithstanding anything herein to the contrary, the City shall not incur Excess Costs without the express prior written consent of Applicant. The City shall also inform the Applicant in writing prior to amending any scope of services, or adding services, to be provided by the Consultants, and shall provide appropriate documentation of such amended or additional scope of work in sufficient detail that the Applicant shall be able to reasonably evaluate such amended scope, and approve or disapprove the same, in writing. The Applicant's obligation to reimburse the City for the Excess Costs shall be contingent upon the City providing Applicant with written notice of the amendment of the scope of services to be performed by Consultants and the estimated cost thereof as described hereinabove prior to the commencement of work and Applicant's approval thereof, as herein provided. Once the City provides such notice and obtains such approval, then Applicant shall be obligated to pay the Excess Costs in the same manner as the Estimated Costs provided above; provided, however, in the event that the Applicant reasonably disapproves any Excess Costs, the Applicant shall provide the City with a written objection not later than five (5) business days after receipt of the City's written notice stating the reasons for its disapproval in sufficient detail that the City shall be able to address. The City and the Applicant shall promptly (but in no event later than five (5) calendar days after such disapproval) communicate in order to resolve any such objection, but if the parties are unable to resolve such disapproval, and if the City thereafter pays any disputed Excess Costs, the Applicant shall have the sole and exclusive right to terminate this Agreement pursuant to Section 8 of this Agreement, subject to the Applicant's obligation to reimburse the City for all Costs incurred by the City prior to the date of termination, whether or not yet paid by the City to Consultant. Upon such termination by the Applicant, the City shall have the right to consider the Application withdrawn and no longer obligated to process such Application.

The City shall maintain accurate records of invoices received from, and payments made to, the Consultants resulting from the Project, and will provide a payment summary to Applicant within a reasonable time upon request. In the event that excess funds remain in the Deposit Account upon conclusion of the Project and after all final payments to the Consultants have been made, the City agrees to refund that excess amount, if any, to Applicant within fifteen (15) calendar days of final payment to the Consultants. Alternatively, if the Costs of the services of the Consultants exceed the Estimated Costs and Excess Costs, if any, then, subject to the terms and conditions of this Agreement, Applicant shall remain obligated to pay for all such Costs. Applicant shall pay any such amount within ten (10) calendar days of written demand for payment by City.

6. Conditions of Approval. Applicant and City understand and agree that Applicants' land use entitlements concerning the Property are subject to the Conditions of Approval granted by the Planning Commission and City Council and entering into said Reimbursement Agreement will aid the Applicant in satisfying certain Conditions of Approval of Applicant's proposed project

7. Term. The term of this Agreement shall commence on the date that this Agreement is approved by the City Council and fully executed by the parties, and shall terminate when all services required for the Project by Consultants have been completed to the City's reasonable satisfaction and the Applicant has satisfied all of its obligations under this Agreement. For purposes of this section, Applicant's obligations shall include, but shall not be limited to, its obligation to reimburse the City for Estimated Costs and Excess Costs, whether or not paid by the City to Consultants prior to the date of termination, which accrue prior to the date of termination. The Applicant's obligation to reimburse (Section 5) the City as provided in this Agreement shall survive the termination of this Agreement pursuant to Section 8.

8. Early Termination.

8.1 By City. The City may, in its reasonable and sole discretion, terminate this Agreement prior to the term set forth in Section 6 above, without cost or liability to the City, upon thirty (30) days' prior written notice to the Applicant in the event that Applicant either: (1) fails to satisfy any material obligation of this Agreement (provided, however, if such failure is capable of being timely remedied without prejudice to the City, and is timely remedied by the Applicant, such failure shall be deemed to be waived); or (2) materially fails to reasonably prosecute its application(s) for the Project. In the event of such termination, Applicant shall be deemed to have withdrawn its application(s) for the Project.

8.2 By Applicant. The Applicant may, in its reasonable and sole discretion, terminate this Agreement prior to the end of the term set forth in Section 7 above, upon thirty (30) days' prior written notice to the City; provided, however, that Applicant's right to so terminate this Agreement is expressly contingent upon Applicant satisfying both of the following: (1) Applicant shall give City written notice withdrawing its application(s) for the Project; and (2) Applicant shall satisfy all of its obligations under this Agreement up through the effective date of termination. For purposes of this section, Applicant's obligations shall include, but shall not be limited to, its obligation to reimburse the City for Estimated Costs and Excess Costs incurred prior to the date of termination, whether or not paid by the City to Consultants prior to the date of termination.

Within two (2) working days following either the City's decision to terminate this Agreement or the City's receipt of written notice indicating the Applicant's decision to terminate this Agreement, the City shall notify all Consultants and instruct them to cease work on the Project. Consultants shall also be instructed to bill the City for any services completed prior to the date of termination. Upon such termination by the Applicant, the City shall have the right to consider the Application withdrawn and no longer obligated to process such Application.

9. Assignability. This Agreement may not be assigned by either party without the prior and express written consent of the other party, which consent shall not be unreasonably withheld; provided, however, Applicant shall have the right to assign the Agreement to any entity that assumes ownership of the Property and in which Applicant or an affiliate thereof has an ownership interest. In determining whether to approve a request by the Applicant to assign this Agreement, the City may consider, among other things, the proposed assignee's financial status and commitment to the Project. Any attempted assignment of this Agreement not in compliance with the terms of this Agreement shall be null and void and shall confer no rights or benefits upon the assignee.

10. No Oral Modifications. This Agreement represents the entire understanding of the City and the Applicant, and supersedes all other prior or contemporaneous written or oral agreements pertaining to the subject matter of this Agreement. This Agreement may be modified, only by a writing signed by both the authorized representatives of both the City and the Applicant. All modifications to this Agreement must be approved by the City Council of the City of Montclair.

11. Binding Upon Successors. This Agreement and each of its terms shall be binding upon the City, the Applicant and their respective officers, elected officials, employees, agents, contractors, and permitted successors and assigns.

12. Legal Challenges. Nothing herein shall be construed to require City to defend any third party claims and suits challenging any action taken by the City with regard to any procedural or substantive aspect of the City's approval of development of the Property, the environmental process, or the proposed Project. The Applicant may, however, in its sole and absolute discretion, appear as real party in interest in any such third party action or proceeding, and in such event, it and the City shall defend such action or proceeding and the Applicant shall be responsible and reimburse the City for whatever reasonable legal fees and expert or other costs, in their entirety, including reasonable attorneys' fees, which may be incurred by the City in defense of such action or proceeding. The City shall have the absolute right to retain such legal counsel as the City deems necessary and appropriate, and the Applicant shall reimburse the City for any and all reasonable attorneys' fees and expert or other costs incurred by the City as a result of such third-party action or proceeding; provided, however, the Applicant may, at any time, notify the City in writing of its decision to terminate such reimbursement obligation and, thereafter, the City may choose, in its sole discretion, to defend or not defend such third party action or proceeding. In the event that the City decides not to continue the defense of such third party action or proceeding, Applicant shall be obligated to reimburse City for any and all reasonable costs, fees, penalties or damages associated with dismissing the action or proceeding. In the event that the City decides to continue the defense of such third party action or proceeding, Applicant shall have no further obligation to reimburse City for its attorneys' fees and expert or other costs.

It is acknowledged by the parties that City is entering into this Agreement to assist Applicant in processing the Project. Applicant understands and agrees that City would not have entered this Agreement if it were to be liable in damages for breach of this

Agreement. As a result, Applicant understands and agrees that City shall not be liable for damages to Applicant or any successor for breach of this Agreement or for any cause of action that arises from this Agreement, except to the extent of any amounts in the Deposit Account that remain unencumbered and shall be refunded to Applicant. Applicant's remedies shall be limited to termination of this Agreement, subject to the obligations contained in Section 8.2.

13. Attorneys' Fees. In the event that any action or proceeding, including arbitration, is commenced by the City to establish the validity of this Agreement or to enforce any one or more of its terms, the prevailing party in any such action or proceeding shall be entitled to recover from the other, in addition to all other legal and equitable remedies available to it, its reasonable attorneys' fees and costs of litigation, including, without limitation, filing fees, service fees, deposition costs, arbitration costs and expert witness fees, including actual costs and attorneys' fees on appeal.

14. Jurisdiction and Venue. This Agreement is executed and is to be performed in Montclair, San Bernardino County, California. Any action or proceeding brought relative to this Agreement shall be heard in the appropriate court in the County of San Bernardino, California. The City and the Applicant each consent to the personal jurisdiction of the court in any such action or proceeding.

15. Severability. If any term or provision of this Agreement is found to be invalid or unenforceable, the City and the Applicant both agree that they would have executed this Agreement notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the Agreement and the remainder of the Agreement may be enforced in its entirety.

16. Headings. The headings of each Section of this Agreement are for the purposes of convenience only and shall not be construed to either expand or limit the express terms and language of each Section.

17. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

18. Notices. Notices required under this Agreement shall be sent to the following:

If to City:
Mikey Fuentes
Director of Economic Development
City of Montclair
5111 Benito Street
Montclair, CA 91763
Fax: 909-621-1584

If to the Applicant:

Notices given pursuant to this Agreement shall be deemed received as follows:

- (1) If sent by United States Mail - five (5) calendar days after deposit into the United States Mail, first class postage prepaid.
- (2) If by facsimile - upon transmission and actual receipt by the receiving party.
- (3) If by express courier service or hand delivery - on the date of receipt by the receiving party.

The addresses for notices set forth in this Section 18 may be changed upon written notice of such change to either the City or the Applicant, as appropriate.

CITY OF MONTCLAIR
a California Municipal Corporation

By: _____
Javier John Dutrey, Mayor

ATTEST:

By: _____
Andrea M. Myrick, City Clerk

APPROVED AS TO FORM:

By: _____
Diane E. Robbins, City Attorney

5060 MONTCLAIR PLAZA LANE OWNER, LLC
A Delaware Limited Liability Company

By: _____

Name & Title

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO STATE OF CALIFORNIA BEING PARCELS A-1, A-2, AND C OF DIVISION 1 AND PARCELS A, B, AND C OF PARCEL 1 OF DIVISION 2 ALL OF GRANT DEED RECORDED FEBRUARY 13, 2014 AS DOCUMENT NO, 2014-0060710, OF OFFICIAL RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED FOLLOWS: PARCEL 1 DIVISION 1: PARCEL A-1: PARCEL 1 OF PARCEL MAP 9881, IN THE CITY MONTCLAIR COUNTY OF SAN BERNARDINO STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 117, PAGES 5 TO 11, INCLUSIVE OF PARCEL MAPS IN THE OFFICE OF COUNTY RECORDER OF SAID COUNTY, PARCEL A-2: PARCEL 6 OF PARCEL MAP 9881, PER MAP RECORDED IN BOOK 117, PAGES 6 TO 11, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, PARCEL C ALL OF LOT 26, CLAREMONT ORANGE TRACT IN THE CITY OF MONTCLAIR AS PER MAP RECORDED IN BOOK 17, PAGE 87, OF MAPS, IN OFFICE OF THE COUNTY RECORDER SAID COUNTY DESCRIBED AS FOLLOWS: BEGINNING AT THE CENTER LINE INTERSECTION OF MORENO STREET AND CENTRAL AVENUE, AS SHOWN ON SAID MAP; THENCE NORTH 89 DEG 39' 40" WEST 410.23 FEET ALONG SAID CENTER LINE OF MORENO STREET; THENCE SOUTH 0 DEG 05'16" WEST, 357.65 FEET (SOUTH, 375.65 FEET) THENCE NORTH 89 DEG 59'58" EAST, 374.45 FEET (EAST, 374.46 FEET); THENCE NORTH 02 DEG 07'18" EAST, 53.82 FEET; THENCE NORTH 89 DEG 46"00" EAST. 35.56 FEET (35.00 FEET) THENCE NORTH 0 DEG 14'00" WEST, 301.30 FEET TO THE POINT OF BEGINNING. DIVISION 2: PARCEL 1: CONSISTING OF: PARCEL A: THAT PORTION OF LOTS 25, 26, 27 AND 28 OF TRACT NO. CLAREMONT ORANGE TRACT, IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, CALIFORNIA, AS PER MAP RECORDED IN BOOK 17, PAGE 87, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER SAID COUNTY; DESCRIBED AS A WHOLE AS FOLLOWS: BEGINNING AT THE INTERSECTION THE CENTERLINES OF MONTE VISTA AVENUE AND SAN JOSE STREET, THE BEARING OF SAID CENTERLINE OF MONTE VISTA AVENUE SOUTHERLY OF SAN JOSE STREET BEING NORTH THENCE EAST 2053.71 FEET; THENCE NORTH 57 DEG 52'02" EAST 9.33 FEET; THENCE NORTH 49 DEG 57'45" EAST 94.55 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 49 DEG 57'45" EAST 549.36 FEET; THENCE NORTH 9 DEG 47'32" EAST 189.55 FEET; THENCE NORTH 0 DEG 14'00" EAST 60.43 FEET; THENCE 2 DEG 07'18" EAST 305.81 FEET: THENCE WEST 374.26 FEET; THENCE NORTH 00 DEG 05'16" EAST, 362.98 FEET (NORTH 363.00 FEET) TO A POINT IN THE CENTERLINE OF MORENO STREET, SAID POINT BEING NORTH 89 DEG 39'40" WEST 410.23 FEET FROM THE INTERSECTION OF THE CENTERLINES OF MORENO STREET AND CENTRAL AVENUE; THENCE ALONG SAID CENTERLINE OF MORENO STREET 89' DEG 39'40" WEST 260.00 FEET ; THENCE SOUTH 869.99 FEET (870.00 FEET) THENCE EAST 178.00 FEET; THENCE SOUTH 394.32 TO THE TRUE POINT OF BEGINNING. PARCEL B: THAT PORTION OF LOT 26, CLAREMONT ORANGE TRACT, DESCRIBED AS A WHOLE AS FOLLOWS: COMMENCING AT POINT ON THE CENTERLINE OF CENTRAL AVENUE SOUTH 00 DEG 14'00" EAST 301.30 FEET FROM THE CENTERLINE INTERSECTION OF CENTRAL AVENUE.

APN:
1008-181-08-0000

EXHIBIT "B"
SCOPE OF SERVICE FOR CONSULTANTS

DUDEK

Services related to environmental evaluation under CEQA.

BEST BEST KREIGER Attorneys at Law (BBK)

BBK will provide legal services related to (1) documents, advice, and review for a Community Facilities District; (2) provide documents, advice and review regarding the development process for the proposed project, including compliance with the California Environmental Quality Act; and, (3) advice and/or review of Operating Agreements, Covenants, Conditions and Restrictions, Parking Management Agreements and/or other documents that may be needed or required for the project.

DAVID TAUSSIG & ASSOCIATES

Services related to formation of the rate and method and implementation of a Community Facilities District.

MOULE & POLYZOIDES

Services related to design and architectural review of the project.

EXHIBIT "C"
BILLING FOR EACH CONSULTANT

March 30, 2022

Mikey D. Fuentes
City of Montclair
5111 Benito St
Montclair, CA 91763

Subject: Proposal to Prepare Environmental Evaluation under the California Environmental Quality Act for the CIM Residential and Commercial Development Project

Dear Mr. Fuentes:

Thank you for inviting Dudek to submit a proposal to prepare documentation in compliance with California Environmental Quality Act (CEQA) for a proposed CIM Residential and Commercial Development Project (proposed project) by CIM (Applicant).

CIM Residential and Commercial Development Project

The City of Montclair (City) is the CEQA lead agency for the proposed project to be constructed by the Applicant. The proposed project will include approximately 600 residential units and 40,000 square feet of commercial/retail uses to be developed within the boundaries of the Montclair Place Specific Plan area in Montclair, California.

Dudek proposes to prepare a CEQA Section 15162 Consistency Evaluation (15162 Consistency Evaluation) for the proposed project that would determine if conditions specified in the CEQA Guidelines Section 15162 would require preparation of additional CEQA review for the proposed project. The 15162 Consistency Evaluation would also determine if the proposed project is consistent with the analysis in the Montclair Place District Specific Plan (MPDSP) Final Environmental Impact Report (EIR) (State Clearinghouse No. 2019050011) that was certified by the City in 2020 and whether the proposed project would result in any new or any substantial changes to any significant effects previously identified in the MPDSP Final EIR.

The following scope of work assumes that the 15162 Consistency Evaluation will determine that none of the conditions described in State CEQA Guidelines Section 15162 calling for preparation of a supplemental or subsequent EIR have occurred and the implementation of the

Mr. Mikey D. Fuentes

Subject: CIM Residential and Commercial Development Project CEQA Document Proposal

proposed project would not result in any significant direct, indirect or cumulative impacts over and above those disclosed in the previously certified 2020 EIR. This scope of work also assumes that the proposed project would not result in new impacts or changed circumstances that would require a new environmental document and that the 2020 EIR adequately covers the proposed project. If the City determines through the review process that the proposed project would result in new or substantially more severe significant environmental impacts resulting from changes in the project or circumstances, or from new information of severe significant environmental impacts resulting from changes in the project or circumstances, or from new information of substantial importance as defined in the CEQA Guidelines, then Dudek would provide the City with a scope of work for the preparation of another CEQA document as determined by the City.

The following captures the tasks necessary to prepare an 15162 Consistency Evaluation to the 2020 Final EIR. Dudek proposes that Candice Disney Magnus be the Dudek Project Manager for the following tasks.

SCOPE OF WORK

Task 1: Project Initiation and Materials Review

Dudek will review all relevant project materials including the proposed project application, available technical studies, background information, and other applicable regulations. The Dudek project manager will attend a kick-off meeting with City staff that will provide Dudek an opportunity to inquire further about the project and receive applicable background documents. Dudek will review information provided for the project and will notify the City of any requests for additional information needed to prepare the IS/Checklist via an Information Request List.

Deliverables: Information Request List

Task 2: Develop Project Description

Once responses to the Information Request List are received, Dudek will work with the Applicant team to prepare a detailed description of the proposed project and if it is consistent with what was evaluated in the 2020 Final EIR. This description will combine text, tables, and figures to create a comprehensive, yet easy to understand project description. The project description will be prepared in accordance with CEQA Guidelines, Section 15124, and will describe the basic characteristics of the project, including site location and boundaries, background information, technical and environmental characteristics, project size, project construction methodologies and project operation. Accompanying the project description will be a list of the anticipated responsible and trustee agencies, as well as necessary discretionary actions including permits, characterized by jurisdiction.

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Subject: CIM Residential and Commercial Development Project CEQA Document Proposal

Dudek will submit the draft updated project description to the City and the Applicant team for review and will revise accordingly before finalizing the project description.

Deliverables: Draft Project Description (in Word and PDF), and Final Project Description (in Word and PDF).

Task 3: Prepare 15162 Consistency Evaluation

The Dudek team will prepare a Draft 15162 Consistency Evaluation for the proposed project. The 15162 Consistency Evaluation will use the information and technical studies prepared for the SEIR to provide a project-level review of whether the proposed project is consistent with the programmed growth identified in the 2020 Final EIR. The evaluation will also document whether the land use and development associated with the proposed project is consistent with the objectives, land use designations, and development and population forecasts as analyzed in the 2020 Final EIR. To determine whether the proposed Project is sufficiently addressed by the 2020 Final EIR, Dudek will evaluate the following questions:

- Are the objectives of the proposed project consistent with the objectives of the 2020 Final EIR?
- Are the changes to the Montclair Place District Specific Plan area associated with the proposed project included within the scope of the 2020 Final EIR projections?
- Is the proposed location of the project site in an area designated for this type of use in the 2020 Final EIR?
- Are the proposed project activities within the scope of the environmental analysis in the 2020 Final EIR?
- Have the conditions described in the CEQA Guidelines 15162 for the preparation of a supplemental or subsequent EIR occurred?

The 15162 Consistency Evaluation will also include an evaluation that would determine if any of the environmental resource areas on the CEQA Guidelines Appendix G would be potentially affected by the proposed project or would involve any significant impacts that substantially exceed development or activities evaluated for potential environmental impacts in the 2020 Final EIR. This scope of work assumes that the proposed project will be deemed entirely consistent with and covered by the environmental analysis contained in the 2020 Final EIR. The evaluation of consistency with the 2020 Final EIR analysis will include the full range of environmental topics reflected in CEQA Appendix G. The evaluation will assess the following points for each environmental topic in Appendix G:

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Subject: CIM Residential and Commercial Development Project CEQA Document Proposal

- Was the impact analyzed in the prior environmental document? (If so, where?)
- Does the proposed project involve new significant impacts or substantially more severe impacts?
- Are there new circumstances involving new significant impacts or substantially more severe impacts?
- Is there any significant new information requiring new analysis or verification?
- Are no technical changes or additions needed to make the prior environmental document sufficient for the project?
- Do mitigation measures from the prior environmental document resolve significant impacts?

The 15162 Consistency Evaluation will address all environmental topic areas and will describe existing conditions and assess potential environmental impacts. The level of analysis and degree of impact will vary depending upon the environmental topic but will be sufficient to provide the substantial evidence to support the conclusions, consistent with CEQA requirements and prior legal direction from the courts. All issue areas included in Appendix G of the State CEQA Guidelines will be addressed, with emphasis on those issues with potential for significant effects, particularly construction related effects to air quality/greenhouse gas emissions, biological resources, noise, and transportation. The analysis will consider differences between the certified 2020 Final EIR along with changes in circumstances that may alter conclusions about significant environmental effects, including cumulative impacts and regulatory changes.

Dudek is assuming that information for this analysis will be gathered from the technical studies prepared for the 2020 Final EIR, technical studies provided by the Applicant and various sources typically used in CEQA analysis. Thus, this scope of work assumes that no new technical studies will be prepared by Dudek. If this assumption is not correct, Dudek can provide a scope of work and cost for any needed technical studies.

Once all technical information is collected and analyzed, Dudek will submit the draft 15162 Consistency Evaluation to the City and the Applicant team (if requested by the City) for review and will revise accordingly before finalizing the evaluation.

Deliverables: Draft 15162 Consistency Evaluation (in Word and PDF), and Final 15162 Consistency Evaluation (in Word and PDF).

Mr. Mikey D. Fuentes

Subject: CIM Residential and Commercial Development Project CEQA Document Proposal

Task 4: Project Coordination

Dudek's Project Manager will actively manage the tasks identified in Tasks 1 and 3 of this proposal. The Project Manager will include regular communications with City staff and the Applicant team by either phone, email or in person, throughout our work effort. Management tasks will also include tracking costs and schedule. Dudek will provide the City with a master schedule for Tasks 1 and 3 above and will provide the City with a regular status reports documenting the work performed and the work expected to be completed.

Deliverables: Invoices, progress reports, master schedule

Task 5: Project Meetings

Dudek anticipates that bi-weekly team meetings will be arranged with the City and Applicant team over a three-month period. These meetings will allow the team to discuss our progress and implications of the environmental analysis. For cost estimating purposes, Dudek has included 6 bi-weekly meetings (either conference calls or in-person) during the three-month period averaging two hours for preparation and participation. Dudek will also assist the City planner with sharing the 15162 Consistency Evaluation with meetings for City management or leadership as requested.

Deliverables: Project file (electronic and paper versions), team meeting agendas and notes, meeting summaries, project schedule, FTP sites

Additional Assumptions

Assumptions for this scope of work include the following:

- Once preparation of the first administrative versions of the Draft 15162 Consistency Evaluation have begun, no changes to the project will occur, which would result in revisions to the project description, report graphics, or re-analysis of any environmental issue.

ESTIMATED SCHEDULE AND COSTS

1. ANTICIPATED PROJECT SCHEDULE

The Dudek team shall perform and complete the required services as agreed to by the City. The anticipated start date is April 15, 2022, and the duration of the schedule for the tasks covered under this Scope of Work is estimated to be approximately 3 months (July 2022). A more detailed schedule may be agreed upon by the City and Dudek and project meeting budgets may

Mr. Mikey D. Fuentes

Subject: CIM Residential and Commercial Development Project CEQA Document Proposal

need to be adjusted accordingly. The Dudek team will work cooperatively with the City and the Applicant team to complete the tasks in a timely manner. The Dudek Project Manager will keep the City staff informed of the progress of said services at all times.

2. ANTICIPATED ESTIMATED COSTS

This is a Time and Materials Agreement that will be invoiced via hourly rates. The work hours anticipated and estimated cost breakdown for the tasks covered by this Scope of Work is covered in Table 1, Cost Estimate. Costs were calculated based on anticipated hours to be worked and materials needed for this project.

**Table 1.
Cost Estimate**

Tasks	Cost Estimate \$180/hr.
Task 1: Project Initiation and Materials Review	\$1,800
Task 2: Preparation of Updated Project Description	\$3,600
Task 3: Preparation of an 15162 Consistency Evaluation	\$9,000
Task 4: Project Coordination	\$3,800
Task 5: Project Meetings	\$2,160
Total	\$20,360

Please do not hesitate to contact me at 760-642-8261 or cmagnus@dudek.com with any questions.

Sincerely,



Candice Disney Magnus
Senior Project Manager



BEST BEST & KRIEGER 
ATTORNEYS AT LAW

Memorandum

To: Mikey Fuentes, Director of Economic Development **File No.:** 55442.XXXXXX
From: Best Best & Krieger LLP
Date: March 24, 2022
Re: Estimated Budget for Legal Services for CEQA and Land Use Services for Montclair Place District – Project 1

Per your request, we have prepared the following estimated budget for our continued representation of the City of Montclair (the “City”) under the California Environmental Quality Act (“CEQA”), Planning and Zoning Laws, and financing laws related to the Montclair Place District – Project 1 (the “Project”). Montclair Place District – Project 1 involves development of approximately 600 residential dwelling units and 40,000 square feet of commercial/retail uses. Below, we provide our best estimate of the steps in the CEQA, land use and CFD processes, and the estimated cost for us to assist with those.

As you might imagine, estimates can and do vary based on many factors. So, this estimate should not be treated as a not-to-exceed number. The purpose of the estimate is to give you a rough idea of the scope of legal fees that we may incur in our representation of the City in this matter. Here, the largest variables are likely to be the number of meetings that we attend with the Project team, the volume of the responses to comments, the extent of the public meetings/hearings on the Project, and our level of involvement in project management. The estimated budget below does not include services related to litigation (if any) involving the Project.

Accordingly, the ultimate costs associated with our representation may be less or greater than that set forth below. However, the estimate and schedule below are based on our past experiences with similar projects, such that these items should provide a realistic overview for the legal costs and time required to complete the CEQA and Specific Plan processes.

As always, please feel free to contact us should you have any questions or require additional information.

ALISHA M. WINTERSWYK
MARCO MARTINEZ
MRUNAL SHAH



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Estimated Costs

<u>Task</u>	<u>Estimated Cost¹</u>
<p>1. <u>CEQA Compliance</u></p> <p>Provide advice on the appropriate level of CEQA review and documentation for this subsequent project (assumes an Addendum to the prior Montclair Place EIR). Review any CEQA documentation, including technical reports, prepared by a CEQA consultant for the project. Assist with review and drafting staff report, resolutions, findings, notices for CEQA component of this Project.</p>	\$35,000
<p>2. <u>CFD Formation</u></p> <p>Assist with preparation of necessary documentation for formation of a services CFD; provide advice regarding formation of same; and review any documents prepared by third parties in support of such CFD formation.</p>	\$20,000
<p>3. <u>CC&Rs</u></p> <p>Review and provide advice on CC&Rs developed for the project.</p>	\$5,000
<p>4. <u>Land Use Entitlements:</u></p> <p>Review Reimbursement Agreement/negotiation of any changes; Review Project Submittal/Scope of Work (with possibly meeting with staff); Answer Processing Questions; Assist with conditions of approval/staff report; Follow-up approval questions</p>	\$10,000
<p>5. <u>Incidentals</u></p>	\$5,000
Total:	~\$75,000

¹ All estimates are based on an averaged hourly rate per the hourly rates set forth in our Engagement Agreement.



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. Estimated \$35,000.

DTA's maximum fee related to tasks under Phase II (Annual Administration) shall be determined following the formation of any CFD. Estimated 10,000. 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.

MOULE & POLYZOIDES

ARCHITECTS AND URBANISTS

February 28, 2022

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

Via E- mail: mfuentes@cityofmontclair.org; mdiaz@cityofmontclair.org;
ccaldwell@cityofmontclair.org

Re: Design Review of CIM Mixed-Use Project

Dear Mikey:

Moule & Polyzoides is pleased to present a proposal to the City of Montclair to assist the City in reviewing design proposals submitted by CIM for a mixed-use project at the southwest corner of Central Avenue and Moreno Street.

A. SCOPE OF WORK

Task 1: Preliminary Design Review

M&P will review the preliminary design package submitted by CIM for conformance with the development standards of the *Montclair Place District Specific Plan* (MPDSP) and the City of Montclair's expectations. M&P will provide comments as direct mark-ups on the submitted PDF application file. M&P will also participate in up to four (4) meetings with City staff and/or with CIM representatives to provide feedback and suggestions. M&P will share the design suggestions with City staff to confirm the proposed design direction prior to any meetings with CIM representatives.

Deliverables for Task 1:

Review of the preliminary design package, consultation with City of Montclair staff, and up to four (4) meetings with City staff and/or CIM representatives.

Fees & Schedule for Task 1:

Work on this task will be completed within two (2) weeks for a fee of \$ 6,180.00

MOULE & POLYZOIDES

ARCHITECTS AND URBANISTS

Task 2: Schematic Design Review.

M&P will review CIM's Schematic Design Review development application in relation to the comments generated in Task 1 and for conformance with MPDSP Section 5.1.050. (Planning Compatibility and Architectural Review) and the vision and development regulations of the MPDSP. M&P will provide comments as direct mark-ups on the submitted PDF application file. M&P will also participate in up to four (4) meetings with City staff and/or CIM representatives to review the schematic design review package.

Deliverables for Task 2:

Marked-up PDF of design review submission. Attendance at up to four (4) meetings with City of Montclair and/or CIM representatives.

Fees & Schedule for Task 2:

Work on this task will be completed within one month of receipt of CIM's Schematic Design Review development application for a fee of \$ 11,670.00.

Task 3: Final Design Review.

M&P will review CIM's Final Design Review development application, submitted per the requirements of MPDSP Section 5.1.050. (Planning Compatibility and Architectural Review), for conformance with the vision and development regulations of the MPDSP. M&P will provide comments as direct mark-ups on the submitted PDF application file. M&P will also participate in up to two (2) meetings with City staff and/or with CIM representatives to review the design review package.

Deliverables for Task 3:

Marked-up PDF of final design review submission. Attendance at up to two (2) meetings with City of Montclair and/or CIM representatives.

Fees & Schedule for Task 3:

Work on this task will be completed within one month of receipt of CIM's Final Design Review development application for a fee of \$ 8,580.00

MOULE & POLYZOIDES
ARCHITECTS AND URBANISTS

B. FEE SUMMARY

<i>Moule & Polyzoides:</i>	
<i>Task 1: Preliminary Design Review</i>	\$ 6,180.00
<i>Task 2: Schematic Design Review</i>	\$ 11,670.00
<i>Task 3 Final Design Review</i>	\$ 8,580.00
Total.....	\$ 26,430.00

Further review beyond the two reviews described in the above Scope of Work shall be subject to additional services as described below. Upon completion of the above tasks, Moule & Polyzoides will submit an invoice to the Client and will be paid within 30 days of submission.

Reimbursable expenses will be in addition, estimated as an allowance of \$500.00, and will include the costs of transportation, delivery, process printing and other costs incurred by the Consultant Team in its service on this project. Expenses will be billed by M&P to Client at a multiplier of 1.15 to cover administrative and processing costs.

C. ADDITIONAL SERVICES

Should the Client request Moule & Polyzoides to provide Additional Services in addition to those set forth in the above Scope of Work, Moule & Polyzoides will prepare a scope, schedule, and budget for providing such services for approval by the Client. If any such services are to be paid on a time and materials basis, professional fee compensation shall be billed according to the schedule of the 2021 hourly rates for our firm as follows:

Partner:	\$ 340.00 per hour
Planning Principal:	\$ 260.00 per hour
Principal	\$ 260.00 per hour
Sr Associate	\$240 per hour
Associate	\$220 per hour
Staff/graphic designer	\$180 per hour
staff II	\$160 per hour

Such services will only be undertaken with the Client’s previous authorization.

We are very pleased to have the opportunity to continue to assist you in our role as town architect to ensure that new projects continue to transform Montclair according to the community’s vision.

MOULE & POLYZOIDES
ARCHITECTS AND URBANISTS

Please call me, if you have any questions.

Sincerely,



Stefanos Polyzoides, Architect & Urbanist

ACCEPTED AND AGREED:

Name _____ Date _____



CITY COUNCIL AGENDA REPORT

DATE:	MAY 16, 2022	FILE I.D.:	COV100/CYC125
SECTION:	CONSENT - RESOLUTIONS	DEPT.:	CITY MGR.
ITEM NO.:	1	PREPARER:	A. MYRICK
SUBJECT:	CONSIDER ADOPTION OF RESOLUTION NO. 22-3348 MAKING FACTUAL FINDINGS IN COMPLIANCE WITH AB 361 FOR THE CONTINUATION OF PUBLIC MEETING TELECONFERENCING DURING PUBLIC HEALTH EMERGENCIES FOR THE PERIOD OF MAY 16, 2022, THROUGH JUNE 15, 2022		

REASON FOR CONSIDERATION: The City Council’s adoption of Resolution No. 22-3348 would extend the City’s remote public meeting procedures under AB 361 for an additional 30 days, expiring June 15, 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. 22-3348.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 22-3348 making factual findings in compliance with AB 361 for the continuation of teleconferencing during public health emergencies for the period of May 16, 2022, through June 15, 2022.

RESOLUTION NO. 22-3348

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 MAY 16, 2022, THROUGH JUNE 15, 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 June 15, 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. 22-3348 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: MAY 16, 2022

FILE I.D.: PER775/CYC145

SECTION: BUSINESS ITEMS

DEPT.: CITY MGR.

ITEM NO.: A

PREPARER: E. STARR

SUBJECT: CONSIDER APPROVAL OF AN EXTENSION TO THE REQUIREMENT, AS PROVIDED FOR IN RESOLUTION NO. 22-3344, FOR COUNCIL MEMBER BENJAMIN LOPEZ TO ATTEND CITY-APPROVED SEXUAL HARASSMENT PREVENTION TRAINING FROM “WITHIN THIRTY (30) CALENDAR DAYS” TO “WITHIN SIXTY (60) CALENDAR DAYS” FOLLOWING ADOPTION OF SAID RESOLUTION

CONSIDER AUTHORIZING A \$5,000 TRANSFER FROM THE CONTINGENCY ACCOUNT TO CITY ATTORNEY PROGRAM ACCOUNT NO. 1001-4801-52290-400 (LEGAL SERVICES AND COURT COSTS) TO PROVIDE SPECIALIZED SEXUAL HARASSMENT PREVENTION TRAINING FOR COUNCIL MEMBER LOPEZ AS REQUIRED BY RESOLUTION NO. 22-3344

REASON FOR CONSIDERATION: In order to allow more time for the development and delivery of appropriate training, staff is requesting the City Council to consider approving an extension to the time requirement for Council Member Lopez to attend City-approved sexual harassment prevention training from thirty (30) days to sixty (60) days following its adoption of Resolution No. 22-3344 on April 4, 2022; and to consider approving a transfer of \$5,000 from the Contingency Account to provide specialized sexual harassment prevention training for Council Member Lopez, as required by said Resolution.

BACKGROUND: At its April 4, 2022 meeting, the City Council adopted Resolution No. 22-3344 censuring Council Member Benjamin Lopez and ratifying protective actions taken and recommended by the City Manager.

In addition to the City Manager’s protective measures, the City Council directed that other measures be incorporated into Resolution No. 22-3344, including that “Council Member Benjamin Lopez is required to attend City-approved sexual harassment prevention training, and other training as may be required by the City Manager. Training should occur within thirty (30) calendar days following adoption of this Resolution of Censure. Furthermore, such training shall be repeated annually, subject to scheduling by the City Manager. All ratified actions are to remain in place until otherwise rescinded or modified by the appropriate authority.”

Due to the need to identify and engage a law firm that has the professional staff available to develop and present a specialized sexual harassment prevention training course that addresses the matters as outlined in Resolution No. 22-3344, the City Manager was unable to provide Council Member Lopez with an appropriate sexual harassment prevention training course within the thirty-day time frame following the City Council’s adoption of Resolution No. 22-3344.

Sexual harassment prevention training for Council Member Lopez has been scheduled for Wednesday, June 1, 2022, at 10:00 a.m. at the office of Liebert Cassidy Whitmore (LCW), 6033 W. Century Boulevard, 5th Floor, Los Angeles. LCW is the City’s special legal

counsel for labor negotiations and labor and personnel matters. Training will be provided by LCW Attorney Mark Meyerhoff.

To accommodate the date of June 1, 2022, for sexual harassment prevention training for Council Member Lopez, the City Council is requested to consider approving the extension of the requirement, as provided for in Resolution No. 22-3344, for Council Member Lopez to attend City-approved sexual harassment prevention training within thirty (30) calendar days following adoption of Resolution No. 22-3344, to within sixty (60) calendar days following adoption of Resolution No. 22-3344. Furthermore, the City Council is asked to approve a transfer of \$5,000 from the Contingency Account to cover the cost of specialized sexual harassment prevention training for Council Member Lopez.

FISCAL IMPACT: Production of the specialized sexual harassment prevention training program for Council Member Lopez will impose an estimated \$4,200 to \$5,000 impact on the City's General Fund. The funds would be transferred from the Contingency Account to City Attorney Program Account No. 1001-4801-52290-400 (Legal Services and Court Costs).

The cost includes an estimated 6 hours for LCW legal staff to prepare the presentation at a rate of \$390 per hour; two hours of personalized training at a cost of \$390 per hour; and approximately 5 hours of associate time to prepare the initial customization of the presentation to meet the specific needs of the training, at \$220 per hour. Any LCW-related travel time related to presentation of the training would be charged at the rate of \$390 per hour.

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

1. Approve an extension to the requirement, as provided for in Resolution No. 22-3344, for Council Member Benjamin Lopez to attend City-approved sexual harassment prevention training from "within thirty (30) calendar days" to "within sixty (60) calendar days" following adoption of said Resolution.
2. Authorize a \$5,000 transfer from the Contingency Account to City Attorney Program Account No. 1001-4801-52290-400 (Legal Services and Court Costs) to provide specialized sexual harassment prevention training for Council Member Benjamin Lopez as required by Resolution No. 22-3344.

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
MAY 2, 2022, AT 5:05 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Council Member Johnson called the meeting to order at 5:05 p.m.

II. ROLL CALL

Present: Council Member Johnson, and City Manager Starr

Absent: Mayor Pro Tem Ruh

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of April 18, 2022

Moved by Council Member Johnson, seconded by City Manager Starr, and carried unanimously to approve the minutes of the Personnel Committee meeting of April 18, 2022.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

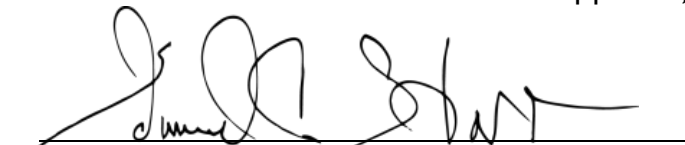
At 5:06 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 5:30 p.m., the Personnel Committee returned from Closed Session. Council Member Johnson stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 5:30 p.m., Council Member Johnson adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager

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, MAY 2, 2022 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chair Dutrey called the meeting to order at 7:00 p.m.

II. INVOCATION

Ms. Carolyn Preschern, Inland Empire Prayer Breakfast Committee, gave the invocation.

III. PLEDGE OF ALLEGIANCE

Congresswoman Norma Torres, U.S. House of Representatives (35th Congressional District of California), 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; Executive Director of Public Safety/Police Chief Avels; City Attorney Robbins; City Clerk Myrick

V. PRESENTATIONS

A. **U.S. Representative Norma Torres Presentation of Funding Award for Saratoga Park Improvements**

Congresswoman Torres presented Mayor Dutrey with a Certificate of Special Congressional Recognition for the City's receipt of a \$2,000,000 funding award for improvements at Saratoga Park. She congratulated the City and stated she looks forward to the project's completion.

Mayor Dutrey thanked **Congresswoman Torres** for her efforts to secure the funding and thanked her for coming.

B. **Proclamation Declaring May 5, 2022, as the "National Day of Prayer" in the City of Montclair**

Mayor Dutrey presented **Ms. Carolyn Preschern, Moderator, Inland Empire Prayer Breakfast Committee**, with a proclamation declaring May 5, 2022, as the "National Day of Prayer" in the City of Montclair.

Ms. Preschern accepted the proclamation and thanked Mayor Dutrey. She invited the City Council and the community to the Inland Empire Prayer Breakfast on Friday, May 5th, at the **Doubletree Hotel**, 222 North Vineyard Avenue, Ontario from 7:00 to 9:00 a.m.

VI. PUBLIC COMMENT

A. **Ms. Tiffany Ramos, President, Montclair Little League (MLL)**, thanked the City Council and Police and Fire personnel for supporting MLL and attending their events. She expressed her gratitude for the coming improvements to the Saratoga Park ball field facilities.

B. **Mr. Bruce Culp**, resident, noted with this year's record drought, Montclair citizens will no doubt be asked to conserve water and he would like to ask the City Council to do their part by opposing developments that generate greenhouse gases and pollution that destroy the ozone layer and contribute to global warming. He encouraged requiring future developments to use solar power only.

- C. **Ms. Lisa Guevara**, resident, stated she is a renter living in a home that was built in the 1960s, and is concerned that her landlord has not fixed leaks or updated any fixtures for water efficiency. She also stated concerns regarding the construction of warehouses contributing to poor air quality in the area.

Council Member Lopez suggested **Ms. Guevara** request a free water inspection from **Monte Vista Water District**, and submit the report to her landlord to encourage appropriate repairs and upgrades.

Mayor Dutrey advised building deficiencies can also be reported to the Code Enforcement Division.

VII. PUBLIC HEARINGS — None

VIII. CONSENT CALENDAR

Mayor Dutrey entertained discussion on Items C-1 and C-2 prior to the vote on the Consent Calendar at the request of Council Member Lopez.

Moved by Council Member/Director Lopez, seconded by Council Member/Director Johnson, and carried unanimously 5-0, the City Council approved the Consent Calendar, with discussion held on Items C-1 and C-2:

A. Approval of Minutes

1. Regular Joint Meeting — April 18, 2022

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 April 18, 2022 regular joint meeting.

B. Administrative Reports

1. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated May 2, 2022, totaling \$839,659.12; and the Payroll Documentation dated April 10, 2022, amounting to \$683,022.62 gross, with \$477,531.16 net being the total cash disbursement.

2. Authorizing the Use of \$7,200 in State Asset Forfeiture Funds to Host the 2022 National Night Out Event

The City Council authorized the use of \$7,200 in State Asset Forfeiture Funds to host the 2022 National Night Out Event.

3. Authorizing the Purchase of Uniforms for Non-Sworn Police Department Staff in the Amount of \$15,580

Authorizing A \$15,580 Appropriation from the Federal Asset Forfeiture Fund to Pay for the Uniforms

The City Council took the following actions:

- (a) Authorized the purchase of uniforms for non-sworn Police Department staff in the amount of \$15,580.
- (b) Authorized a \$15,580 appropriation from the Federal Asset Forfeiture Fund to pay for the uniforms.

C. Agreements

1. Approval of *Agreement No. 22-33* with the County of San Bernardino Related to Distribution of 2021 Justice Assistance Grant Program Award Funds

Authorizing City Manager Edward C. Starr to Sign Said Agreement

Council Member Lopez stated he is pleased the City is receiving this grant and asked what would be the intended use of the funds.

Executive Director of Public Safety/Police Chief Avels advised the Police Department annually receives this grant and the current agreement outlines the parameters for the grant's acceptance, but no determination as to the use of the funds has been made at this time. He noted a future agenda report would come to the City Council including that information.

The City Council took the following actions:

- (a) Approved *Agreement No. 22-33* with the County of San Bernardino related to distribution of 2021 Justice Assistance Grant Program Award Funds.
- (b) Authorized City Manager Edward C. Starr to sign said Agreement.

2. Approval of *Agreement No. 22-36* with Sewer Service Providers Within the Inland Empire Utilities Agency Service Area for Costs Related to Negotiations for Revisions to the Chino Basin Regional Sewage Service Contract

Authorizing a \$10,003 Appropriation from the Sewer Fund for Costs Related to Agreement No. 22-36

Council Member Lopez asked for the rationale behind the equal distribution of costs even though Montclair is the smallest participating city.

City Manager Starr confirmed that Montclair's sewer system is the smallest of the participating agencies; however, these costs are relatively low and cover negotiations for the upcoming fifty-year contract, which made it more reasonable to split costs equally.

Mayor Dutrey added each participating City gets one vote on the **Inland Empire Utilities Agency's** Regional Sewerage Program Policy Committee. He stated this arrangement began in the 1970s when cities with their own sewage treatment plants decided to consolidate effluent processing efforts. In the future, advanced treatment plants may also be needed to address the drought.

The City Council took the following actions:

- (a) Approved *Agreement No. 22-36* with sewer service providers within the Inland Empire Utilities Agency service area for costs related to negotiations for revisions to the Chino Basin Regional Sewage Service Contract.
- (b) Authorized a \$10,003 appropriation from the Sewer Fund for costs related to *Agreement No. 22-36*.

3. Amending the 2019-2024 Capital Improvement Program to Include Traffic Signal Upgrades and Traffic Signal Interconnect & Broadband Fiber Optic Improvements for Both the Arrow Highway Project and the Central Avenue Project

Approval of *Agreement No. 22-37* with AGA Engineers for the Preparation of Plans and Specifications for Construction of Traffic Signal Upgrades and Traffic Signal Interconnect & Broadband Fiber Optic Improvements for the Arrow Highway and Central Avenue Projects, Subject to Any Revisions Deemed Necessary by the City Attorney

Authorizing a \$245,000 Appropriation from 2021 Lease Revenue Bond Proceeds for Costs Related to Agreement No. 22-37 With AGA Engineers for the Arrow Highway And Central Avenue Projects

Authorizing a \$54,495 Design Service Contingency for Traffic Signal Upgrades and Traffic Signal Interconnect & Broadband Fiber Optic Improvements for the Arrow Highway and Central Avenue Projects

The City Council took the following actions:

- (a) Amended the 2019-2024 Capital Improvement Program to include traffic signal upgrades and traffic signal interconnect & broadband fiber optic improvements for both the Arrow Highway Project and the Central Avenue Project.
- (b) Approved *Agreement No. 22-37* with AGA Engineers for the preparation of plans and specifications for construction of traffic signal upgrades and traffic signal interconnect & broadband fiber optic improvements for the Arrow Highway and Central Avenue Projects, subject to any revisions deemed necessary by the City Attorney.
- (c) Authorized a \$245,000 appropriation from 2021 Lease Revenue Bond proceeds for costs related to *Agreement No. 22-37* with AGA Engineers for the Arrow Highway and Central Avenue Projects.
- (d) Authorized a \$54,495 design service contingency for traffic signal upgrades and traffic signal interconnect & broadband fiber optic improvements for the Arrow Highway and Central Avenue Projects.

D. Resolutions

1. **Adoption of Resolution No. 22-3343 Approving a Five-Year Capital Project Needs Analysis for Fiscal Years 2022-23 through 2026-27**

Adoption of Resolution No. 22-3346 Approving the Five-Year Local Street Capital Improvement Program for Fiscal Years 2022-23 through 2026-27

The City Council took the following actions:

- (a) Adopted Resolution No. 22-3343 approving a Five-Year Capital Project Needs Analysis for Fiscal Years 2022-23 through 2026-27.
- (b) Adopted Resolution No. 22-3346 approving the Five-Year Local Street Capital Improvement Program for Fiscal Years 2022-23 through 2026-27.

2. **Adoption of Resolution No. 22-3347 Making Factual Findings in Compliance with AB 361 for the Continuation of Public Meeting Teleconferencing During Public Health Emergencies for the Period of May 2, 2022, through June 1, 2022**

The City Council adopted Resolution No. 22-3347 making factual findings in compliance with AB 361 for the continuation of public meeting teleconferencing during public health emergencies for the period of May 2, 2022, through June 1, 2022.

IX. PULLED CONSENT CALENDAR ITEMS — None

X. COMMUNICATIONS

A. Department Reports

1. **Human Services Department — Upcoming Events & Programs**

Human Services Director Richter announced the Senior Center re-opened today for in-person senior lunch dining after more than two years. She stated going forward, the Senior Center opens to the public at 10:00 a.m. with lunch served from 11:30 a.m. to 12:30 p.m. Meals will still be provided “to go” through June 30th by reservation. She advised the Senior Center Nutrition Program is provided through a grant from the County’s **Department of Aging and Adult Services** and that

the suggested donation for eligible participants is \$3.00. Upcoming May activities include Cinco de Mayo and Mothers' Day celebrations, and the monthly senior birthday.

She asked everyone to save the date for the following events:

- Community Activities Commission's 22nd Annual Memorial Day Program — Monday, May 30th, at 6:00 p.m. at the Memorial Garden. Six new plaques will be dedicated on the Veterans' Memorial Wall.
- 8th Annual Country Fair Jamboree — Saturday, June 4th, from noon to 6:00 p.m. at "Shark Park" (Alma Hofman Park). The event will include games, food trucks, a petting zoo, carnival rides, craft vendors, contests, and live entertainment. The **Montclair Chamber of Commerce** is coordinating event sponsorship and vendors.

B. City Attorney

City Attorney Robbins requested the City Council meet in closed session concerning the following:

1. Closed Session Pursuant to Government Code Section 54956.9(d)(2) Regarding Potential Litigation

One Potential Case

C. City Manager/Executive Director — No comments

D. Mayor/Chair

1. Announcement of 4 Vacancies on the Community Activities Commission (4-Year Terms, July 1, 2022 through June 30, 2026)

Mayor Dutrey announced there are four vacancies on the Community Activities Commission (CAC) and encouraged residents to apply at www.cityofmontclair.org by the deadline at 5:30 p.m. on May 18, 2022 at 5:30 p.m.

2. Mayor Dutrey made the following comments:

- (a) He attended the Montclair to College (MTC) graduation at **the Canyon** last Wednesday, which was a great event.
- (b) He stated tonight's meeting would be adjourned in memory of **Wylie Pennington**, the husband of a former City employee—both longtime Montclair residents.

E. Council Members/Directors

1. Council Member/Director Lopez made the following comments:

- (a) He asked if COVID relief funds were being used for the traffic signal project amended earlier this evening.

City Manager Starr advised the referenced project is intended for the City's operational use and COVID funds could be used if possible to expand the system for public use.

- (b) He reported that many candidates for the upcoming primary election are posting signs in the community that exceed the City's permitted dimensions.
- (c) He thanked **Congresswoman Torres** for helping secure funds for park improvements, noting **MLL** parents and kids are very excited. He added that **Ms. Ramos**, who spoke earlier this evening, started a tutoring program for kids in the league.

- (d) He gave his regrets to **Ms. Preschern**, noting he cannot attend the **Inland Empire Prayer Breakfast**, but he appreciates the fact that they pray for elected officials and mail prayer cards from the event.
 - (e) He pointed out that he is wearing a traditional Mexican Charro bow tie in honor of the upcoming Cinco de Mayo, which marks the anniversary of the Mexican Army's victory over the French during the Battle of Puebla in 1862. He added that the day is not widely celebrated in Mexico but is generally celebrated by Mexican-Americans. He urged the community to celebrate safely and to not drink and drive.
2. Council Member/Director Johnson made the following comments:
- (a) Recalling the **Burrtec** workshop about organic waste recycling in January, she noted she now feels more comfortable with the process of collecting food waste in separate bags until trash day, comparing it to the adjustment back when the laws changed to require separating newspaper and other recyclables.
 - (b) She stated at the Arbor Day celebration on Friday, the City planted three fruit trees at Sunset Park. She noted some schoolyard children were curious about what they were doing, and became excited when they were told about the new fruit trees.
3. Council Member/Director Martinez made the following comments:
- (a) She wished everyone a happy Asian American and Pacific Islander Heritage Month.
 - (b) She attended the well-attended MTC graduation event and was happy to see how proud the students and their parents were.
 - (c) She noted on April 21st and 29th she presented scholarships to students at **Montclair High** and **Vernon Middle Schools** on behalf of the **Women's Club of Montclair**.
 - (d) She thanked **Congresswoman Torres** for her efforts to secure funding to improve Montclair's parks.
 - (e) She thanked **Ms. Ramos** for her dedication to the children of the community.
 - (f) She stated the City is continuing to ensure that Council Member Lopez obeys the terms of his censure.
4. Mayor Pro Tem/Vice Chair Ruh made the following comments:
- (a) He noted April was National Fair Housing Month.
 - (b) He thanked **Congresswoman Torres**, adding the funding will also provide for ADA improvements at the park.
 - (c) He stated during the drought, **Monte Vista Water District** allows watering of lawns one day per week.
 - (d) He reported COVID cases are again climbing and urged those who are able to get inoculated or boosted to do so.
 - (e) He acknowledged the historical aspect of Cinco de Mayo.
 - (f) He expressed his appreciation for being able to participate in this meeting remotely while he is 3,000 miles away on a business trip.

F. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of April 18, 2022

The City Council received and filed the minutes of the Personnel Committee meeting of April 18, 2022, for informational purposes.

XI. CLOSED SESSION

At 7:46 p.m., the City Council went into closed session to discuss potential litigation.

XII. CLOSED SESSION ANNOUNCEMENTS

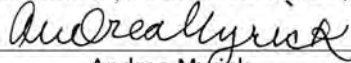
At 8:00 p.m., the City Council returned from closed session. Mayor Dutrey announced the City Council met in closed session to discuss potential litigation; information was received and direction given to staff; and no further announcements would be made at this time.

XIII. ADJOURNMENT

At 8:00 p.m., Mayor/Chair Dutrey adjourned the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board.

The meeting was adjourned in memory of **Mr. Wylie Pennington**, a longtime Montclair resident and cherished member of the community.

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

APRIL 30, 2022

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STATEMENT OF CASH AND INVESTMENT ACCOUNTS

GRAPH

CASH AND INVESTMENTS BY TYPE

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

APRIL 30, 2022

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

\$ 32,820,857

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 APRIL 30, 2022

Fund	Beginning Balance	Receipts	Disbursements	Interfund Transfers	Ending Balance
General Fund	\$ 3,830,820.33	\$ 4,095,016.75	\$ 2,449,389.85	-	\$ 5,476,447.23 (1)
Gas Tax Fund	(235,776.53)	65,300.49	93,659.36	-	(264,145.40) (2)
Road Maintenance - Section 2032	1,058,663.18	67,837.45	18,997.00	-	1,107,503.63
Measure I Fund	4,388,295.42	73,001.98	-	-	4,462,297.40
Traffic Safety	89,840.59	4,887.97	-	-	94,728.56
Disability Access Fund - Bus. License	43,567.90	838.00	-	-	44,403.90
Park Maintenance	78,710.83	-	-	-	72,719.21
Park Development	1,154,807.06	-	5,991.62	-	1,154,807.06
CDBG	(67,490.36)	17,716.83	10,202.71	-	(49,976.24) (2)
SB2 Planning Grant	(20,842.50)	-	-	-	(20,842.50) (2)
Air Quality Improvement Trust	126,705.07	-	3,602.03	-	123,203.04
SB City Cares Act Infrastructure	(23,385.40)	-	-	-	(23,385.40) (2)
Senior Nutrition Program	(88,012.74)	3,754.25	19,813.29	-	(104,071.78) (2)
American Rescue Plan	2,408,090.00	-	-	-	2,408,090.00
Fortifuture Fund - State	117,694.11	85.00	-	-	117,779.11
Proposition 30/SB 109	105,575.65	-	-	-	105,575.65
SB 509 Public Safety	263,333.19	38,278.00	122,686.11	-	179,025.08
Fortifuture Fund-Federal/DOJ	309,333.43	-	-	-	309,333.43
Asset Seizure Fund	0.07	0.01	-	-	0.08
Section 11489 Subfund	42,092.46	15.00	-	-	42,107.46
Fed Asset Forfeiture-Treasury	116,923.62	14,474.43	-	-	131,398.05
School District Grant Fund	49,158.00	-	-	-	49,158.00
State Supplemental Law Enforcement	410,221.33	-	-	-	410,221.33
PC 1202.5 Crime Prevention	2,198.43	-	-	-	2,198.43
Recycling Grant Fund	86,096.67	10,121.00	-	-	76,217.67
Homeless Emergency Aid Program	(11,361.00)	-	-	-	(11,361.00) (2)
Bureau of Justice Assistance	(111.00)	-	-	-	(111.00) (2)
Statewide Park Dev Grant	180,634.00	-	-	-	180,634.00
Homeless Housing Assist Preven	3,760.05	-	7,200.00	-	(3,448.95) (2)
LEAP Grant	(22,992.50)	-	2,969.00	-	(25,961.50) (2)
After School Program Fund	481,817.37	297,533.08	96,191.01	-	683,159.44
OTS Grant	-	-	-	-	-
FIRST 5 Fund	1,290.78	-	-	-	1,290.78
Safety Dept. Grants	269,561.95	-	8,687.25	-	260,874.70
OSMD Immunization Grant	1,370.50	-	-	-	1,370.50
Kaiser Permanente Grant	4,619.88	-	178.53	-	4,441.35
Resource Center Grant - OMSD	25,818.13	-	2,176.26	-	23,641.87
Title II/B Sr Support Services	(4,242.11)	-	2,912.33	-	(7,154.44) (2)
Community Foundation Grant	15,543.01	-	-	-	15,543.01
ASES Supplemental Grant	98,116.73	28,221.04	-	-	126,337.77
E.M.S. - Paramedic Fund	5,946.31	3,240.42	2,806.19	-	6,380.54
Economic Development	4,416,184.91	-	63,075.37	-	4,353,109.54
City Contributions/Donations Fund	500.00	-	-	-	500.00
Sewer Operating Fund	2,390,361.18	407,062.21	80,326.41	-	2,717,096.98
Sewer Replacement Fund	2,244,611.29	-	-	-	2,244,611.29
CFD 2011-1 (Passes)	103,270.89	70,288.67	1,876.07	-	171,683.49
CFD 2011-2 (Arrow Station)	74,148.46	16,849.85	-	-	90,998.31
Inland Empire Utility Agency	1,553,611.08	-	-	-	1,553,611.08
Sewer Expansion Fee Fund	608,601.16	-	-	-	608,601.16
Developer Impact Fees - Local	1,172,464.90	-	-	-	1,172,464.90
Developer Impact Fees - Regional	77,950.83	-	-	-	77,950.83
Burtec Pavement Impact Fees	136,757.88	19,591.73	-	-	156,349.61
PUC Reimbursement Fund-MVGS	324,111.38	-	-	-	324,111.38
Utility Underground In-Lieu	340,516.52	-	-	-	340,516.52
General Plan Update Fee	97,495.54	923.95	-	-	98,419.49
Housing Fund	555,708.20	-	-	-	555,708.20
Public Education/Govt. PEG Fee Fund	78,061.95	-	-	-	78,061.95
Infrastructure Fund	(400,925.57)	127,686.18	171,104.54	-	(444,343.93) (4)
COVID-19	(66,677.81)	-	1,977.52	-	(68,655.33)
Successor Agency Bonds-Taxable	4,798,780.57	-	-	-	4,798,780.57
Successor Agency Bonds-Tax Exempt	8,148,134.11	-	25,412.00	-	8,122,722.11
2014 Lease Revenue Bond Proceeds	(284,589.74)	-	-	-	(284,589.74)
2021 Lease Revenue Bond Proceeds	(246,244.07)	-	16,926.80	35,000.00	(228,170.87)
2014 Lease Revenue Bond Debt Svc	(926,766.86)	197,286.36	3,600.00	-	(732,978.49) (5)
2021 Lease Revenue Bond Debt Svc	1,728,755.75	-	3,600.00	-	1,725,255.75
Pension Obligation Bond Debt Svc	-	-	3,600.00	-	(3,600.00)
Contingency Fund	233,836.96	-	-	-	233,836.96
Assigned General Fund Reserves	12,070,565.50	23,567.96	45,541.64	(35,000.00)	12,013,591.82
TOTALS	\$ 54,496,596.93	\$ 5,583,578.61	\$ 3,496,554.95	\$ -	\$ 56,585,620.59

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.

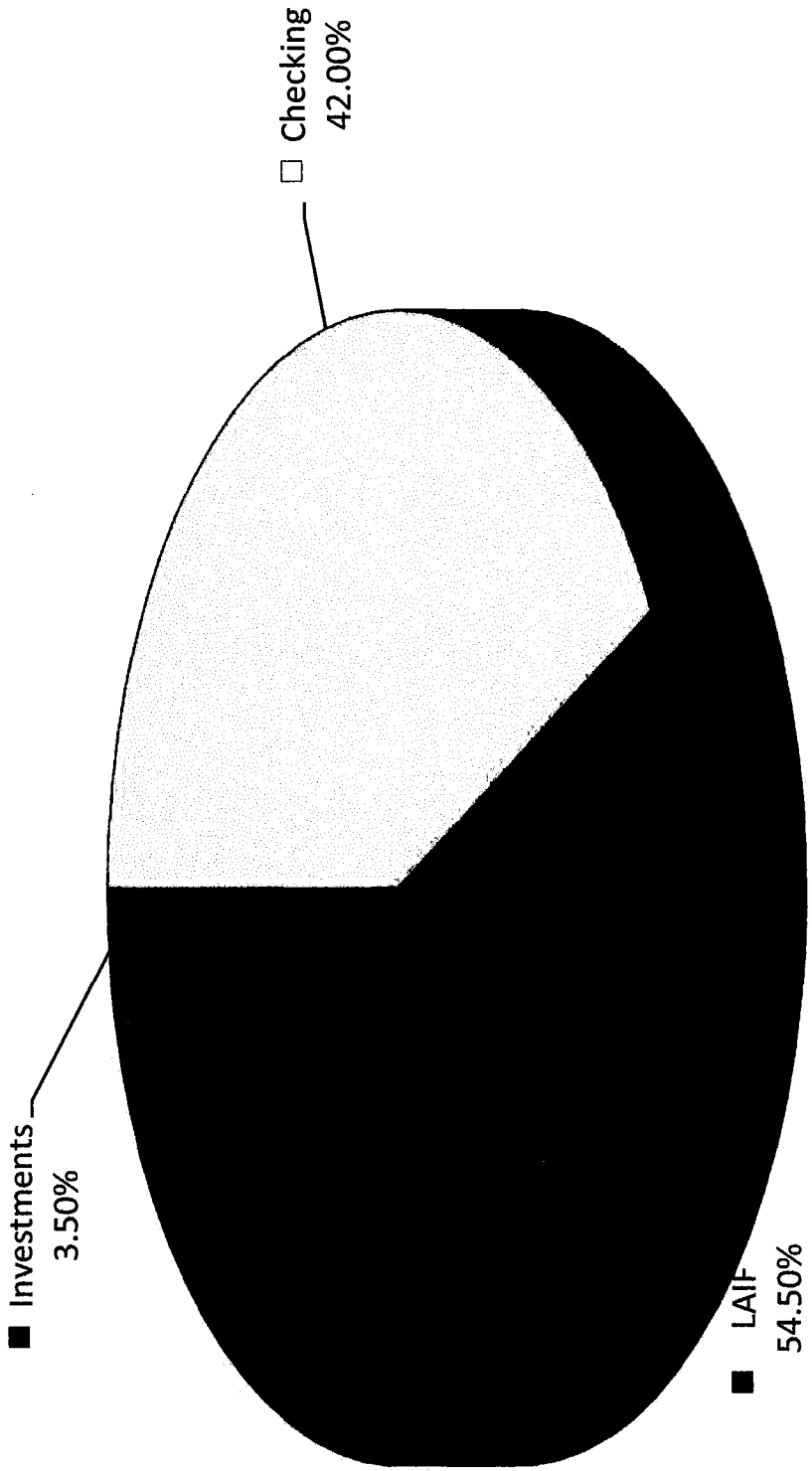
SCHEDULE 3

**CITY OF MONTCLAIR
STATEMENT OF CASH AND INVESTMENT ACCOUNTS
AS OF APRIL 30, 2022**

	Par Value	Purchase Date	Maturity Date	Coupon Interest Rate	Current Market Value	Balance at Cost	Totals
CHECKING ACCOUNT							
Checking Account							\$ 23,762,294.67
Asset Seizure Account							\$ 2,468.73
CASH W/FISCAL AGENT, CD's, LAIF DEPOSITS, AND SHORT-TERM U.S. AGENCY SECURITIES							
Local Agency Investment Fund (LAIF)				0.610%	30,741,928.67	30,820,857.19	
First American Government					2,000,000.00	2,000,000.00	
					<u>\$ 32,741,928.67</u>		\$ 32,820,857.19
U.S. AGENCY SECURITIES							
							\$ -
TOTAL							<u>\$ 56,585,620.59</u>

Current market values obtained from US Bank.

CITY OF MONTCLAIR
CASH AND INVESTMENTS BY TYPE
April 30, 2022
Total Cash & Investments \$56,585,620



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

FOR THE MONTH ENDING

April 30, 2022

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH BY FUND
April 30, 2022**

COMBINED OPERATING FUND

Operating	<u>4,095.90</u>	\$	4,095.90
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LRPRP Fund

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

RORF

	620,730.84		
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	\$	620,730.84

TOTAL CASH

	<u><u>\$ 624,826.74</u></u>
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**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH
April 30, 2022**

Checking Account

US Bank	627,368.65
Reimburse City for 4/28/22 Payroll	(2,541.91)
Book transfer was made in May.	

TOTAL CASH

624,826.74

NOTE: Book transfer was made to reimburse City for 4/28/22 payroll on 5/3/22.

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

April 30, 2022

City of Montclair
 Final Warrant Register
 Council Date 05/16/2022
 Regular Warrants
 Checking Account: Successor to the RDA

	Warrants	US Bank transfers	Area Totals
SRDA Combined Operating Fund	0.00	20,630.72	20,630.72
RORF (Redevelopment Obligation Retirement Funds)	0.00	0.00	0.00
	0.00	20,630.72	
April 2022 Total			20,630.72

Note: Reimburse City for 4/14 payrolls
 Reimburse City for PERS UAL Lump Sum Payment

Vice Chair Ruh

Book Transfer Daily Activity Detail

CITY OF MONTCLAIR

SinglePoint

Reported Activity From 04/01/2022 To 04/30/2022

Printed on 05/04/2022 at 4:47 PM PDT



Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
04/14/2022	\$3252.72	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 Reimb City for 04/14/2022 Payroll
Initiate Date 04/14/2022
Initiate Time 04:40PM CDT
Initiated By JKULBECK
Completed Date 04/14/2022
Completed Time 04:40PM CDT

Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
04/06/2022	\$17378.00	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 Reimb City for PERS UAL Lump Sum Payment
Initiate Date 04/06/2022
Initiate Time 02:14PM CDT
Initiated By JKULBECK
Completed Date 04/06/2022
Completed Time 02:14PM CDT

Total Number of Book Transfers: 2
Total Amount of Book Transfers: \$20,630.72

--- End of Report ---

**CITY OF MONTCLAIR
HOUSING CORPORATION
TREASURER'S REPORT**

FOR THE MONTH ENDING

April 30, 2022

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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
April 30, 2022**

	<u>Interest Rate</u>	<u>Market Value</u>	<u>Book Value</u>
Checking Account			
US Bank			423,973.33
Investments			
LAIF	0.60%	1,709,403.83	<u>1,713,792.65</u>
TOTAL CASH & INVESTMENTS			<u><u>2,137,765.98</u></u>

NOTE:

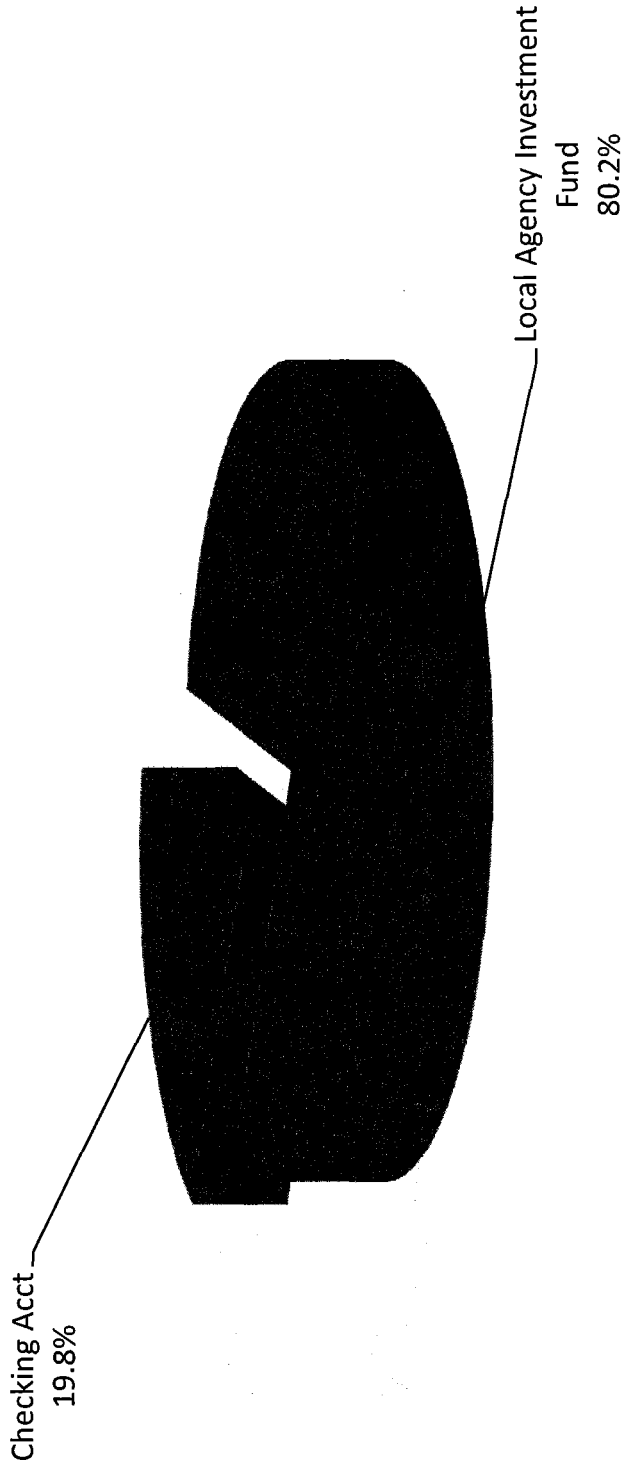
Pursuant to the Corporation's Investment Policy, all moneys are invested in banks, the Local Agency Investment Fund, and in securities with maturities of no greater than three years.

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
April 30, 2022**

Total Cash & Investments - \$2,137,766



**CITY OF MONTCLAIR
HOUSING CORPORATION
WARRANT REGISTER**

FOR THE MONTH ENDING

April 30, 2022

City of Montclair
Final Warrant Register
Council Date 05/16/2022
Regular Warrants
Checking Account: MHC

Warrants	ACH Transfers	Voided Checks	US Bank transfers	Totals
83,476.70	0.00	0.00	42,134.54	125,611.24

April 2022 Total

125,611.24

US Bank transfers:

Reimburse City for 04/14 payroll

Reimburse City for PERS UAL Lump Sum Payment

Vice Chair Ruh

Accounts Payable

Checks by Date - Summary by Check Number

User: cramirez
Printed: 5/4/2022 4:43 PM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
5296	ACI0001	ACI Flooring, Inc.	04/14/2022	5,564.05
5297	Hugo001	Hugo Jaramillo	04/14/2022	35,022.50
5298	Land012	Landscape Maintenance Unlimited	04/14/2022	13,200.00
5299	mont002	City of Montclair	04/14/2022	10,728.24
5300	mont074	Monte Vista Water District	04/14/2022	694.04
5301	Nagc006	NAGCO GLASS	04/14/2022	552.09
5302	Vict006	Victor Valley Synthetic Marble INC	04/14/2022	3,750.00
5309	Buch002	Buchbinder Maintenance, Inc.	04/28/2022	503.44
5310	Ecol001	Ecological Cleaning	04/28/2022	1,100.00
5311	Land012	Landscape Maintenance Unlimited	04/28/2022	5,998.00
5312	mont074	Monte Vista Water District	04/28/2022	5,284.80
5313	Sout018	Southern California Edison Co	04/28/2022	307.83
5314	Sout021	Southern California Gas Co	04/28/2022	771.71
Report Total (13 checks):				83,476.70

Book Transfer Daily Activity Detail

CITY OF MONTCLAIR
SinglePoint
Reported Activity From 04/01/2022 To 04/30/2022
Printed on 05/04/2022 at 4:48 PM PDT



Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
04/14/2022	\$6016.54	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 Reimb City for 04/14/2022 Payroll
Initiate Date 04/14/2022
Initiate Time 04:40PM CDT
Initiated By JKULBECK
Completed Date 04/14/2022
Completed Time 04:41PM CDT

Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
04/06/2022	\$36118.00	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 Reimb City for PERS UAL Lump Sum Payment
Initiate Date 04/06/2022
Initiate Time 02:14PM CDT
Initiated By JKULBECK
Completed Date 04/06/2022
Completed Time 02:14PM CDT

Total Number of Book Transfers: 2
Total Amount of Book Transfers: \$42,134.54

--- End of Report ---

**CITY OF MONTCLAIR
HOUSING AUTHORITY
TREASURER'S REPORT**

FOR THE MONTH ENDING

April 30, 2022

Schedule 1

**CITY OF MONTCLAIR
HOUSING AUTHORITY
STATEMENT OF CASH
April 30, 2022**

	<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
April 30, 2022**

City of Montclair
Final Warrant Register
Council Date 05/16/2022
Regular Warrants
Checking Account: MHA

<u>Warrants</u>	<u>Voided Checks</u>	<u>US Bank transfers - out.</u>	<u>Totals</u>
0.00	0.00	0.00	0.00
April 2022 Total			<u><u>0.00</u></u>

Vice Chair Ruh